

By: Senator(s) Furniss

To: Highways and
Transportation

SENATE BILL NO. 2560

1 AN ACT TO AMEND SECTION 65-1-175, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO ERECT
3 LUMINOUS FLASHING LIGHTS AND CROSSING GATES AT ALL
4 ROADWAY/RAILROAD CROSSINGS IN MUNICIPALITIES WHERE THE DAILY TRAIN
5 TRAFFIC CONSISTS OF AT LEAST TWO PASSENGER TRAINS AND EIGHT
6 FREIGHT TRAINS; TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF
7 TRANSPORTATION TO PRESCRIBE A DIVISION OF THE COSTS OF
8 INSTALLATION AND SUBSEQUENT MAINTENANCE OF SUCH WARNING DEVICES
9 BETWEEN THE RAIL CARRIER, THE PUBLIC HIGHWAY AUTHORITY IN INTEREST
10 AND THE DEPARTMENT; TO LIMIT THE AMOUNT THAT MAY BE ASSESSED
11 AGAINST THE PUBLIC HIGHWAY AUTHORITY AND THE RAIL CARRIER; AND FOR
12 RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 SECTION 1. Section 65-1-175, Mississippi Code of 1972, is
15 amended as follows:

16 65-1-175. (1) The jurisdiction of the Mississippi
17 Department of Transportation shall be exclusive with respect to
18 public roadway/railroad crossings either at grade or otherwise
19 except to the extent that its jurisdiction is preempted by valid
20 federal statute, regulation or order.

21 (2) The Mississippi Department of Transportation shall have
22 power, upon its own motion or upon complaint filed, after having
23 made proper investigation, and after notice and hearing, if
24 requested, to abolish any public roadway/railroad crossing
25 heretofore or hereafter established, to vacate and close that part
26 of the roadway on such crossing abolished, and to erect barricades
27 across the roadway in such a manner as to prevent the use of such
28 crossing as a roadway, when, in the opinion of the department, the
29 public convenience served by the crossing in question is not such
30 as to justify the further retention thereof. In any event, if a
31 roadway/railroad crossing is the subject of closure proceedings,

32 both the local governmental entity and the rail carrier shall be
33 given formal written notice by the department before any hearing
34 is conducted by the department.

35 (3) The Mississippi Department of Transportation shall have
36 power, upon its own motion, or upon complaint, and after having
37 made proper investigation and after notice and hearing, if
38 requested, to require the installation of adequate and appropriate
39 luminous reflective warning signs, luminous flashing signals,
40 crossing gates illuminated at night, or other warning devices in
41 order to promote the health and safety of the public. Luminous
42 flashing signals or crossing gate devices heretofore installed at
43 grade crossings and those installations hereafter approved by the
44 department shall be deemed adequate and appropriate. The
45 department shall have authority to determine the number, type and
46 location of such signs, signals, gates or other protective devices
47 which shall conform as near as may be with generally recognized
48 national standards, and the department shall have authority to
49 prescribe the division of the cost of the installation and
50 subsequent maintenance of such signs, signals, gates or other
51 warning devices between the rail carrier or carriers, the public
52 highway authority in interest and the Mississippi Department of
53 Transportation. In no event shall any costs assessed against
54 either the public highway authority in interest or the rail
55 carrier exceed ten percent (10%) of the costs of the materials and
56 installation.

57 (4) The Mississippi Department of Transportation shall erect
58 luminous flashing lights and crossing gates at all
59 roadway/railroad crossings located within the corporate limits of
60 municipalities where the daily train traffic consists of at least
61 two (2) passenger trains and eight (8) freight trains. The
62 department shall have the authority to prescribe the division of
63 the cost of the installation and subsequent maintenance of the
64 warning devices required by this subsection between the rail
65 carrier or carriers, the public highway authority in interest and
66 the Mississippi Department of Transportation. In no event shall
67 any costs assessed against either the public highway authority in
68 interest or the rail carrier exceed ten percent (10%) of the costs

69 of the materials and installation.

70 (5) Nothing in this section shall be construed as amending,
71 repealing or modifying any duty or responsibility that railroads
72 had, if any, immediately before July 1, 1992, with regard to any
73 applicable state or federal laws, statutes, regulations or orders
74 pertaining to the maintenance of signals, signs and warning
75 devices at roadway/railroad crossings.

76 SECTION 2. This act shall take effect and be in force from
77 and after July 1, 1999.