



Telephone 373-8080  
Fax 373-5874

## HOUSE FISCAL AGENCY

124 N. Capitol Avenue  
4 – North, HOB Lansing, MI

HB5134 AS PASSED BY THE HOUSE

Sponsor: Rep. Paul Gielegem

Committee: TRANSPORTATION

Analyst(s): Hamilton, William

Completed: 12/14/01

---

### State Fiscal Impact

Cost: None  
Revenues: None

### Local Fiscal Impact

Cost: None  
Revenues: None

---

The department is currently required by the Michigan Vehicle Code, (Section 667a (6) to perform a diagnostic review (the term used by the department is Diagnostic Team Review or "DTR") within 120 days of a railroad grade crossing fatality in any city with a population of 60,000 or more. The requirement was added to the Code by PA 367 of 2000 (Senate Bill 859). HB 5134 would amend Section 667a(6) of the Code to add additional conditions for when the department would be required to perform a diagnostic review. We do not know if the bill would increase or decrease the number of diagnostic reviews the department is required by law to perform.

The bill would have no apparent fiscal impact on state or local government. To the extent that the bill required the department to perform additional diagnostic reviews, the cost of those additional reviews would come from a reallocation of existing department resources.

For additional information on this bill and the rail grade crossing program see the analysis attached (or linked) to this analysis at [www.lsis.state.mi.us](http://www.lsis.state.mi.us), or [www.michiganlegislature.org](http://www.michiganlegislature.org).

## **Analysis of HB 5134 (as passed the House) and the Rail Grade Crossing Program**

**Summary** - The purpose of this analysis is to describe the activities of the Rail Grade Crossing program and to describe the fiscal impact of HB 5134 (as passed the House).

The bill would have no apparent fiscal impact on state or local government. To the extent that the bill required the department to perform additional Diagnostic Team Reviews (DTRs), the cost of those additional reviews would come from a reallocation of existing department resources.

**Background** - The Rail Grade Crossing program is administered by the Freight Services and Safety Division within the Michigan Department of Transportation's Bureau of Urban and Public Transportation (UPTRAN). The department identifies two elements in this program: Rail Safety with 11 positions, and Local Grade Crossing, with 5 positions.

The program is funded from an appropriation from the Michigan Transportation Fund — \$1.8 million in FY 2001-02.

**Rail Safety** - The Rail Safety Section is the “regulatory” section. It collects data on rail crossings, and establishes priorities for grade crossing improvements. The Section also inspects *all* grade crossings in the state (on both trunklines and local roads) once every two years. In addition, the Section inspects for other rail safety issues (close clearance, employee complaints). The activities of this Section are required by state and federal law.

The Rail Safety Section also performs “Diagnostic Team Reviews”, (DTRs). DTRs are generated based on an inspection report, an “event” such as crossing accident, or planned highway project that would affect the crossing. These DTRs are primarily on local road crossings; the department employs a consultant to determine recommended enhancements for trunkline projects (scoping meetings). In either case, recommendations are confirmed by orders.

The Section may recommend that an order be issued based on the result of the DTR. There are standards/criteria that determine when to issue an order. These orders may be legally enforced against either the railroad or the road agency.

The order is actually issued by the department director or the director's designee (UPTRAN director) since they have statutory authority. These orders can compel the railroad and/or the road agency - both MDOT and local road agencies - to construct a safety enhancement at the crossing – such as lights and gates. The railroad and road agency can be required to share cost of constructing enhancement 50/50 unless other provision is made. Generally, the road agency pays for 100% of fixtures on highway right of way (signs, pavement marking, etc).

Road agencies also pay for a share of railroad crossing maintenance based on a statutory formula. This formula was recently amended by PA 5 of 2000 (HB 4234).

The Section has a list of high-priority rail crossing projects. Funding for these projects may come from state funds - there is an annual \$3.0 million Act 51 earmark from the MTF to the Rail Grade Crossing account - and/or from federal funds. Approximately 70% of state Rail Grade Crossing funds are used on local crossings, with approximately 30% used for state trunkline crossings. Federal funds have been used approximately 50/50 between state and local crossing projects. Section 11(1)(c) of Act 51 establishes criteria for selection of projects funded from the rail grade crossing account.

There are 5,360 public "at-grade" crossings in Michigan; 2,360 have active warning devices, including 934 with gates. The Rail Safety Section performs approximately 80 DTRs each year.

**House Bill 5134 (as passed the House)** - The department is currently required by the Michigan Vehicle Code, (Section 667a (6) to perform a DTR within 120 days of a railroad grade crossing fatality in any city with a population of 60,000 or more. The requirement was added to the Code by PA 367 of 2000 (Senate Bill 859). HB 5134 (as passed the House) would amend Section 667a(6) of the Code to require that the department perform a diagnostic review within 120 days of a railroad grade crossing fatality in *townships, and villages with populations of 60,000 or more, and counties with populations of 150,000 or more* - in addition to cities with populations of 60,000 or more. The bill would add two new conditions for mandating a diagnostic review: 1) a diagnostic review would be required under the circumstances described above only - *if there had not been a DTR at the crossing in the previous 2 years*, and 2) a diagnostic review would not be mandated *"if the initial investigation of an accident shows the [sic] alcohol, drugs, or signs of a suicide attempt were a part of the accident."*

There are currently 21 cities with populations of 60,000 or more. There are 5 townships with populations of 60,000 or more. There are no villages in the state with populations greater than 60,000. There are 14 counties with populations over 150,000. Over the last five years, there have been an average of 14 fatalities per year at rail grade crossings in the state. We do not know if the bill would increase or decrease the number of DTRs the department is required by law to perform.

The bill would have no apparent fiscal impact on state or local government. To the extent that the bill required the department to perform additional Diagnostic Team Reviews (DTRs), the cost of those additional reviews would come from a reallocation of existing department resources.

<b>Rail Crossing Accidents 1994-2000</b>			
Year	Fatalities	No. Injured	Total Incidents
<b>1994</b>	28	90	159
<b>1995</b>	6	62	118
<b>1996</b>	17	69	120
<b>1997</b>	13	73	133
<b>1998</b>	11	37	81
<b>1999</b>	14	37	99
<b>2000</b>	14	45	116

HOUSEPASSED