

By: Senator(s) Hewes, Gollott

To: Highways and
Transportation

SENATE BILL NO. 2817

1 AN ACT TO AMEND SECTION 65-1-175, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REQUIREMENT FOR A PUBLIC HEARING BY THE MISSISSIPPI
3 DEPARTMENT OF TRANSPORTATION BEFORE THE ABOLISHMENT OF A
4 ROADWAY/RAILWAY CROSSING WHEN THE PUBLIC ROADWAY AUTHORITY VACATES
5 THE ROADWAY; TO AMEND SECTION 77-9-481, MISSISSIPPI CODE OF 1972,
6 TO AUTHORIZE INSPECTORS EMPLOYED BY THE MISSISSIPPI DEPARTMENT OF
7 TRANSPORTATION TO ENFORCE GRADE CROSSING LAWS; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 65-1-175, Mississippi Code of 1972, is
11 amended as follows:

12 65-1-175. (1) The jurisdiction of the Mississippi
13 Department of Transportation shall be exclusive with respect to
14 public roadway/railroad crossings either at grade or otherwise
15 except to the extent that its jurisdiction is preempted by valid
16 federal statute, regulation or order.

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

31 department to abolish a crossing shall not be required when the
32 public roadway authority in interest vacates the roadway. In such
33 instances, the rail carrier, following notification to the
34 department and roadway authority, shall remove any grade crossing
35 warning devices and the grade crossing surface.

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

58 (4) Nothing in this section shall be construed as amending,
59 repealing or modifying any duty or responsibility that railroads
60 had, if any, immediately before the effective date of this act
61 with regard to any applicable state or federal laws, statutes,
62 regulations or orders pertaining to the maintenance of signals,
63 signs and warning devices at roadway/railroad crossings.

64 **SECTION 2.** Section 77-9-481, Mississippi Code of 1972, is
65 amended as follows:

66 77-9-481. The inspectors, employed pursuant to the authority
67 granted in Section 65-1-173, shall be responsible for enforcing
68 and investigating all violations of the railroad laws, and the
69 rules, regulations and general orders of the Mississippi
70 Transportation Commission promulgated thereunder. In the
71 performance of their duties such employees shall give particular
72 attention to the enforcement of the commission's safety rules and
73 regulations; blocking of rights-of-way; enforcement of grade
74 crossing laws; the inspection of all equipment, rights-of-way,
75 roadbed and tracks; and the requirement respecting certificate of
76 public convenience and necessity, permits or other laws affecting
77 the operation of the railroad.

78 **SECTION 3.** This act shall take effect and be in force from
79 and after July 1, 2007.