

**SUBSTITUTE FOR  
HOUSE BILL NO. 5016**

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

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

1 AFFECTED CROSS STREETS AND STRUCTURES, AND THE PLANNED START DATE  
2 OF THE PROJECT. BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE  
3 AMENDATORY ACT THAT ADDED SUBSECTION (4), AND SUBJECT TO THIS  
4 SUBSECTION, IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE  
5 TRANSPORTATION DEPARTMENT DOES NOT SEND A WRITTEN NOTIFICATION AS  
6 REQUIRED BY THIS SUBSECTION, THE CITY, VILLAGE, TOWNSHIP, OR COUNTY  
7 OR THE STATE TRANSPORTATION DEPARTMENT SHALL REIMBURSE THE ENTITY  
8 50% OF THE ENTITY'S RELOCATION COSTS. A CITY, VILLAGE, TOWNSHIP, OR  
9 COUNTY OR THE STATE TRANSPORTATION DEPARTMENT IS REQUIRED TO  
10 REIMBURSE AN ENTITY FOR RELOCATION COSTS UNDER THIS SUBSECTION ONLY  
11 IF THAT ENTITY INVESTS MONEY IN BROADBAND INFRASTRUCTURE IN THIS  
12 STATE.

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 OR INSPECTION FEES INCLUDING, BUT NOT LIMITED TO, ANY  
19 PERMIT FEE UNDER SUBSECTION (2).

20 (5) IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OR THE STATE  
21 TRANSPORTATION DEPARTMENT REQUESTS OR REQUIRES AN ENTITY TO CONDUCT  
22 ANY STUDY RELATED TO RELOCATING FACILITIES, THE CITY, VILLAGE,  
23 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT SHALL  
24 REIMBURSE THE ENTITY FOR THOSE SURVEY OR STUDY COSTS.

25 (6) SUBSECTION (3) DOES NOT APPLY IF A CITY, VILLAGE,  
26 TOWNSHIP, OR COUNTY OR THE STATE TRANSPORTATION DEPARTMENT IS  
27 REQUESTING OR REQUIRING THE RELOCATION BECAUSE OF AN ACT OF GOD OR

1 **EMERGENCY.**

2 (7) ~~(3)~~—A person engaged in the collection of traffic data or  
3 the provision of travel-related information or assistance may enter  
4 upon, construct, and maintain electronic devices and related  
5 structures within limited access and other highway rights-of-way in  
6 accordance with standards approved by the state transportation  
7 commission that conform to governing federal laws and regulations.  
8 The standards shall require that the devices and structures be  
9 placed in a manner that will not impede traffic and will not  
10 increase maintenance costs for the state transportation department.  
11 The state transportation department may enter into agreements to  
12 authorize the use of property acquired for or designated as a  
13 highway or acquired for or designated for ancillary purposes for  
14 the installation, operation, and maintenance of commercial or  
15 noncommercial electronic devices and related structures for the  
16 collection of traffic data or to assist in providing travel-related  
17 information or assistance to motorists who subscribe to travel-  
18 related services, the public, or the department. Any revenue  
19 generated by the agreements shall be deposited in the state trunk  
20 line fund **ESTABLISHED UNDER SECTION 11 OF 1951 PA 51, MCL 247.661.**  
21 The department may accept facilities or in-kind services to be used  
22 for public purposes in lieu of, or in addition to, monetary  
23 compensation.

24 (8) **AS USED IN THIS SECTION:**

25 (A) **"ACT OF GOD" MEANS AN UNANTICIPATED GRAVE NATURAL DISASTER**  
26 **OR OTHER NATURAL PHENOMENON OF AN EXCEPTIONAL, INEVITABLE, AND**  
27 **IRRESISTIBLE CHARACTER, THE EFFECTS OF WHICH COULD NOT HAVE BEEN**

1 PREVENTED OR AVOIDED BY THE EXERCISE OF DUE CARE OR FORESIGHT.

2 (B) "BROADBAND INFRASTRUCTURE" MEANS THAT TERM AS DEFINED IN  
3 SECTION 3 OF THE MICHIGAN BROADBAND DEVELOPMENT AUTHORITY ACT, 2002  
4 PA 49, MCL 484.3203.

5 (C) "EMERGENCY" INCLUDES, BUT IS NOT LIMITED TO, FLOODING NOT  
6 CAUSED BY AN ACT OF GOD, A WATER MAIN BREAK, A SEWER LINE FAILURE,  
7 A NATURAL GAS LEAK, OR AN ACT OF TERRORISM.

8 (D) "RELOCATION COSTS" MEANS ALL COSTS FOR RELOCATING AN  
9 ENTITY'S FACILITIES IN THE PUBLIC RIGHT-OF-WAY, INCLUDING, BUT NOT  
10 LIMITED TO, BORING COSTS AND LABOR COSTS ASSOCIATED WITH THAT  
11 RELOCATION.

12 (E) "STUDY" MEANS A STUDY OR SURVEY, INCLUDING, BUT NOT  
13 LIMITED TO, DRAINAGE, SOIL, OR CENTER LINE STUDIES.

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