

**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, and municipalities may enter  
4           upon, construct, and maintain telegraph, telephone, or power lines,  
5           ~~pipe lines,~~ **PIPELINES**, wires, cables, poles, conduits, sewers or  
6           similar structures upon, over, across, or under any public road,

1 bridge, street, or public place, including, longitudinally within  
2 limited access highway rights-of-way, and across or under any of  
3 the waters in this state, with all necessary erections and fixtures  
4 for that purpose. A telegraph, telephone, power, and other public  
5 utility company, cable television company, and municipality, before  
6 any of this work is commenced, shall first obtain the consent of  
7 the governing body of the city, village, or township through or  
8 along which these lines and poles are to be constructed and  
9 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) SUBJECT TO SUBSECTION (6), IF A CITY, VILLAGE, TOWNSHIP,  
12 OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT REQUESTS OR  
13 REQUIRES FACILITIES WITHIN A COUNTY TO BE RELOCATED TO PROTECT  
14 THOSE FACILITIES DUE TO CONSTRUCTION BY THE CITY, VILLAGE,  
15 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT, THE  
16 CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION  
17 DEPARTMENT SHALL SEND A WRITTEN NOTIFICATION BY ELECTRONIC MAIL TO  
18 THE PRIMARY CONTACT AND SECONDARY CONTACT OF ANY ENTITY THAT  
19 INDICATES ON THE RIGHT-OF-WAY NOTIFICATION LIST THAT IT HAS  
20 FACILITIES LOCATED IN THAT COUNTY. EXCEPT AS OTHERWISE PROVIDED IN  
21 THIS SUBSECTION, A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE  
22 TRANSPORTATION DEPARTMENT SHALL SEND THE WRITTEN NOTIFICATION  
23 REQUIRED BY THIS SUBSECTION AT LEAST 1 YEAR BEFORE THE RELOCATION  
24 IS TO OCCUR. IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE  
25 TRANSPORTATION DEPARTMENT LEARNS OF A PROJECT OR SECURES FUNDING  
26 FOR A PROJECT LESS THAN 1 YEAR BEFORE THE PLANNED START DATE OF THE  
27 PROJECT, THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE

1 TRANSPORTATION DEPARTMENT SHALL SEND THE WRITTEN NOTIFICATION  
2 REQUIRED BY THIS SUBSECTION WITHIN 30 DAYS OF LEARNING OF THE  
3 PROJECT OR SECURING FUNDING FOR THE PROJECT. EXCEPT AS OTHERWISE  
4 PROVIDED IN THIS SUBSECTION, WRITTEN NOTIFICATION UNDER THIS  
5 SUBSECTION MUST IDENTIFY THE SPECIFIC RIGHTS-OF-WAY AFFECTED,  
6 INCLUDING THE BEGINNING AND ENDING POINTS, AFFECTED CROSS STREETS  
7 AND STRUCTURES, AND THE PLANNED START DATE OF THE PROJECT. THE  
8 STATE TRANSPORTATION DEPARTMENT MAY SATISFY THE NOTIFICATION UNDER  
9 THIS SUBSECTION BY SENDING AN ELECTRONIC COPY OF THE MOST RECENTLY  
10 ADOPTED 5-YEAR TRANSPORTATION PROGRAM TO THE PRIMARY CONTACT AND  
11 SECONDARY CONTACT OF AN ENTITY ON THE RIGHT-OF-WAY NOTIFICATION  
12 LIST.

13 (4) IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE  
14 TRANSPORTATION DEPARTMENT REQUESTS OR REQUIRES AN ENTITY TO  
15 RELOCATE FACILITIES, THE CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE  
16 STATE TRANSPORTATION DEPARTMENT MAY REQUIRE THE ENTITY TO OBTAIN A  
17 PERMIT FOR THE RELOCATION OF THE FACILITIES BUT SHALL WAIVE ANY  
18 PERMIT FEES INCLUDING, BUT NOT LIMITED TO, ANY PERMIT FEE UNDER  
19 SUBSECTION (2) UNLESS THE SITE HAS BEEN IDENTIFIED BY THE  
20 DEPARTMENT OF ENVIRONMENTAL QUALITY OR A LOCAL GOVERNMENTAL ENTITY  
21 AS A CONTAMINATED SITE. IF AVAILABLE, THE REQUESTING CITY, VILLAGE,  
22 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT MAY  
23 SHARE ANY COMPLETED TOPOGRAPHICAL STUDY OR SURVEY WITH THE ENTITY  
24 REQUIRED TO RELOCATE ITS FACILITIES BUT IS NOT LIABLE IF THE ENTITY  
25 RELOCATING ITS FACILITIES CHOOSES NOT TO CONDUCT ITS OWN STUDY OR  
26 SURVEY. A COUNTY ROAD COMMISSION, CITY, VILLAGE, TOWNSHIP, COUNTY,  
27 OR THE STATE TRANSPORTATION DEPARTMENT MAY REQUIRE AN ENTITY TO PAY

1 FOR ANY NECESSARY AND ACTUAL COSTS FOR INSPECTIONS RELATED TO WORK  
2 IN A RIGHT-OF-WAY BY THAT ENTITY. A COUNTY ROAD COMMISSION, CITY,  
3 VILLAGE, TOWNSHIP, COUNTY, OR THE STATE TRANSPORTATION DEPARTMENT  
4 MAY REQUIRE A PROVIDER TO SUBMIT DETAILED ENGINEERING PLANS  
5 DIRECTLY RELATED TO WORK IN THE RIGHT-OF-WAY BY THAT PROVIDER AS A  
6 CONDITION OF OR IN CONNECTION WITH ISSUING A PERMIT.

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

10 (6) SUBSECTION (3) DOES NOT APPLY IF A CITY, VILLAGE,  
11 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT IS  
12 REQUESTING OR REQUIRING THE RELOCATION BECAUSE OF AN ACT OF GOD OR  
13 EMERGENCY OR ONCE EXCAVATION HAS BEGUN IF UNDERGROUND FACILITIES  
14 ARE DISCOVERED THAT WERE NOT PREVIOUSLY IDENTIFIED OR PLACED IN THE  
15 PERMITTED LOCATION.

16 (7) ~~(3)~~—A person engaged in the collection of traffic data or  
17 the provision of travel-related information or assistance may enter  
18 upon, construct, and maintain electronic devices and related  
19 structures within limited access and other highway rights-of-way in  
20 accordance with standards approved by the state transportation  
21 commission that conform to governing federal laws and regulations.  
22 The standards ~~shall~~**MUST** require that the devices and structures be  
23 placed in a manner that will not impede traffic and will not  
24 increase maintenance costs for the state transportation department.  
25 The state transportation department may enter into agreements to  
26 authorize the use of property acquired for or designated as a  
27 highway or acquired for or designated for ancillary purposes for

1 the installation, operation, and maintenance of commercial or  
2 noncommercial electronic devices and related structures for the  
3 collection of traffic data or to assist in providing travel-related  
4 information or assistance to motorists who subscribe to travel-  
5 related services, the public, or the department. Any revenue  
6 generated by the agreements ~~shall~~**MUST** be deposited in the state  
7 trunk line fund **ESTABLISHED UNDER SECTION 11 OF 1951 PA 51, MCL**  
8 **247.661**. The department may accept facilities or in-kind services  
9 to be used for public purposes in lieu of, or in addition to,  
10 monetary compensation.

11 **(8) THE MICHIGAN PUBLIC SERVICE COMMISSION SHALL CREATE A**  
12 **RIGHT-OF-WAY NOTIFICATION LIST. AN ENTITY HOLDING A LICENSE UNDER**  
13 **THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179, MCL 484.2101 TO**  
14 **484.2603, OR HOLDING A FRANCHISE UNDER THE UNIFORM VIDEO SERVICES**  
15 **LOCAL FRANCHISE ACT, 2006 PA 480, MCL 484.3301 TO 484.3315, MAY**  
16 **HAVE THEIR NAME INCLUDED ON THE LIST BY SUBMITTING ALL OF THE**  
17 **FOLLOWING:**

18 **(A) A LIST OF EACH COUNTY WHERE THE ENTITY HAS FACILITIES**  
19 **LOCATED IN A PUBLIC RIGHT-OF-WAY.**

20 **(B) THE NAME AND ELECTRONIC MAIL ADDRESS OF A PRIMARY CONTACT.**

21 **(C) THE NAME AND ELECTRONIC MAIL ADDRESS OF A SECONDARY**  
22 **CONTACT.**

23 **(9) AS USED IN THIS SECTION:**

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

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

4           (C) "PRIMARY CONTACT" MEANS THE PRIMARY CONTACT LISTED ON THE  
5 RIGHT-OF-WAY NOTIFICATION LIST UNDER SUBSECTION (8).

6           (D) "RIGHT-OF-WAY NOTIFICATION LIST" MEANS THE LIST CREATED  
7 UNDER SUBSECTION (8).

8           (E) "SECONDARY CONTACT" MEANS THE SECONDARY CONTACT LISTED ON  
9 THE RIGHT-OF-WAY NOTIFICATION LIST UNDER SUBSECTION (8).

10           (F) "STUDY" MEANS A STUDY OR SURVEY, INCLUDING, BUT NOT  
11 LIMITED TO, DRAINAGE, SOIL, OR CENTER LINE STUDIES.

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