

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.667a Installation and use of unmanned traffic monitoring devices at railroad grade crossing; civil infraction; evidence; diagnostic study team review required where fatality at public railroad grade crossing; exception.

Sec. 667a.

(1) The department of state police or the state transportation department; the county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street may authorize the installation and use of unmanned traffic monitoring devices at a railroad grade crossing with flashing signals and gates on a highway or street under their respective jurisdictions. Each device shall be sufficiently marked or identified or a sign shall be placed at the approach to the crossing indicating that the crossing is monitored by an unmanned traffic monitoring device.

(2) Beginning 31 days after the installation of an unmanned traffic monitoring device at a railroad grade crossing described in subsection (1), a person is responsible for a civil infraction as provided in section 667 if the person violates a provision of that section on the basis of evidence obtained from an unmanned traffic monitoring device. However, for the first 30 days after the installation of an unmanned traffic monitoring device, a person shall be issued a written warning only. It is an affirmative defense to a charge of violating section 667 that the mechanical warning devices at the crossing were malfunctioning.

(3) A sworn statement of a police officer from the state or local authority having jurisdiction over the highway or street upon which the railroad grade crossing described in subsection (1) is located, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, is prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images indicating such a violation shall be available for inspection in any proceeding to adjudicate the responsibility for a violation of section 667. Any photographs, videotape, or digital images of the violation shall be destroyed 90 days after final disposition of the citation.

(4) In a prosecution for a violation of section 667 established by an unmanned traffic monitoring device under this section, prima facie evidence that the vehicle described in the citation issued was operated in violation of section 667, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption is rebutted if the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. The presumption also is rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation of this section, is presented before the appearance date established on the citation. For purposes of this subsection, the owner of a leased or rental vehicle shall provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.

(5) Notwithstanding section 742, a citation for a violation of section 667 on the basis of evidence obtained from an unmanned traffic monitoring device may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle as shown on the records of the secretary of state. If the summoned person fails to appear on the date of return set out in the citation previously mailed by first-class mail under this subsection, a copy shall be sent by certified mail-return receipt requested. If the summoned person fails to appear on either of the dates of return set out in the copies of the citation mailed under this section, the citation shall be executed in the manner provided by law for personal service. The court may issue a warrant for the arrest of a person who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose.

(6) If there is a fatality resulting from a train-vehicle crash at a public railroad grade crossing, the state transportation department shall convene a diagnostic study team review, if there has not been a diagnostic study team review at the crossing in the last 2 years. However, a diagnostic study team review is not required if the initial law enforcement investigation of the fatality indicates that the motorist's consumption of alcohol or a controlled substance or his or her disregard of an existing traffic control device conveying a "stop" message contributed to the fatality, or that the fatality was a suicide. The diagnostic study team review shall be conducted within 120 days after the state transportation department is made aware of the fatality. If the diagnostic study team review reaches consensus that warning device enhancements are needed, the state transportation department shall order those improvements. The cost for the improvements shall be financed consistent with the financing of similar projects by the state transportation department according to its annual prioritization of grade crossing safety improvements.

History: Add. 2000, Act 367, Imd. Eff. Jan. 2, 2001 ;-- Am. 2002, Act 534, Eff. Oct. 1, 2002 ;-- Am. 2006, Act 600, Imd. Eff. Jan. 3, 2007

