

HOUSE BILL No. 5098

October 12, 2017, Introduced by Reps. Hoitenga, Griffin and Phelps and referred to the Committee on Communications and Technology.

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, and municipalities may enter
4 upon, construct, and maintain telegraph, telephone, or power lines,
5 ~~pipe lines,~~ **PIPELINES**, wires, cables, poles, conduits, sewers or

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

11 (2) A utility as defined in 23 CFR ~~645.105(m)~~ **645.105** may
12 enter upon, construct, and maintain utility lines and structures,
13 including ~~pipe lines~~, **PIPELINES**, longitudinally within limited
14 access highway rights-of-way and under any public road, street, or
15 other 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~~ **MUST** 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, maintenance, and permitting

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

12 (3) SUBJECT TO SUBSECTION (6), A CITY, VILLAGE, TOWNSHIP, OR
13 COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL SEND A WRITTEN
14 NOTIFICATION BY FIRST-CLASS MAIL OR ELECTRONIC MAIL TO AN ENTITY
15 HOLDING A LICENSE UNDER THE MICHIGAN TELECOMMUNICATIONS ACT, 1991
16 PA 179, MCL 484.2101 TO 484.2603, OR HOLDING A FRANCHISE UNDER THE
17 UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006 PA 480, MCL
18 484.3301 TO 484.3315, IF THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR
19 THE STATE TRANSPORTATION DEPARTMENT REQUESTS OR REQUIRES THE ENTITY
20 TO TEMPORARILY OR PERMANENTLY RELOCATE ITS FACILITIES FOR ANY
21 REASON, INCLUDING, BUT NOT LIMITED TO, TO PROTECT THOSE FACILITIES
22 DUE TO CONSTRUCTION OR OTHER ACTIVITY BY THE CITY, VILLAGE,
23 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT. EXCEPT
24 AS OTHERWISE PROVIDED IN THIS SUBSECTION, A CITY, VILLAGE,
25 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL
26 SEND THE WRITTEN NOTIFICATION REQUIRED BY THIS SUBSECTION AT LEAST
27 1 YEAR BEFORE THE RELOCATION IS TO OCCUR. IF A CITY, VILLAGE,

1 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT LEARNS
2 OF A PROJECT OR SECURES FUNDING FOR A PROJECT LESS THAN 1 YEAR
3 BEFORE THE PLANNED START DATE OF THE PROJECT, THE CITY, VILLAGE,
4 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL
5 SEND THE WRITTEN NOTIFICATION REQUIRED BY THIS SUBSECTION WITHIN 30
6 DAYS OF LEARNING OF THE PROJECT OR SECURING FUNDING FOR THE
7 PROJECT. WRITTEN NOTIFICATION UNDER THIS SUBSECTION MUST IDENTIFY
8 THE SPECIFIC RIGHTS-OF-WAY AFFECTED, INCLUDING THE BEGINNING AND
9 ENDING POINTS, AFFECTED CROSS STREETS AND STRUCTURES, AND THE
10 PLANNED START DATE OF THE PROJECT.

11 (4) IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
12 TRANSPORTATION DEPARTMENT REQUESTS OR REQUIRES AN ENTITY TO
13 RELOCATE FACILITIES, THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE
14 STATE TRANSPORTATION DEPARTMENT MAY REQUIRE THE ENTITY TO OBTAIN A
15 PERMIT FOR THE RELOCATION OF THE FACILITIES BUT SHALL WAIVE ANY
16 PERMIT FEES OR INSPECTION FEES INCLUDING, BUT NOT LIMITED TO, ANY
17 PERMIT FEE UNDER SUBSECTION (2).

18 (5) A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE
19 TRANSPORTATION DEPARTMENT SHALL NOT REQUEST OR REQUIRE AN ENTITY TO
20 CONDUCT ANY STUDY RELATED TO RELOCATING FACILITIES.

21 (6) SUBSECTION (3) DOES NOT APPLY IF A CITY, VILLAGE,
22 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT IS
23 REQUESTING OR REQUIRING THE RELOCATION BECAUSE OF AN ACT OF GOD OR
24 EMERGENCY.

25 (7) ~~(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 **(8) AS USED IN THIS SECTION:**

21 **(A) "ACT OF GOD" MEANS AN UNANTICIPATED GRAVE NATURAL DISASTER**
22 **OR OTHER NATURAL PHENOMENON OF AN EXCEPTIONAL, INEVITABLE, AND**
23 **IRRESISTIBLE CHARACTER, THE EFFECTS OF WHICH COULD NOT HAVE BEEN**
24 **PREVENTED OR AVOIDED BY THE EXERCISE OF DUE CARE OR FORESIGHT.**

25 **(B) "EMERGENCY" INCLUDES, BUT IS NOT LIMITED TO, FLOODING NOT**
26 **CAUSED BY AN ACT OF GOD, A WATER MAIN BREAK, A SEWER LINE FAILURE,**
27 **A NATURAL GAS LEAK, OR AN ACT OF TERRORISM.**

1 (C) "STUDY" MEANS A STUDY OR SURVEY, INCLUDING, BUT NOT
2 LIMITED TO, DRAINAGE, SOIL, OR CENTER LINE STUDIES.

3 Enacting section 1. This amendatory act takes effect 180 days
4 after the date it is enacted into law.