

Legislative Analysis



RAILROADS: OTHER ON-TRACK EQUIPMENT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5640 as reported from committee
Sponsor: Rep. Triston Cole

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5641 as reported
Sponsor: Rep. Ben Frederick

House Bill 5642 as reported
Sponsor: Rep. Tim Greimel

House Bill 5643 as reported
Sponsor: Rep. Tim Sneller

Committee: Transportation and Infrastructure
Complete to 3-7-19

SUMMARY:

House Bills 5640 through 5643, taken together, would amend the Motor Vehicle Code to define *other on-track equipment* used on railroad tracks and to account for that equipment in sections of the Code that deal with vehicles at railroad crossings. Each bill would take effect 90 days after being enacted. An explanation of each bill follows.

House Bill 5641 would add Section 36c to the Code to define *other on-track equipment* to mean any car, rolling stock, or other device that, alone or coupled to another device, is operated on stationary rails. It is essentially equipment that moves on railroad tracks but is not a railroad train.

Proposed MCL 257.36c

House Bill 5640 would amend Section 670 of the Code, which governs the crossing of grade-level railroad tracks by a caterpillar tractor, shovel, derrick, roller, boiler, or other similar equipment or structure that moves slowly or rides low to the ground. Currently, a person operating such equipment must stop no less than 15 or more than 50 feet away from the tracks and listen and look in both directions for an approaching train. The bill would add that the person must also listen and look for the approach of *other on-track equipment*.

MCL 257.670

House Bill 5642 would amend Section 669 of the Code, which governs the crossing of grade-level railroad tracks by buses, other vehicles carrying passengers for hire, and vehicles carrying hazardous materials. Currently, a person operating such a vehicle must stop when approaching railroad tracks and listen and look in both directions for an approaching train. The bill would add that the person must also listen and look for the approach of *other on-track equipment*.

MCL 257.669

House Bill 5643 would amend Sections 667 and 668 of the Code. Currently under Section 667, a person driving a vehicle who approaches a railroad crossing must stop until it is safe to proceed under any of the following circumstances:

- An electric or mechanical signal device is warning of an approaching *train*.
- A crossing gate is lowered or a flagman is signaling the approach of a *train*.
- A *train* approaching within 1,500 of the crossing gives an audible signal and is close enough or moving fast enough to be a hazard.
- An approaching *train* is plainly visible and in hazardous proximity to the crossing.

The bill would add ***or other on-track equipment***, following the word *train*, to each of the above circumstances requiring a vehicle to stop.

Section 668 currently allows the state and ***local authorities*** to designate railroad crossings as “stop” crossings or “yield” crossings and in most cases limits their liability for negligence for posting, or failing to post, a stop or yield sign or other warning device at a crossing. [Section 27 of the Code defines ***local authorities*** as every municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.]

The bill would provide that, if ***other on-track equipment*** does not trigger the activation of an electric or mechanical signal device and employees of the railroad have followed all applicable railroad operating rules, there would be no basis for a civil action against the railroad that operated the other on-track equipment, the state transportation department, a county road commission, or a local authority or an employee or agent of any of those entities.

MCL 257.667 and 257.668

FISCAL IMPACT:

House Bills 5640, 5642, and 5643 would amend Sections 670, 669, and 667, respectively, sections that govern how drivers are to approach and stop at rail grade crossings. Violations of these sections are currently civil infractions, and would remain so under the bills. It is not clear if any of the bills would materially change the number of violations or civil infraction revenue. Revenue collected from payment of civil infraction penalties is deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

House Bill 5641 creates a new definition used in the other bills and has no direct fiscal impact of its own.

The amendments made by House Bill 5643 to Section 668 of the Code would effectively shield the state transportation department, a county road commission, or a local authority from civil liability in the event that ***other on-track equipment*** did not trigger the activation of an electric or mechanical signal device and the employees of the railroad followed all

applicable railroad operating rules. This provision could result in a savings to the state transportation department, county road commissions, or local authorities; however, the savings cannot be readily estimated. Savings would result only in the event that a person who would otherwise be able to recover personal injury or property damage costs was barred from recovery under circumstances established in the bill. The liability shield established in the bill appears to be relatively narrow.

POSITIONS:

Representatives of the following entities testified in support of the bills (5-22-18):

- SMART Union Transportation Division
- Brotherhood of Locomotive Engineers and Trainmen
- Michigan Railroads Association
- Great Lakes Central Railroad

The Michigan Department of Transportation indicated no position regarding the bill. (5-22-18)

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