

Telecommunications and State-Owned Rail Trails

This Act establishes procedures and fees to enable telecommunications providers to install telecommunications facilities on rail-trail land under state ownership or control. It requires some of the money from such fees be used to develop and maintain rail-trails.

Submitted as:

Michigan

[Act No. 138, Public Acts of 2012](#)

Status: Enacted into law in 2012.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] Insert title to cite the Act.

2
3 Section 2. [*Requirements.*]

4 (1) If the state owns the land on which a rail-trail is located or if the land is under the long-
5 term control of the state or a state governmental agency through a lease, easement, or other
6 arrangement, the department shall, upon application of a telecommunication provider and payment
7 of not more than \$500.00 in application fees, authorize the installation of telecommunication
8 facilities on that land unless the installation is inconsistent with or prohibited by the lease, easement,
9 or other arrangement. The authorization granted under this subsection shall be granted within 45
10 days and shall require all of the following:

11 (a) All telecommunication facilities shall be installed underground or shall be
12 attached to existing aboveground structures consistent with subdivision (c).

13 (b) The telecommunication provider shall notify the department, in writing, of the
14 installation of the facilities and the anticipated completion date of the installation not less than 30
15 days prior to beginning the installation. Within 5 days after its receipt of the notification, the
16 department shall notify the telecommunication provider, in writing, of any use of
17 the rail-trail for which a permit has been issued by the department.

18 (c) The use of the land for telecommunication facilities and the installation of the
19 facilities or any repairs to the facilities shall not unreasonably interfere with the use or uses of the
20 rail-trail.

21 (d) Following installation of the telecommunication facilities or any repairs to the
22 facilities, the land shall be reasonably restored to its condition prior to the installation or repair.

23 (e) The telecommunication provider shall pay to the department a 1-time use fee of 5
24 cents per longitudinal linear foot of the space to be occupied by the telecommunication facilities.
25 The fee required under this subdivision shall not be required beginning 6 years after the effective
26 date of the amendatory act that added this section. At no time during or after this 6-year time period
27 shall a telecommunications provider that pays the fee be charged with any additional fee for the use
28 of the land for telecommunication facilities.

29 (2) The department shall forward use fees collected under this section to the state treasurer
30 for deposit as follows:

31 (a) If the land or rights in land on which the telecommunications facilities are
32 installed was purchased with money from the [insert state] natural resources trust fund, money
33 received under subsection (1)(e) shall be deposited into the [insert state] natural resources trust fund.

1 (b) All money not described in subdivision (a) shall be deposited into the fund.

2 (3) Notwithstanding any other provision of this part, money from the fund that is collected
3 under this section shall be expended, upon appropriation, as follows:

4 (a) Money collected from application fees under subsection (1) shall be used by the
5 department for the administrative costs of implementing this section.

6 (b) In each county in which money is collected under subsection (1)(e) for the
7 installation of telecommunication facilities on rail-trails that are used for motorized use, the
8 department shall expend the money for grants to organizations operating in that county that are
9 involved with the motorized use of rail-trails if such organizations exist. Money provided under this
10 subdivision to organizations involved with the motorized use of rail-trails shall be used for the
11 development and maintenance of rail-trails located within the county for motorized recreational uses.

12 (c) In each county in which money is collected under subsection (1)(e) for the
13 installation of telecommunication facilities, but which is not expended pursuant to subdivision (b),
14 the department shall expend the money for grants to local units of government or other organizations
15 operating in that county that are involved with the use of rail-trails. Money provided under this
16 subdivision to local units of government or organizations involved with the use of rail-trails shall be
17 used for the development and maintenance of rail-trails located within the county for motorized and
18 non-motorized recreational uses.

19 (4) This section does not affect the rights and duties set forth in any arrangements or
20 agreements for the installation of telecommunication facilities in a rail-trail described in subsection
21 (1) between the department and a telecommunication provider entered before the effective date of
22 the amendatory act that added this section. This section does not create a right for either the
23 department or a telecommunication provider to terminate any preexisting arrangements or
24 agreements.

25 (5) As used in this section:

26 (a) “[insert state] natural resources trust fund” means the [insert state] natural
27 resources trust fund established in [insert citation].

28 (b) “Telecommunication facilities” means either or both of the following:

29 (i) Telecommunication facilities as defined in section [insert citation].

30 (ii) Facilities used by a video service provider as defined [insert citation].

31 (c) “Telecommunication provider” means either or both of the following:

32 (i) A telecommunication provider as defined in [insert citation].

33 (ii) A video service provider as defined in [insert citation].
34

35 Section 3. [*Severability.*] Insert severability clause.

36
37 Section 4. [*Repealer.*] Insert repealer clause.

38
39 Section 5. [*Effective Date.*] Insert effective date.