

# SENATE BILL No. 859

October 27, 1999, Introduced by Senators JOHNSON and NORTH and referred to the Committee on Transportation and Tourism.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
(MCL 257.1 to 257.923) by adding section 667a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 667A. (1) THE DEPARTMENT OF STATE POLICE OR THE STATE  
2 TRANSPORTATION DEPARTMENT; THE COUNTY BOARD OF COMMISSIONERS,  
3 BOARD OF COUNTY ROAD COMMISSIONERS, OR COUNTY SHERIFF; OR OTHER  
4 LOCAL AUTHORITY HAVING JURISDICTION OVER A HIGHWAY OR STREET MAY  
5 AUTHORIZE THE INSTALLATION AND USE OF UNMANNED TRAFFIC MONITORING  
6 DEVICES AT A RAILROAD GRADE CROSSING ON A HIGHWAY OR STREET UNDER  
7 THEIR RESPECTIVE JURISDICTIONS.

8        (2) A PERSON IS RESPONSIBLE FOR A CIVIL INFRACTION AS PRO-  
9 VIDED IN SECTION 667 IF THE PERSON VIOLATES A PROVISION OF THAT  
10 SECTION ON THE BASIS OF EVIDENCE OBTAINED FROM AN UNMANNED  
11 TRAFFIC MONITORING DEVICE.

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1 (3) A SWORN STATEMENT OF A POLICE OFFICER FROM THE STATE OR  
2 LOCAL AUTHORITY HAVING JURISDICTION OVER THE HIGHWAY OR STREET  
3 UPON WHICH THE RAILROAD GRADE CROSSING IS LOCATED, BASED UPON  
4 INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE, OR OTHER  
5 RECORDED IMAGES PRODUCED BY AN UNMANNED TRAFFIC MONITORING  
6 DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED  
7 THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE, OR OTHER  
8 RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE  
9 FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR  
10 A VIOLATION OF SECTION 667.

11 (4) IN THE PROSECUTION OF A VIOLATION OF SECTION 667 ESTAB-  
12 LISHED UNDER THIS SECTION, PRIMA FACIE EVIDENCE THAT THE VEHICLE  
13 DESCRIBED IN THE CITATION ISSUED WAS OPERATED IN VIOLATION OF  
14 SECTION 667, TOGETHER WITH PROOF THAT THE DEFENDANT WAS AT THE  
15 TIME OF THE VIOLATION THE REGISTERED OWNER OF THE VEHICLE, SHALL  
16 CONSTITUTE IN EVIDENCE A REBUTTABLE PRESUMPTION THAT THE REGIS-  
17 TERED OWNER OF THE VEHICLE WAS THE PERSON WHO COMMITTED THE  
18 VIOLATION. THE PRESUMPTION MAY BE REBUTTED IF THE REGISTERED  
19 OWNER OF THE VEHICLE FILES AN AFFIDAVIT BY REGULAR MAIL WITH THE  
20 CLERK OF THE COURT THAT HE OR SHE WAS NOT THE OPERATOR OF THE  
21 VEHICLE AT THE TIME OF THE ALLEGED VIOLATION OR TESTIFIES IN OPEN  
22 COURT UNDER OATH THAT HE OR SHE WAS NOT THE OPERATOR OF THE VEHI-  
23 CLE AT THE TIME OF THE ALLEGED VIOLATION. THE PRESUMPTION ALSO  
24 MAY BE REBUTTED IF A CERTIFIED COPY OF A POLICE REPORT, SHOWING  
25 THAT THE VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN BEFORE  
26 THE TIME OF THE ALLEGED VIOLATION OF THIS SECTION, IS PRESENTED  
27 BEFORE THE RETURN DATE ESTABLISHED ON THE CITATION.

1 (5) NOTWITHSTANDING SECTION 742, A CITATION FOR A VIOLATION  
2 OF SECTION 667 ON THE BASIS OF EVIDENCE OBTAINED FROM AN UNMANNED  
3 TRAFFIC MONITORING DEVICE MAY BE EXECUTED BY MAILING BY  
4 FIRST-CLASS MAIL A COPY TO THE ADDRESS OF THE OWNER OF THE VEHI-  
5 CLE AS SHOWN ON THE RECORDS OF THE SECRETARY OF STATE. IF THE  
6 SUMMONED PERSON FAILS TO APPEAR ON THE DATE OF RETURN SET OUT IN  
7 THE CITATION MAILED PURSUANT TO THIS SECTION, THE CITATION SHALL  
8 BE EXECUTED IN THE MANNER PROVIDED BY LAW FOR PERSONAL SERVICE.  
9 PROCEEDINGS FOR CONTEMPT OR ARREST OF A PERSON SUMMONED BY MAIL-  
10 ING SHALL BE INSTITUTED FOR FAILURE TO APPEAR ON THE RETURN DATE  
11 OF THE CITATION.