

HOUSE BILL 541

C5

5lr0432

By: Delegates Barkley, Tarlau, Angel, Atterbeary, Aumann, Barron, Brooks, Carr, Chang, Clippinger, Dumais, Ebersole, Fennell, Frick, Frush, Gaines, Glenn, C. Howard, Impallaria, Jackson, Jalisi, Korman, Kramer, McCray, A. Miller, Moon, Pena–Melnyk, Platt, S. Robinson, Smith, Sophocleus, Stein, Valderrama, Valentino–Smith, Waldstreicher, A. Washington, and Zucker

Introduced and read first time: February 11, 2015

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Utility Companies – Removal of Facility Equipment From Utility Poles**

3 FOR the purpose of requiring certain electric companies and telephone companies to
4 coordinate with certain entities the timing of the removal of certain facility
5 equipment so that certain facility equipment and certain poles are removed within a
6 certain period of time; authorizing the Public Service Commission to adopt certain
7 regulations or issue certain orders; requiring the Commission to require certain
8 electric companies and telephone companies to file certain information with the
9 Commission; requiring the Commission to take certain corrective action after a
10 certain consideration; authorizing the Commission to impose a certain civil penalty
11 in addition to certain other penalties; requiring the Commission to determine the
12 amount of any civil penalty after consideration of certain factors; requiring a certain
13 civil penalty to be paid into the General Fund; prohibiting certain electric companies
14 and telephone companies from recovering the cost of a certain civil penalty from
15 ratepayers; defining certain terms; and generally relating to the removal of facility
16 equipment from poles owned by utility companies.

17 BY adding to

18 Article – Public Utilities

19 Section 7–215 and 8–109

20 Annotated Code of Maryland

21 (2010 Replacement Volume and 2014 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Public Utilities**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-215.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "FACILITY EQUIPMENT" MEANS LINES, CABLES, STREET LIGHTS,
5 SUPPORTS FOR TRAFFIC SIGNALS, SIGNAGE, OR ANY OTHER EQUIPMENT OR
6 FIXTURE ATTACHED TO A POLE OWNED BY AN ELECTRIC COMPANY.

7 (3) "THIRD-PARTY ATTACHING ENTITY" MEANS:

8 (I) A TELEPHONE COMPANY;

9 (II) A CABLE TELEVISION COMPANY;

10 (III) A TELECOMMUNICATIONS COMPANY;

11 (IV) A GOVERNMENTAL UNIT; OR

12 (V) ANY OTHER ENTITY THAT ATTACHES FACILITY EQUIPMENT
13 TO A POLE OWNED BY AN ELECTRIC COMPANY.

14 (B) THIS SECTION APPLIES TO AN ELECTRIC COMPANY THAT PLANS TO
15 REMOVE AN EXISTING POLE THAT:

16 (1) THE ELECTRIC COMPANY OWNS;

17 (2) THE ELECTRIC COMPANY PLANS TO REPLACE WITH A NEW POLE;

18 AND

19 (3) IS USED BY A THIRD-PARTY ATTACHING ENTITY AUTHORIZED BY
20 THE ELECTRIC COMPANY TO ATTACH FACILITY EQUIPMENT.

21 (C) (1) (I) ON OR AFTER OCTOBER 1, 2015, IF AN ELECTRIC COMPANY
22 INSTALLS A POLE THAT REPLACES AN EXISTING POLE, THE ELECTRIC COMPANY
23 SHALL COORDINATE WITH EACH THIRD-PARTY ATTACHING ENTITY THE TIMING OF
24 THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE SO
25 THAT EACH THIRD-PARTY ATTACHING ENTITY REMOVES ITS FACILITY EQUIPMENT
26 WITHIN 60 DAYS AFTER RECEIVING NOTIFICATION OF THE INSTALLATION OF THE
27 REPLACEMENT POLE.

1 **(II) THE ELECTRIC COMPANY SHALL REMOVE THE EXISTING**
2 **POLE WITHIN 60 DAYS AFTER ALL FACILITY EQUIPMENT ATTACHED TO THE**
3 **EXISTING POLE HAS BEEN REMOVED.**

4 **(2) IF AN ELECTRIC COMPANY INSTALLED A POLE BEFORE OCTOBER**
5 **1, 2015, TO REPLACE AN EXISTING POLE THAT HAS NOT BEEN REMOVED, THE**
6 **ELECTRIC COMPANY SHALL COORDINATE WITH EACH THIRD-PARTY ATTACHING**
7 **ENTITY THE TIMING OF THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO**
8 **THE EXISTING POLE SO THAT, ON OR BEFORE DECEMBER 31, 2016:**

9 **(I) ALL FACILITY EQUIPMENT IS REMOVED FROM THE EXISTING**
10 **POLE; AND**

11 **(II) THE EXISTING POLE IS REMOVED.**

12 **(D) (1) THE COMMISSION MAY ADOPT REGULATIONS OR ISSUE ORDERS**
13 **TO ESTABLISH A PROCESS FOR THE COORDINATION BY THE ELECTRIC COMPANY OF**
14 **THE REMOVAL OF FACILITY EQUIPMENT OF EACH THIRD-PARTY ATTACHING ENTITY**
15 **FROM AN EXISTING POLE THAT IS REPLACED AND THE REMOVAL OF THE EXISTING**
16 **POLE.**

17 **(2) THE COMMISSION SHALL REQUIRE AN ELECTRIC COMPANY THAT**
18 **IS SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION TO FILE WITH THE**
19 **COMMISSION INFORMATION, AS THE COMMISSION DETERMINES, SPECIFYING A**
20 **SCHEDULE AND PHASING FOR THE REMOVAL OF ALL FACILITY EQUIPMENT OF**
21 **THIRD-PARTY ATTACHING ENTITIES FROM ALL EXISTING POLES THAT ARE**
22 **REPLACED AND THE REMOVAL OF THE EXISTING POLES.**

23 **(E) (1) AFTER CONSIDERATION OF ANY IMPEDIMENTS TO COMPLIANCE**
24 **WITH THIS SECTION, THE COMMISSION SHALL TAKE APPROPRIATE CORRECTIVE**
25 **ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO COMPLY WITH THIS**
26 **SECTION, INCLUDING THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR**
27 **NONCOMPLIANCE UNDER THIS SUBSECTION.**

28 **(2) (I) THE COMMISSION MAY IMPOSE A CIVIL PENALTY NOT**
29 **EXCEEDING \$250 FOR EACH VIOLATION AGAINST AN ELECTRIC COMPANY THAT**
30 **FAILS TO COMPLY WITH THIS SECTION.**

31 **(II) A CIVIL PENALTY MAY BE IMPOSED IN ADDITION TO ANY**
32 **OTHER PENALTY AUTHORIZED BY THIS DIVISION.**

33 **(III) EACH VIOLATION IS A SEPARATE OFFENSE.**

1 (IV) EACH DAY OR PART OF A DAY THE VIOLATION CONTINUES IS
2 A SEPARATE VIOLATION.

3 (3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF ANY CIVIL
4 PENALTY AFTER CONSIDERING:

5 (I) THE NUMBER OF PREVIOUS VIOLATIONS OF THIS SECTION;

6 (II) THE GRAVITY OF THE CURRENT VIOLATION;

7 (III) THE GOOD-FAITH EFFORTS OF THE ELECTRIC COMPANY IN
8 ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION;
9 AND

10 (IV) ANY OTHER MATTER THAT THE COMMISSION CONSIDERS
11 APPROPRIATE AND RELEVANT.

12 (4) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE
13 PAID INTO THE GENERAL FUND OF THE STATE.

14 (5) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST OF ANY
15 CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.

16 8-109.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "FACILITY EQUIPMENT" MEANS LINES, CABLES, STREET LIGHTS,
20 SUPPORTS FOR TRAFFIC SIGNALS, SIGNAGE, OR ANY OTHER EQUIPMENT OR
21 FIXTURE ATTACHED TO A POLE OWNED BY A TELEPHONE COMPANY.

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3 (B) THIS SECTION APPLIES TO A TELEPHONE COMPANY THAT PLANS TO
4 REMOVE AN EXISTING POLE THAT:

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6 (2) THE TELEPHONE COMPANY PLANS TO REPLACE WITH A NEW
7 POLE; AND

8 (3) IS USED BY A THIRD-PARTY ATTACHING ENTITY AUTHORIZED BY
9 THE TELEPHONE COMPANY TO ATTACH FACILITY EQUIPMENT.

10 (C) (1) (I) ON OR AFTER OCTOBER 1, 2015, IF A TELEPHONE COMPANY
11 INSTALLS A POLE THAT REPLACES AN EXISTING POLE, THE TELEPHONE COMPANY
12 SHALL COORDINATE WITH EACH THIRD-PARTY ATTACHING ENTITY THE TIMING OF
13 THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO THE EXISTING POLE SO
14 THAT EACH THIRD-PARTY ATTACHING ENTITY REMOVES ITS FACILITY EQUIPMENT
15 WITHIN 60 DAYS AFTER RECEIVING NOTIFICATION OF THE INSTALLATION OF THE
16 REPLACEMENT POLE.

17 (II) THE TELEPHONE COMPANY SHALL REMOVE THE EXISTING
18 POLE WITHIN 60 DAYS AFTER ALL FACILITY EQUIPMENT ATTACHED TO THE
19 EXISTING POLE HAS BEEN REMOVED.

20 (2) IF A TELEPHONE COMPANY INSTALLED A POLE BEFORE OCTOBER
21 1, 2015, TO REPLACE AN EXISTING POLE THAT HAS NOT BEEN REMOVED, THE
22 TELEPHONE COMPANY SHALL COORDINATE WITH EACH THIRD-PARTY ATTACHING
23 ENTITY THE TIMING OF THE REMOVAL OF ALL FACILITY EQUIPMENT ATTACHED TO
24 THE EXISTING POLE SO THAT, ON OR BEFORE DECEMBER 31, 2016:

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29 TO ESTABLISH A PROCESS FOR THE COORDINATION BY THE TELEPHONE COMPANY
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31 ENTITY FROM AN EXISTING POLE THAT IS REPLACED AND THE REMOVAL OF THE
32 EXISTING POLE.

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21 **PENALTY AFTER CONSIDERING:**

22 **(I) THE NUMBER OF PREVIOUS VIOLATIONS OF THIS SECTION;**

23 **(II) THE GRAVITY OF THE CURRENT VIOLATION;**

24 **(III) THE GOOD-FAITH EFFORTS OF THE TELEPHONE COMPANY**
25 **IN ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE**
26 **VIOLATION; AND**

27 **(IV) ANY OTHER MATTER THAT THE COMMISSION CONSIDERS**
28 **APPROPRIATE AND RELEVANT.**

29 **(4) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE**
30 **PAID INTO THE GENERAL FUND OF THE STATE.**

1 **(5) A TELEPHONE COMPANY MAY NOT RECOVER THE COST OF ANY**
2 **CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2015.