



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5640 (as passed by the House)
House Bill 5641 (as passed by the House)
House Bill 5643 (Substitute H-1 as passed by the House)
Sponsor: Representative Triston Cole (H.B. 5640)
Representative Ben Frederick (H.B. 5641)
Representative Tim Sneller (H.B. 5643)
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

Date Completed: 11-28-18

CONTENT

House Bill 5640 would amend the Michigan Vehicle Code to require a person operating or moving certain vehicles or equipment (such as a caterpillar tractor, shovel, derrick, or other structure or object upon rollers) to stop a certain distance from the nearest rail of a railroad track and listen and look in both directions along the track for other on-track equipment and for signals indicating the approach of other on-track equipment before crossing.

House Bill 5641 would amend the Code to define "other on-track equipment", which would mean any car, rolling stock, or other device that, alone or coupled to another device, is operated on stationary rails.

House Bill 5643 (H-1) would amend the Code to do the following:

- Require a person driving a vehicle who approached a railroad crossing to stop until it was safe to proceed when warned or signaled of approaching other on-track equipment.
- Specify that there would be no basis for a civil action against a railroad that operated other on-track equipment, the Michigan Department of Transportation (MDOT), a county road commission, or a local authority, or an employee or agent of those entities, if the other on-track equipment did not trigger the activation of a signal device, and employees of the railroad had followed all applicable railroad operating rules.
- Require the driver of a motor vehicle transporting 16 or more passengers, a motor vehicle carrying passengers for hire, or a motor vehicle transporting hazardous materials to stop a certain distance from the nearest rail of a railroad track and listen and look in both directions along a track for other on-track equipment and for signals indicating the approach of other on-track equipment.

Each bill would take effect 90 days after it was enacted.

House Bills 5640 and 5643 (H-1) are described in further detail below.

House Bill 5640

Section 670 of the Code prohibits a person from operating or moving a caterpillar tractor, shovel, derrick, roller, boiler, machinery, or other structure or object upon rollers, or other equipment or structure, which, because of its limited power, or weight, character, or load, has a normal operating speed of four miles per hour or less, or which has a vertical load or body clearance of less than nine inches above the level surface of the roadway, upon or across the tracks of a railroad at grade level without first complying with Section 670, except these provisions do not apply to the movement of electrically propelled cars on fixed rails or to their loads.

Notice of an intended crossing must be given to the nearest agent or officer of the railroad in time to afford protection to its locomotives, trains, or cars at the crossing.

Before making the crossing, the person operating or moving the vehicle or equipment must first stop not less than 15 feet or more than 50 feet from the nearest rail of the track and while stopped must listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and may not proceed until the crossing can be made safely. The bill also would require the person operating or moving the vehicle or equipment to listen and look in both directions along the track for other on-track equipment and for signals indicating the approach of other on-track equipment.

House Bill 5643 (H-1)

Under the Michigan Vehicle Code, when a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver must stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and may not proceed until the driver can do so safely:

- A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
- A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.
- A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.
- An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

The bill would include in the above circumstances other on-track equipment.

The Code authorizes MDOT, the county road commissions, and local authorities, with respect to highways under their jurisdictions, to designate certain grade crossings of railways by highways as "stop" or "yield" crossings, and erect signs at the crossings notifying drivers of vehicles upon those highways to stop or yield before crossing the railway tracks. The erection of or failure to erect, replace, or maintain a stop or yield sign or other railroad warning device, unless the device or sign was ordered by public authority, is not a basis for an action of negligence against MDOT, the county road commissions, the railroads, or local authorities.

Under the bill, if other on-track equipment did not trigger the activation of an electric or mechanical signal device, and employees of the railroad had 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, MDOT, a county road commission, or a local authority, or an employee or agent of those entities.

The Code requires the driver of a motor vehicle transporting 16 or more passengers including the driver, a motor vehicle carrying passengers for hire, or a motor vehicle that is required to be marked or placarded under 49 CFR Parts 100 to 180 (which govern the transportation of hazardous materials in all modes of transportation), before crossing a railroad track at grade, to activate the vehicle hazard warning lights and stop the vehicle within 50 feet but not less than 15 feet from the nearest rail.

While stopped, the driver must listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and may not proceed until the driver can do so safely. The bill also would require the driver to listen and look in both directions along the track for other on-track equipment and for signals indicating the approach of other on-track equipment.

MCL 257.670 (H.B. 5640)
Proposed MCL 257.36c (H.B. 5641)
MCL 257.667 et al. (H.B. 5643)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 5640

The bill would have no fiscal impact on State or local government.

House Bill 5641

The bill would have no fiscal impact on State or local government.

House Bill 5643 (H-1)

The bill potentially would result in a savings to the Department of Transportation and local units of government from reduced liability; however, those savings cannot be estimated and may be nonexistent.

The bill would shield the Department and local units of government from liability under a narrow set of circumstances: when an accident occurs on a railroad track involving on-track equipment resulting in injury when employees of the railroad have followed all operating rules. It is not known how often injuries have occurred under those circumstances in the past.

The bill would have no fiscal impact on local government and an indeterminate, though likely minimal, fiscal impact on the State. The bill could increase the number of civil infractions, although there is no way to know if that would be the case. An increase in civil infraction revenue would increase revenue dedicated to public libraries.

Fiscal Analyst: Abbey Frazier
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.