



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

RAILROAD CROSSING; DIAGNOSTIC REVIEW

**House Bill 5134 as passed by the House
Second Analysis (1-8-02)**

**Sponsor: Rep. Paul Gieleghem
Committee: Transportation**

THE APPARENT PROBLEM:

The Department of Transportation rail grade crossing program is administered by the Freight Services and Safety Division, a component of the department's Bureau of Urban and Public Transportation. There, safety inspectors attend to the 5,360 public at grade crossings in the state (2,360 of which have warning devices, including 934 with gates).

Currently the Michigan Vehicle Code requires that department rail safety inspectors perform a diagnostic team review (commonly called a DTR) within 120 days whenever a traffic fatality occurs at a crossing, if the fatality occurs in any city with a population of 60,000 or more. Over the last seven years, there have been an average of 118 grade crossing traffic incidents annually, including an average of 14 fatalities each year.

The requirement to conduct fatality-related DTRs at the grade crossings in the 21 cities having more than 60,000 people was added to the vehicle code by Public Act 367 of 2000 (Senate Bill 859). When the department personnel perform the team reviews of local crossings, they sometimes recommend a traffic control order, based on the result of the review. Those orders are based on engineering standards and criteria, and can be legally enforced against either the railroad or the road agency, or both. The orders can compel the railroad and the road agency to construct a safety enhancement at the crossing—such as lights and gates—and to share the costs.

In Clinton Township located within Macomb County, two fatal accidents have occurred at one hazardous local grade crossing in the last two years. Although Clinton Township is one of five townships in the state having a population of 60,000 people or more (indeed, the township has 95,000 people), no DTR is conducted when grade crossing fatalities occur in townships, outside the city limits.

In order to require that diagnostic team reviews be undertaken when fatalities occur at local grade

crossings located in the five townships of Michigan having 60,000 or more people—including Clinton, Canton, Shelby, Waterford, and West Bloomfield—as well as in the 14 counties having 150,000 or more people, legislation has been proposed.

THE CONTENT OF THE BILL:

House Bill 5134 would amend the Michigan Vehicle Code to specify that if there were a fatality at a railroad grade crossing in a city, a village, a county with a population of 150,000 or more, or a township with a population of 60,000 or more, then the Department of Transportation would be required to undertake a diagnostic review within 120 days, if there had not been a diagnostic review at the crossing in the previous two years. The bill specifies that a diagnostic review would not be required if the initial investigation of an accident showed that alcohol, drugs, or signs of a suicide attempt were a part of the accident. Currently under the law the diagnostic review is required only when the fatality occurs in a city having 60,000 or more people.

MCL 257.667a

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the Rail Safety Section of the Freight Services and Safety Division within the Bureau of Urban and Public Transportation of the Department of Transportation conducts 80 diagnostic team reviews (commonly referred to as DTRs) each year. The program is funded by a \$1.8 million appropriation from the Michigan Transportation Fund, and is part of a comprehensive program which inspects all grade crossings in the state (on both trunklines and local roads) once every two years.

The agency notes that it cannot determine whether the bill would increase or decrease the number of DTRs the department performs, but observes that

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there are five townships with a population of 60,000 or more (in addition to the 21 cities having a population of 60,000 or more), as well as 14 counties having a population of 150,000 or more, whose grade crossing fatalities would require review under the bill. The agency notes further that the bill would have no apparent fiscal impact on state or local government. However, to the extent that the bill required the department to perform additional DTRs, the cost would come from a reallocation of existing department resources.

The agency notes that a more detailed analysis of the diagnostic review program is available at www.michiganlegislature.org. (12-14-01)

ARGUMENTS:

For:

Railroad crossings sometimes have design flaws that cause tragic accidents and that can be corrected through reconstruction. These impediments can be detected in diagnostic reviews, undertaken by knowledgeable teams of inspectors, and the necessary improvements can be made. Currently Michigan's diagnostic team reviews, or DTRs, are targeted at grade crossing fatalities that occur in cities having 60,000 or more people. Townships having at least this many people also should be eligible for a DTR, if a fatality happens outside the city limits at a railroad crossing located in the township. This legislation would require a diagnostic review of grade crossing fatalities in five townships—Clinton, Canton, Shelby, Waterford, and West Bloomfield—so that necessary improvements could be made in order to ensure the safety of travelers.

For:

Amendments adopted on the House floor have improved the bill. Specifically, the bill was amended so that rail crossing fatalities in the state's 14 counties having a population of 150,000 people or more also would prompt an automatic diagnostic review. A second amendment would lift the requirement for a review where the preliminary accident investigation showed that alcohol or other drug use, or suicide, were characteristics of the accident—characteristics that would reduce the likelihood the fatality was caused by a flaw in the construction or design of the crossing.

Against:

The rail crossing fatalities in *all* of the state's 83 counties are deserving of investigation by the diagnostic review team. If the program's limited

resources require that problem crossings be prioritized, then care should be taken to direct diagnostic attention to those sites posing the greatest threat to the highest *proportion* of residents, rather than to those posing a threat to the highest number of residents. A review of total fatalities in relation to total county population would yield the percentage risk of a particular crossing, and the highest risk crossings could be identified. That way, the most dangerous crossings could be gated, regardless of the county's population.

POSITIONS:

The County Road Association of Michigan supports the bill. (1-8-02)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.