

HOUSE BILL No. 4219

February 13, 2001, Introduced by Rep. Mortimer and referred to the Committee on Energy and Technology.

A bill to regulate the construction and certain usage of cellular towers; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "cellular tower attachment act".

3 Sec. 2. As used in this act:

4 (a) "Attachable space" means the total area of a cellular
5 tower suitable for an attachment.

6 (b) "Attachment" means any equipment or apparatus installed
7 upon a cellular tower to provide cellular telecommunication, per-
8 sonal communication, or mobile telecommunication services.

9 (c) "Cellular provider" means a person providing cellular
10 telecommunication, personal communication, or mobile
11 telecommunication services to customers in this state.

1 (d) "Cellular tower" means a tower or antenna located in
2 this state that is used to provide cellular telecommunication,
3 personal communication, or mobile telecommunication services.

4 (e) "Commission" means the Michigan public service commis-
5 sion in the department of consumer and industry services.

6 (f) "Just and reasonable" means not inadequate, excessive,
7 or unreasonably discriminatory.

8 (g) "Person" means an individual, corporation, partnership,
9 association, governmental entity, or any other legal entity.

10 (h) "Service area" means an area of this state for which the
11 commission determines a person may provide cellular telecommuni-
12 cation, personal communication, or mobile telecommunication serv-
13 ices from an existing cellular tower.

14 (i) "Tower owner" means a person that owns or controls, in
15 whole or in part, a cellular tower.

16 Sec. 3. (1) The Michigan public service commission has the
17 jurisdiction and authority to administer this act.

18 (2) In administering this act, the commission may conduct an
19 investigation, hold hearings, and issue its findings and orders
20 under the contested hearings provisions of the administrative
21 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 (3) The commission shall promulgate rules for the implemen-
23 tation and administration of this act under the administrative
24 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

25 Sec. 4. (1) Within 60 days after the effective date of this
26 act for an existing tower, or after the completion of
27 construction of a cellular tower completed after the effective

1 date of this act, each cellular tower owner shall provide the
2 commission with all of the following information:

3 (a) The name and address of the tower owner.

4 (b) The location of its cellular towers.

5 (c) The service area served by each cellular tower.

6 (d) The amount of unused attachable space available for each
7 cellular tower.

8 (2) A person shall not construct a new cellular tower in
9 this state without first submitting a proposal to and receiving
10 the approval of the commission.

11 (3) A proposal to construct a new cellular tower shall not
12 be approved by the commission if an existing cellular tower
13 within the proposed service area has unused attachable space that
14 is sufficient to provide some or all of the cellular telecommuni-
15 cation, personal communication, or mobile telecommunication serv-
16 ices described in the proposal.

17 (4) If an existing cellular tower owner has unused attach-
18 able space, the tower owner shall allow the attachment by another
19 cellular provider proposing to provide service within the service
20 area of the tower. The existing tower owner may establish the
21 rates, terms, and conditions for the attachment. The rates,
22 terms, and conditions shall be just and reasonable and subject to
23 commission review and approval.

24 Sec. 5. If after notice and hearing the commission finds a
25 person has violated this act, the commission shall order remedies
26 and penalties to protect and make whole any person that has

1 suffered an economic loss as a result of the violation,
2 including, but not limited to, 1 or more of the following:

3 (a) A fine for the first offense of not less than \$200.00 or
4 more than \$500.00 per day that the person is in violation of this
5 act, and for each subsequent offense a fine of not less than
6 \$500.00 or more than \$1,000.00 per day.

7 (b) A refund of any collected excessive rates.

8 (c) Cease and desist orders.

9 Sec. 6. This act shall not be construed to alter or limit
10 the requirements or regulations of any local unit of government
11 regarding the construction and placement of cellular towers.