

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1050

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 the title and sections 13 and 14 (MCL 247.183 and 247.184), section 13 as amended by 2005 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

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An act to prohibit obstructions and encroachments on public

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highways; ~~to provide for the removal thereof,~~ **OF OBSTRUCTIONS AND**

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ENCROACHMENTS ON PUBLIC HIGHWAYS; to prescribe the conditions under

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which telegraph, telephone, power, and other public utility

1 companies, cable television companies, **BROADBAND COMPANIES**, and
 2 municipalities may enter upon, construct, and maintain telegraph,
 3 telephone, power, ~~or cable television, lines, OR BROADBAND LINES~~,
 4 pipe lines, wires, cables, poles, conduits, sewers, and like
 5 structures upon, over, across, or under public roads, bridges,
 6 streets, and waters; and to ~~provide~~ **PRESCRIBE** penalties for the
 7 ~~violation of this act.~~ **AND PROVIDE REMEDIES.**

8 Sec. 13. (1) Except as otherwise provided under subsection
 9 (2), telegraph, telephone, power, and other public utility
 10 companies, cable television companies, **BROADBAND COMPANIES**, and
 11 municipalities may enter upon, construct, and maintain telegraph,
 12 telephone, or power lines, ~~pipe lines, PIPELINES~~, wires, cables,
 13 poles, conduits, sewers or similar structures upon, over, across,
 14 or under any public road, bridge, street, or public place,
 15 including, longitudinally within limited access highway rights-of-
 16 way, and across or under any of the waters in this state, with all
 17 necessary erections and fixtures for that purpose. A telegraph,
 18 telephone, power, and other public utility company, cable
 19 television company, **BROADBAND COMPANY**, and municipality, before any
 20 of this work is commenced, shall first obtain the consent of the
 21 governing body of the city, village, or township through or along
 22 which these lines and poles are to be constructed and maintained.

23 (2) A utility as defined in 23 CFR ~~645.105(m)~~ **645.105** may
 24 enter upon, construct, and maintain utility lines and structures,
 25 including ~~pipe lines, PIPELINES~~, longitudinally within limited
 26 access highway rights-of-way and under any public road, street, or
 27 other subsurface that intersects any limited access highway at a

1 different grade, in accordance with standards approved by the state
2 transportation commission and the Michigan public service
3 commission that conform to governing federal laws and regulations
4 and is not required to obtain the consent of the governing body of
5 the city, village, or township as required under subsection (1).

6 The standards ~~shall~~**MUST** require that the lines and structures be
7 underground and be placed in a manner that will not increase
8 highway maintenance costs for the state transportation department.

9 The standards may provide for the imposition of a reasonable charge
10 for longitudinal use of limited access highway rights-of-way. The
11 imposition of a reasonable charge is a governmental function,
12 offsetting a portion of the capital, maintenance, and permitting
13 expense of the limited access highway, and is not a proprietary
14 function. The charge ~~shall~~**MUST** be calculated to reflect a 1-time
15 installation permit fee that ~~shall~~**DOES** not exceed \$1,000.00 per
16 mile of longitudinal use of limited access highway rights-of-way
17 with a minimum fee of \$5,000.00 per permit. If the 1-time
18 installation permit fee does not cover the reasonable and actual
19 costs to the department in issuing the permit, the department may
20 assess the utility for the remaining balance. All revenue received
21 under this subsection ~~shall~~**MUST** be used for capital and
22 maintenance expenses incurred for limited access highways,
23 including the cost of issuing the permit.

24 **(3) IF A CITY, VILLAGE, TOWNSHIP, COUNTY, OR COUNTY ROAD**
25 **COMMISSION OR THE STATE TRANSPORTATION DEPARTMENT REQUESTS OR**
26 **REQUIRES AN ENTITY HOLDING A LICENSE UNDER THE MICHIGAN**
27 **TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2101 TO 484.2603, OR**

1 HOLDING A FRANCHISE UNDER THE UNIFORM VIDEO SERVICES LOCAL
2 FRANCHISE ACT, 2006 PA 480, MCL 484.3301 TO 484.3315, TO RELOCATE
3 FACILITIES, THE CITY, VILLAGE, TOWNSHIP, COUNTY, OR COUNTY ROAD
4 COMMISSION OR THE STATE TRANSPORTATION DEPARTMENT MAY REQUIRE THE
5 ENTITY TO OBTAIN A PERMIT FOR THE RELOCATION OF THE FACILITIES BUT
6 SHALL WAIVE ANY PERMIT FEES INCLUDING, BUT NOT LIMITED TO, ANY
7 PERMIT FEE UNDER SUBSECTION (2). THIS SUBSECTION DOES NOT APPLY IF
8 THE REQUEST TO RELOCATE FACILITIES WAS DUE TO AN ENTITY PLACING
9 FACILITIES IN A LOCATION NOT AUTHORIZED BY A CURRENT OR PREVIOUS
10 PERMIT.

11 (4) ~~(3)~~—A person engaged in the collection of traffic data or
12 the provision of travel-related information or assistance may enter
13 upon, construct, and maintain electronic devices and related
14 structures within limited access and other highway rights-of-way in
15 accordance with standards approved by the state transportation
16 commission that conform to governing federal laws and regulations.
17 The standards ~~shall~~**MUST** require that the devices and structures be
18 placed in a manner that will not impede traffic and will not
19 increase maintenance costs for the state transportation department.
20 The state transportation department may enter into agreements to
21 authorize the use of property acquired for or designated as a
22 highway or acquired for or designated for ancillary purposes for
23 the installation, operation, and maintenance of commercial or
24 noncommercial electronic devices and related structures for the
25 collection of traffic data or to assist in providing travel-related
26 information or assistance to motorists who subscribe to travel-
27 related services, the public, or the department. Any revenue

1 generated by the agreements ~~shall~~**MUST** be deposited in the state
2 trunk line fund **ESTABLISHED UNDER SECTION 11 OF 1951 PA 51, MCL**
3 **247.661**. The department may accept facilities or in-kind services
4 to be used for public purposes in lieu of, or in addition to,
5 monetary compensation.

6 Sec. 14. ~~(1) In case it is proposed~~**A PERSON THAT PROPOSES** to
7 construct a telegraph, telephone, power line or cable television
8 line, **BROADBAND LINE**, pipe lines, wires, cables, poles, conduits,
9 sewers, or like structures upon, over or under a county road or
10 bridge, **SHALL OBTAIN** the consent of the board of county road
11 commissioners ~~shall be obtained before the~~**COMMENCING** work. ~~of such~~
12 ~~construction shall be commenced; and in case it is proposed~~

13 **(2) A PERSON THAT PROPOSES** to construct a telegraph,
14 telephone, power line, cable television line, **BROADBAND LINE**, pipe
15 line, wires, cables, poles, conduits, sewers or like structures,
16 upon, over or under a state trunk line highway, or upon, over or
17 under any bridge that ~~the~~**THIS** state has participated in
18 constructing, **SHALL OBTAIN** the consent of the state highway
19 commissioner ~~shall be obtained before the~~**COMMENCING** work. ~~of such~~
20 ~~construction shall be commenced.~~

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