

HOUSE BILL No. 6368

August 30, 2006, Introduced by Reps. Angerer, Wojno, Clemente, Sak, Spade, Vagnozzi, Miller, Leland, Cushingberry, Bieda, Alma Smith, Lemmons, Jr., Bennett and Cheeks and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 667a (MCL 257.667a), as amended by 2002 PA 534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 667a. (1) The department of state police or the state
2 transportation department; the county board of commissioners, board
3 of county road commissioners, or county sheriff; or other local
4 authority having jurisdiction over a highway or street may
5 authorize the installation and use of unmanned traffic monitoring
6 devices at a railroad grade crossing with flashing signals and
7 gates on a highway or street under their respective jurisdictions.
8 Each device shall be sufficiently marked or identified or a sign
9 shall be placed at the approach to the crossing indicating that the

1 crossing is monitored by an unmanned traffic monitoring device.

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

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

24 (4) In a prosecution for a violation of section 667
25 established by an unmanned traffic monitoring device under this
26 section, prima facie evidence that the vehicle described in the
27 citation issued was operated in violation of section 667, together

1 with proof that the defendant was at the time of the violation the
2 registered owner of the vehicle, shall constitute in evidence a
3 rebuttable presumption that the registered owner of the vehicle was
4 the person who committed the violation. The presumption is rebutted
5 if the registered owner of the vehicle files an affidavit by
6 regular mail with the clerk of the court that he or she was not the
7 operator of the vehicle at the time of the alleged violation or
8 testifies in open court under oath that he or she was not the
9 operator of the vehicle at the time of the alleged violation. The
10 presumption also is rebutted if a certified copy of a police
11 report, showing that the vehicle had been reported to the police as
12 stolen before the time of the alleged violation of this section, is
13 presented before the appearance date established on the citation.
14 For purposes of this subsection, the owner of a leased or rental
15 vehicle shall provide the name and address of the person to whom
16 the vehicle was leased or rented at the time of the violation.

17 (5) Notwithstanding section 742, a citation for a violation of
18 section 667 on the basis of evidence obtained from an unmanned
19 traffic monitoring device may be executed by mailing by first-class
20 mail a copy to the address of the owner of the vehicle as shown on
21 the records of the secretary of state. If the summoned person fails
22 to appear on the date of return set out in the citation previously
23 mailed by first-class mail ~~pursuant to~~ **UNDER** this subsection, a
24 copy shall be sent by certified mail-return receipt requested. If
25 the summoned person fails to appear on either of the dates of
26 return set out in the copies of the citation mailed ~~pursuant to~~
27 **UNDER** this section, the citation shall be executed in the manner

1 provided by law for personal service. The court may issue a warrant
2 for the arrest of a person who fails to appear within the time
3 limit established on the citation if a sworn complaint is filed
4 with the court for that purpose.

5 (6) If there is a fatality **RESULTING FROM A TRAIN-VEHICLE**
6 **CRASH** at a **PUBLIC** railroad grade crossing, ~~in a city, village, or~~
7 ~~township with population of 60,000 or more, or in a county with~~
8 ~~population of 150,000 or more,~~ the state transportation department
9 shall ~~undertake~~ **CONVENE** a diagnostic **STUDY TEAM** review, if there
10 has not been a diagnostic **STUDY TEAM** review at the crossing in the
11 last 2 years. **HOWEVER, A DIAGNOSTIC STUDY TEAM REVIEW IS NOT**
12 **REQUIRED IF THE INITIAL LAW ENFORCEMENT INVESTIGATION OF THE**
13 **FATALITY INDICATES THAT THE MOTORIST'S CONSUMPTION OF ALCOHOL OR A**
14 **CONTROLLED SUBSTANCE OR HIS OR HER DISREGARD OF AN EXISTING TRAFFIC**
15 **CONTROL DEVICE CONVEYING A "STOP" MESSAGE CONTRIBUTED TO THE**
16 **FATALITY, OR THAT THE FATALITY WAS A SUICIDE.** The diagnostic **STUDY**
17 **TEAM** review shall be ~~scheduled~~ **CONDUCTED** within 120 days **AFTER**
18 **THE STATE TRANSPORTATION DEPARTMENT IS MADE AWARE OF THE FATALITY.**
19 If the diagnostic **STUDY TEAM** review ~~confirms~~ **REACHES CONSENSUS**
20 that warning ~~devices such as flashing lights and gates~~ **DEVICE**
21 **ENHANCEMENTS** are needed, the state transportation department shall
22 order ~~such~~ **THOSE** improvements. The cost for the improvements
23 shall be financed consistent with the financing of similar projects
24 by the state transportation department according to its annual
25 prioritization of grade crossing safety improvements.