

Act No. 565
Public Acts of 2018
Approved by the Governor
December 28, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: March 28, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Hoitenga, Griffin and Phelps

ENROLLED HOUSE BILL No. 5098

AN ACT 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:

Sec. 13. (1) Except as otherwise provided under subsection (2), telegraph, telephone, power, and other public utility companies, cable television companies, broadband companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, or power lines, pipelines, wires, cables, poles, conduits, sewers or similar structures upon, over, across, or under any public road, bridge, street, or public place, including, longitudinally within limited access highway rights-of-way, and across or under any of the waters in this state, with all necessary erections and fixtures for that purpose. A telegraph, telephone, power, and other public utility company, cable television company, broadband company, and municipality, before any of this work is commenced, shall first obtain the consent of the governing body of the city, village, or township through or along which these lines and poles are to be constructed and maintained.

(2) A utility as defined in 23 CFR 645.105 may enter upon, construct, and maintain utility lines and structures, including pipelines, longitudinally within limited access highway rights-of-way and under any public road, street, or other subsurface that intersects any limited access highway at a different grade, in accordance with standards approved by the state transportation commission and the Michigan public service commission that conform to governing federal laws and regulations and is not required to obtain the consent of the governing body of the city, village, or township as required under subsection (1). The standards must require that the lines and structures be underground and be placed in a manner that will not increase highway maintenance costs for the state transportation department. The standards may provide for the imposition of a reasonable charge for longitudinal use of limited access highway rights-of-way. The imposition of a reasonable charge is a governmental function, offsetting a portion of the capital, maintenance, and permitting expense of the limited access highway, and is not a proprietary function. The charge must be calculated to reflect a 1-time installation permit fee that does not exceed \$1,000.00 per mile of longitudinal use of limited access highway rights-of-way with a minimum fee of \$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 must be used for capital and maintenance expenses incurred for limited access highways, including the cost of issuing the permit.

(3) If a city, village, township, county, or county road commission or the state transportation department requests or requires an entity holding a license under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2603, or holding a franchise under the uniform video services local franchise act, 2006 PA 480, MCL 484.3301 to

484.3315, to relocate facilities, the city, village, township, county, or county road commission or the state transportation department may require the entity to obtain a permit for the relocation of the facilities but shall waive any permit fees including, but not limited to, any permit fee under subsection (2). This subsection does not apply if the request to relocate facilities was due to an entity placing facilities in a location not authorized by a current or previous permit.

(4) A person engaged in the collection of traffic data or the provision of travel-related information or assistance may enter upon, construct, and maintain electronic devices and related structures within limited access and other highway rights-of-way in accordance with standards approved by the state transportation commission that conform to governing federal laws and regulations. The standards must require that the devices and structures be placed in a manner that will not impede traffic and will not increase maintenance costs for the state transportation department. The state transportation department may enter into agreements to authorize the use of property acquired for or designated as a highway or acquired for or designated for ancillary purposes for the installation, operation, and maintenance of commercial or noncommercial electronic devices and related structures for the collection of traffic data or to assist in providing travel-related information or assistance to motorists who subscribe to travel-related services, the public, or the department. Any revenue generated by the agreements must be deposited in the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661. The department may accept facilities or in-kind services to be used for public purposes in lieu of, or in addition to, monetary compensation.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor