

By: Representative Woods

To: Transportation;
Judiciary A

HOUSE BILL NO. 980

1 AN ACT TO REQUIRE RAILROAD COMPANIES TO REMOVE VEGETATION
2 WITHIN A CERTAIN DISTANCE OF HIGHWAY RAILROAD GRADE CROSSINGS; TO
3 PROVIDE THAT IN CIVIL ACTIONS TO RECOVER DAMAGES SUSTAINED IN
4 COLLISIONS OF MOTOR VEHICLES WITH RAILROAD TRAINS, THE QUESTION OF
5 WHETHER THE RAILROAD COMPANY'S FAILURE TO REMOVE SUCH VEGETATION
6 WAS THE PROXIMATE CAUSE OF THE INJURY SHALL BE INITIALLY
7 DETERMINED BY THE JUDGE; TO REQUIRE THE DEPARTMENT OF
8 TRANSPORTATION TO PERIODICALLY INSPECT AND EVALUATE ALL PUBLIC
9 HIGHWAY RAILROAD GRADE CROSSINGS TO DETERMINE IF THE RAILROAD
10 COMPANY IS IN COMPLIANCE WITH THIS ACT AND TO NOTIFY RAILROAD
11 COMPANIES OF ANY SUCH NONCOMPLIANCE; TO PROVIDE CIVIL FINES FOR
12 RAILROAD COMPANIES THAT FAIL TO COMPLY WITH THE PROVISIONS OF THIS
13 ACT; TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL HAVE
14 EXCLUSIVE AUTHORITY TO BRING A CIVIL ACTION TO ENFORCE THE
15 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) At all public highway railroad grade
18 crossing that do not have automatic flashing lights and/or
19 gates where vegetation would materially obstruct the view of a
20 vehicle operator exercising reasonable care of a train approaching
21 a grade crossing from either direction, every railroad, as is
22 reasonably practical, shall remove from its right-of-way which it
23 owns or operates, such vegetation as weeds, brush, climbing vines,
24 shrubbery and trees, for a distance of not less than three hundred
25 (300) feet in each direction from the centerline of the public
26 road or highway, unless the authorized train speed is ten (10)
27 miles per hour or less, in which case the distance from the
28 centerline of the public road or highway shall be not less than
29 one hundred (100) feet. At the outer edges of the public road or
30 highway, the vegetation shall be removed to a width of twenty-five
31 (25) feet on each side of the centerline of the railroad or to the
32 full width of the railroad's operating right-of-way whichever is
33 shorter. The area cleared of vegetation may be tapered inward

34 from its full width at the involved roadway to the outer limits of
35 the area being cleared so as to create a triangle, or it may be
36 cleared at a constant width so as to form a rectangle.

37 (2) In the trial of all civil actions to recover damages for
38 personal injuries, wrongful death damages and/or property damages
39 sustained by a motorist or passenger in a motor vehicle resulting
40 from a collision of the vehicle and a railroad train or motorized
41 equipment in which action it is alleged the railroad violated any
42 of the provisions of subsection (1) of this section, the question
43 whether or not the railroad violated subsection (1) of this
44 section, and whether the violation was the sole or proximate cause
45 of the accident and injury shall initially be considered by the
46 judge and a determination made as to whether the questions should
47 be submitted to the jury for a decision. The violation of
48 subsection (1) or this section shall not of itself be grounds for
49 recovery, and the comparative negligence statute and prima facie
50 statute of this state shall apply in these cases as in other cases
51 of negligence.

52 (3) This section does not change or modify the duties of the
53 operator of a vehicle as set forth in Section 77-9-249 or its
54 application.

55 (4) The Department of Transportation may periodically inspect
56 and evaluate all public highway railroad grade crossings to
57 determine whether such grade crossings are maintained in
58 compliance with the provisions of this section. If the department
59 determines that a particular grade crossing is not in compliance,
60 the department shall notify the railroad company which owns or
61 operates the right-of-way that a grade crossing is not in
62 compliance with this section.

63 (5) Every notification to a railroad company, as authorized
64 under the provisions of this section shall be in writing
65 transmitted by certified mail, return receipt requested, to the
66 person listed as the registered agent of the railroad company for

67 service of process. Upon receipt of the notice, the railroad
68 company shall have thirty (30) days to comply with the notice
69 before any civil action may be taken by the Department of
70 Transportation.

71 (6) Any railroad company that fails to comply with the
72 provisions of this section shall be subject to a civil fine of not
73 to exceed Five Hundred Dollars (\$500.00) per violation. The
74 Department of Transportation shall have the exclusive authority to
75 bring a civil action to enforce the provisions of this section.
76 The fines shall be payable to the Department of Transportation.

77 (7) In any civil action to recover damages arising from or
78 out of a highway railroad grade crossing accident, the failure of
79 the Department of Transportation to inspect and evaluate a public
80 highway railroad grade crossing and notify a railroad company of
81 noncompliance, as provided in subsections (4) and (5) of this
82 section, shall not be considered as comparative negligence and
83 shall not be discoverable or admissible as evidence in any civil
84 trial.

85 **SECTION 2.** This act shall take effect and be in force from
86 and after July 1, 2004.