

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.307 Construction; approval required; investigation of proposed crossing location; changing location or abolishing existing public grade crossing; hearing; order; action against department to vacate or set aside order; construction across high-speed rail corridor; granting or denying permission for crossing; cost; furnishing inspector; request for reconstruction, change, widening, or alteration; abandonment; removal of track and traffic control devices.

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

(2) The department, when it determines necessary for the safety of the public, may change the location of or abolish any existing public grade crossing after not less than 30 days' notice in the area affected by the crossing. A public hearing shall be held by the department if requested by any affected party. Within 30 days after the date of the hearing, the department may issue an order to close the existing grade crossing. Any person, local unit of government, or road authority having an interest in the abolishment of an existing grade crossing, within 30 days after the closure order of the department, may commence an action in the circuit court for the county of Ingham against the department as defendant to vacate or set aside the order.

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

(4) If the location of a proposed crossing is found to be necessary, feasible, and may be made reasonably safe for a crossing at grade, the department shall grant permission for the crossing. The department shall require installation of such traffic control devices as in its judgment may be appropriate. When a crossing necessitated by a new roadway across an existing track is permitted, the department shall simultaneously, after investigation and hearing, order the abolishment of 1 or more existing grade crossings having less than 100 vehicles a day within the same road authority jurisdiction, if the involved road authority and railroad may waive hearing thereon.

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

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

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

(b) The relocation of an existing grade crossing or the establishment of a new grade crossing at which the existing public highway grade crossing is completely abandoned, shall be constructed and the cost borne in the same manner as in the case of a new grade crossing. The maintenance responsibility of the relocated crossing shall be the same as the removed crossing unless otherwise agreed to by the parties.

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

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

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

(7) Upon approval of any new grade crossing project requested by a road authority, the road authority shall notify the railroad, in writing, to furnish a competent inspector and other necessary persons to inspect the construction of the grade crossing which shall be constructed according to the order of the department. The road authority shall pay to the railroad the actual costs incurred by the railroad for the time actually and necessarily spent in inspecting construction. Upon approval of any new grade crossing project requested by a railroad, the railroad shall notify the road authority, in writing, to furnish a competent inspector and other

necessary persons to inspect the construction of the grade crossing which shall be constructed according to the order of the department. The railroad shall pay to the road authority the actual costs incurred by the road authority for the time actually and necessarily spent in inspecting construction.

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

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

(10) If a track through any grade crossing becomes unnecessary for the conduct of railroad services, the railroad, at its cost as part of routine maintenance, shall remove the track and any active traffic control devices and then shall restore the street or highway surface in a manner satisfactory to the road authority. The road authority, at its cost as part of routine maintenance, shall remove all passive traffic control devices. The department may order the railroad to remove the track and any traffic control devices if there is not a likelihood of continued use. Until the track and all traffic control devices are removed, the railroad and road authority shall maintain it in accordance with this act.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994.