

SENATE BILL No. 522

May 19, 2005, Introduced by Senators McMANUS, PRUSI, HAMMERSTROM, GOSCHKA, ALLEN, KUIPERS, JOHNSON and SCHAUER and referred to the Committee on Transportation.

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 2002 PA 151.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) ~~—Telegraph—~~ **EXCEPT AS OTHERWISE PROVIDED UNDER**
2 **SUBSECTION (2), TELEGRAPH,** telephone, power, and other public
3 utility companies, cable television companies, and municipalities
4 may enter upon, construct, and maintain telegraph, telephone, or
5 power lines, pipe lines, wires, cables, poles, conduits, sewers or

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

11 (2) A utility as defined in 23 ~~C.F.R.~~ **CFR** 645.105(m) may
 12 enter upon, construct, and maintain utility lines and structures,
 13 **INCLUDING PIPE LINES,** longitudinally within limited access highway
 14 rights-of-way **AND UNDER ANY PUBLIC ROAD, STREET, OR OTHER**
 15 **SUBSURFACE THAT INTERSECTS ANY LIMITED ACCESS HIGHWAY AT A**
 16 **DIFFERENT GRADE,** in accordance with standards approved by the state
 17 transportation commission **AND THE MICHIGAN PUBLIC SERVICE**
 18 **COMMISSION** that conform to governing federal laws and regulations
 19 **AND IS NOT REQUIRED TO OBTAIN THE CONSENT OF THE GOVERNING BODY OF**
 20 **THE CITY, VILLAGE, OR TOWNSHIP AS REQUIRED UNDER SUBSECTION (1).**

21 The standards shall require that the lines and structures be
 22 underground and be placed in a manner that will not increase
 23 highway maintenance costs for the state transportation department.

24 The standards may provide for the imposition of a reasonable charge
 25 for longitudinal use of limited access highway rights-of-way. The
 26 imposition of a reasonable charge is a governmental function,

27 offsetting a portion of the capital ~~[and maintenance,~~ **MAINTENANCE, AND**
PERMITTING] expense of the

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1 limited access highway, and is not a proprietary function. The
 2 charge shall be calculated to reflect a 1-time installation permit
 3 fee that shall not exceed \$1,000.00 per mile of longitudinal use of
 4 limited access highway rights-of-way with a minimum fee of
 5 \$5,000.00 per permit. **[IF THE 1-TIME INSTALLATION PERMIT FEE DOES NOT
 COVER THE REASONABLE AND ACTUAL COSTS TO THE DEPARTMENT IN ISSUING THE
 PERMIT, THE DEPARTMENT MAY ASSESS THE UTILITY FOR THE REMAINING BALANCE.]**
 All revenue received under this subsection

6 shall be used for capital and maintenance expenses incurred for
 7 limited access highways[, **INCLUDING THE COST OF ISSUING THE PERMIT**].

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

1 monetary compensation.