

RAILROADS: OTHER ON-TRACK EQUIPMENT

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House Bill 5640 as enacted
Public Act 392 of 2018
Sponsor: Rep. Triston Cole

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

House Bill 5641 as enacted
Public Act 393 of 2018
Sponsor: Rep. Ben Frederick

House Bill 5643 as enacted
Public Act 394 of 2018
Sponsor: Rep. Tim Sneller

House Committee: Transportation and Infrastructure
Senate Committee: Transportation
Complete to 4-1-19

SUMMARY:

House Bills 5640, 5641, and 5643, taken together, amend the Michigan Vehicle Code to define *other on-track equipment* used on railroad tracks and to account for that equipment in certain sections of the Code that deal with vehicles at railroad crossings. The bills took effect March 19, 2019.

House Bill 5641 adds 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.

MCL 257.36c

House Bill 5640 amends 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. Under the Code, a person operating such equipment must stop at least 15 feet but not more than 50 feet away from the tracks and listen and look in both directions for an approaching train. The bill adds that the person must also listen and look for the approach of *other on-track equipment*.

MCL 257.670

House Bill 5643 amends Sections 667 and 668 of the Code. 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 adds *or other on-track equipment*, following the word *train*, to each of the above circumstances requiring a vehicle to stop.

Section 668 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 provides 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 is 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 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.

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