

Act No. 367  
Public Acts of 2000  
Approved by the Governor  
January 1, 2001  
Filed with the Secretary of State  
January 2, 2001  
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**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

Introduced by Senators Johnson, North, Miller, Hart, McManus, Vaughn and Murphy

# **ENROLLED SENATE BILL No. 859**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds and grant programs; to provide for the appropriation of money for certain grant programs; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," (MCL 257.1 to 257.923) by adding section 667a.

*The People of the State of Michigan enact:*

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

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

(3) A sworn statement of a police officer from the state or local authority having jurisdiction over the highway or street upon which the railroad grade crossing described in subsection (1) is located, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images indicating such a violation shall be available for inspection in any proceeding to adjudicate the

responsibility for a violation of section 667. Any photographs, videotape, or digital images evidencing such a violation shall be destroyed 90 days after final disposition of the citation.

(4) In a prosecution for a violation of section 667 established by an unmanned traffic monitoring device under this section, prima facie evidence that the vehicle described in the citation issued was operated in violation of section 667, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption may be rebutted if the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. The presumption also may be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation of this section, is presented before the appearance date established on the citation. For purposes of this subsection, the owner of a leased or rental vehicle shall provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.

(5) Notwithstanding section 742, a citation for a violation of section 667 on the basis of evidence obtained from an unmanned traffic monitoring device may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle as shown on the records of the secretary of state. If the summoned person fails to appear on the date of return set out in the citation previously mailed by first-class mail pursuant to this subsection, a copy shall be sent by certified mail-return receipt requested. If the summoned person fails to appear on either of the dates of return set out in the copies of the citation mailed pursuant to this section, the citation shall be executed in the manner provided by law for personal service. The court may issue a warrant for the arrest of a person who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose as required for other civil infractions under section 744.

(6) If there is a fatality at a railroad grade crossing in a city with population of 60,000 or more, the state transportation department shall undertake a diagnostic review. The diagnostic review shall be scheduled within 120 days. If the diagnostic review confirms that warning devices such as flashing lights and gates are needed, the state transportation department shall order such improvements. The cost for the improvements shall be financed consistent with the financing of similar projects by the state transportation department according to its annual prioritization of grade crossing safety improvements.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved .....

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Governor.