

# HOUSE BILL No. 6288

September 29, 2004, Introduced by Rep. Robertson and referred to the Committee on Transportation.

A bill to amend 1993 PA 354, entitled  
"Railroad code of 1993,"  
by amending section 307 (MCL 462.307).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 307. (1) A new public street, highway, or a new  
2 nonmotorized trail shall not be constructed across the tracks of  
3 any railroad, or the new tracks of any railroad shall not be  
4 constructed across a public street, highway, or nonmotorized  
5 trail until approval is granted by the department. Upon  
6 application, the department shall investigate the location of the  
7 proposed crossing.

8       (2) The department, when it determines necessary for the  
9 safety of the public, may change the location of or abolish any  
10 existing public grade crossing after not less than 30 days'  
11 notice in the area affected by the crossing. A public hearing

1 shall be held by the department if requested by any affected  
 2 party. Within 30 days after the date of the hearing, the  
 3 department may issue an order to close the existing grade  
 4 crossing. Any person, local unit of government, or road  
 5 authority having an interest in the abolishment of an existing  
 6 grade crossing, within 30 days after the closure order of the  
 7 department, may commence an action in the circuit court for the  
 8 county of Ingham against the department as defendant to vacate or  
 9 set aside the order.

10 (3) Commencing with the date of the federal designation of a  
 11 high-speed rail corridor, a public or private at-grade street or  
 12 highway or a farm, bicycle, or pedestrian crossing shall not be  
 13 constructed across the railroad tracks of that corridor except  
 14 for a crossing consolidation or relocation approved by the  
 15 department.

16 (4) If the location of a proposed crossing is found to be  
 17 necessary, feasible, and may be made reasonably safe for a  
 18 crossing at grade, the department shall grant permission for the  
 19 crossing. The department shall require installation of ~~such~~  
 20 traffic control devices ~~as~~ **that** in its judgment may be  
 21 appropriate. When a crossing necessitated by a new roadway  
 22 across an existing track is permitted, **and the crossing does not**  
 23 **provide the sole access to the property,** the department shall,  
 24 ~~simultaneously,~~ after investigation and **a hearing, if required,**  
 25 order the abolishment of 1 or more existing grade crossings  
 26 having less than ~~100~~ **500** vehicles a day within the same road  
 27 authority jurisdiction. ~~, if the involved road authority and~~

1 ~~railroad may waive hearing thereon.~~ If the crossing having less  
2 than 500 vehicles a day within the same road authority  
3 jurisdiction provides the sole access to the property, the  
4 department shall not order the abolition of the grade crossing.

5 (5) If the department determines that the proposed location  
6 may not be made reasonably safe for a grade crossing, it shall  
7 deny permission for the crossing and require the crossing to be  
8 redesigned, if constructed at that location, or to be made other  
9 than at grade in accordance with section 319. If the department  
10 determines that it is impractical to secure a safe crossing at  
11 the point in question, either at grade or otherwise, it shall  
12 deny the grade crossing.

13 (6) The full cost of constructing a new street or highway  
14 across an existing railroad, or of a new railroad track or tracks  
15 across an existing street or highway, shall be borne by the party  
16 requesting the crossing. The following shall apply to a new or  
17 relocated grade crossing:

18 (a) The plans for the grade crossing shall be approved by  
19 both railroad and road authority. If there is a failure to  
20 agree, the department shall settle the points of disagreement by  
21 the terms of its order.

22 (b) The relocation of an existing grade crossing or the  
23 establishment of a new grade crossing at which the existing  
24 public highway grade crossing is completely abandoned, shall be  
25 constructed and the cost borne in the same manner as in the case  
26 of a new grade crossing. The maintenance responsibility of the  
27 relocated crossing shall be the same as the removed crossing

1 unless otherwise agreed to by the parties.

2 (c) Temporary grade crossings shall be constructed,  
3 maintained, and removed at the sole expense of the parties  
4 requesting the same.

5 (d) The cost of construction shall include the direct  
6 construction cost of the roadbed, track structure, grade crossing  
7 surface, pavement, traffic control devices and drainage,  
8 including all material, labor, and services and other costs of  
9 construction.

10 (e) After construction, the grade crossing and traffic  
11 control devices shall be maintained as provided in this act.

12 (7) Upon approval of any new grade crossing project requested  
13 by a road authority, the road authority shall notify the  
14 railroad, in writing, to furnish a competent inspector and other  
15 necessary persons to inspect the construction of the grade  
16 crossing which shall be constructed according to the order of the  
17 department. The road authority shall pay to the railroad the  
18 actual costs incurred by the railroad for the time actually and  
19 necessarily spent in inspecting construction. Upon approval of  
20 any new grade crossing project requested by a railroad, the  
21 railroad shall notify the road authority, in writing, to furnish  
22 a competent inspector and other necessary persons to inspect the  
23 construction of the grade crossing which shall be constructed  
24 according to the order of the department. The railroad shall pay  
25 to the road authority the actual costs incurred by the road  
26 authority for the time actually and necessarily spent in  
27 inspecting construction.

1       (8) A road authority may request a railroad or a railroad may  
2 request a road authority, in writing, to reconstruct, change,  
3 widen, or alter that portion of an existing grade crossing with a  
4 public street or highway for which they are responsible to  
5 accommodate the requesting party's plans for reconstruction,  
6 change, widening, or alteration of their crossing related  
7 facility. The requesting party shall notify the other party to  
8 conform to the change simultaneously with the requesting party's  
9 work. However, if the party requested to make changes refuses,  
10 the requesting party may make application to the department for a  
11 determination. The department, after due hearing on the issue,  
12 shall determine the matters in dispute by order. The full cost  
13 of the reconstructing, change, widening, or alteration shall be  
14 borne by the party requesting it, unless otherwise agreed to.

15       (9) If a track through any grade crossing is abandoned  
16 through legal proceedings, the railroad, at its cost as part of  
17 routine maintenance, shall remove the tracks and any active  
18 traffic control devices and then shall restore the street or  
19 highway surface in a manner satisfactory to the road authority.  
20 The road authority, at its cost as part of routine maintenance,  
21 shall remove all passive traffic control devices. The track and  
22 all traffic control devices shall be removed within 1 year of the  
23 abandonment. Until such removal is complete, the railroad and  
24 road authority shall maintain it in accordance with this act.

25       (10) If a track through any grade crossing becomes  
26 unnecessary for the conduct of railroad services, the railroad,  
27 at its cost as part of routine maintenance, shall remove the

1 track and any active traffic control devices and then shall  
2 restore the street or highway surface in a manner satisfactory to  
3 the road authority. The road authority, at its cost as part of  
4 routine maintenance, shall remove all passive traffic control  
5 devices. The department may order the railroad to remove the  
6 track and any traffic control devices if there is not a  
7 likelihood of continued use. Until the track and all traffic  
8 control devices are removed, the railroad and road authority  
9 shall maintain it in accordance with this act.