

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5098

A bill to amend 1925 PA 368, entitled

"An act to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power, and other public utility companies, cable television companies and municipalities may enter upon, construct and maintain telegraph, telephone, power or cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act,"

by amending section 13 (MCL 247.183), as amended by 2005 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) Except as otherwise provided under subsection
2 (2), telegraph, telephone, power, and other public utility
3 companies, cable television companies, **BROADBAND COMPANIES**, and
4 municipalities may enter upon, construct, and maintain telegraph,
5 telephone, or power lines, ~~pipe lines~~, **PIPELINES**, wires, cables,
6 poles, conduits, sewers or similar structures upon, over, across,

1 or under any public road, bridge, street, or public place,
2 including, longitudinally within limited access highway rights-of-
3 way, and across or under any of the waters in this state, with all
4 necessary erections and fixtures for that purpose. A telegraph,
5 telephone, power, and other public utility company, cable
6 television company, **BROADBAND COMPANY**, and municipality, before any
7 of this work is commenced, shall first obtain the consent of the
8 governing body of the city, village, or township through or along
9 which these lines and poles are to be constructed and maintained.

10 (2) A utility as defined in 23 CFR ~~645.105(m)~~ **645.105** may
11 enter upon, construct, and maintain utility lines and structures,
12 including ~~pipe lines~~, **PIPELINES**, longitudinally within limited
13 access highway rights-of-way and under any public road, street, or
14 other subsurface that intersects any limited access highway at a
15 different grade, in accordance with standards approved by the state
16 transportation commission and the Michigan public service
17 commission that conform to governing federal laws and regulations
18 and is not required to obtain the consent of the governing body of
19 the city, village, or township as required under subsection (1).
20 The standards ~~shall~~ **MUST** require that the lines and structures be
21 underground and be placed in a manner that will not increase
22 highway maintenance costs for the state transportation department.
23 The standards may provide for the imposition of a reasonable charge
24 for longitudinal use of limited access highway rights-of-way. The
25 imposition of a reasonable charge is a governmental function,
26 offsetting a portion of the capital, maintenance, and permitting
27 expense of the limited access highway, and is not a proprietary

1 function. The charge ~~shall~~**MUST** be calculated to reflect a 1-time
2 installation permit fee that ~~shall~~**DOES** not exceed \$1,000.00 per
3 mile of longitudinal use of limited access highway rights-of-way
4 with a minimum fee of \$5,000.00 per permit. If the 1-time
5 installation permit fee does not cover the reasonable and actual
6 costs to the department in issuing the permit, the department may
7 assess the utility for the remaining balance. All revenue received
8 under this subsection ~~shall~~**MUST** be used for capital and
9 maintenance expenses incurred for limited access highways,
10 including the cost of issuing the permit.

11 (3) IF A CITY, VILLAGE, TOWNSHIP, COUNTY, OR COUNTY ROAD
12 COMMISSION OR THE STATE TRANSPORTATION DEPARTMENT REQUESTS OR
13 REQUIRES AN ENTITY HOLDING A LICENSE UNDER THE MICHIGAN
14 TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2101 TO 484.2603, OR
15 HOLDING A FRANCHISE UNDER THE UNIFORM VIDEO SERVICES LOCAL
16 FRANCHISE ACT, 2006 PA 480, MCL 484.3301 TO 484.3315, TO RELOCATE
17 FACILITIES, THE CITY, VILLAGE, TOWNSHIP, COUNTY, OR COUNTY ROAD
18 COMMISSION OR THE STATE TRANSPORTATION DEPARTMENT MAY REQUIRE THE
19 ENTITY TO OBTAIN A PERMIT FOR THE RELOCATION OF THE FACILITIES BUT
20 SHALL WAIVE ANY PERMIT FEES INCLUDING, BUT NOT LIMITED TO, ANY
21 PERMIT FEE UNDER SUBSECTION (2). THIS SUBSECTION DOES NOT APPLY IF
22 THE REQUEST TO RELOCATE FACILITIES WAS DUE TO AN ENTITY PLACING
23 FACILITIES IN A LOCATION NOT AUTHORIZED BY A CURRENT OR PREVIOUS
24 PERMIT.

25 (4) ~~(3)~~A person engaged in the collection of traffic data or
26 the provision of travel-related information or assistance may enter
27 upon, construct, and maintain electronic devices and related

1 structures within limited access and other highway rights-of-way in
2 accordance with standards approved by the state transportation
3 commission that conform to governing federal laws and regulations.

4 The standards ~~shall~~**MUST** require that the devices and structures be
5 placed in a manner that will not impede traffic and will not
6 increase maintenance costs for the state transportation department.

7 The state transportation department may enter into agreements to
8 authorize the use of property acquired for or designated as a
9 highway or acquired for or designated for ancillary purposes for
10 the installation, operation, and maintenance of commercial or
11 noncommercial electronic devices and related structures for the
12 collection of traffic data or to assist in providing travel-related
13 information or assistance to motorists who subscribe to travel-
14 related services, the public, or the department. Any revenue
15 generated by the agreements ~~shall~~**MUST** be deposited in the state
16 trunk line fund **ESTABLISHED UNDER SECTION 11 OF 1951 PA 51, MCL**
17 **247.661**. The department may accept facilities or in-kind services
18 to be used for public purposes in lieu of, or in addition to,
19 monetary compensation.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.