

**HOUSE . . . . . No. 03059**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Paul McMurtry*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to addressing the removal of double utility poles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>

# HOUSE . . . . . No. 03059

By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 3059) of Smith and others relative to addressing the removal of double utility poles Joint Committee on Telecommunications, Utilities and Energy.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to addressing the removal of double utility poles.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 164 of the General Laws, as appearing in the 2008 Official Edition, is  
2 hereby amended by striking out section 34B, and inserting in place thereof the following new  
3 section:-

4 Section 34B. (a) A distribution company or telephone company engaging in the removal of an  
5 existing pole and the installation of a new pole in place thereof that does not complete the  
6 transfer of wires, all repairs, and the removal of the existing pole from the site within 180 days  
7 from the date of the installation of the new pole shall pay a fine to the municipality where the  
8 pole is located of \$10 per day for the first 30 days following the expiration of the said 180 days;  
9 \$20 per day for the following 30 days thereafter; \$30 per day for the following 305 days  
10 thereafter; and \$100 per day for the following days thereafter until the existing pole is removed;  
11 provided, however, that for any approved commercial or industrial construction project, the

12 completion of which is expected to take longer than 1 year, said company shall be required to  
13 remove such pole within 12 months from the date of installation of the new pole.

14 (b) The owner of such pole shall notify all other users of the starting date of such removal and  
15 installation work at least 72 hours prior to the commencement of such work. Said owner may  
16 impose a fine upon the user who has not removed their wiring and other attachments when said  
17 failure to remove is responsible for the immediate delay in the removal of the existing pole.

18 (c) A pole owner or user may petition the department or the department of telecommunications  
19 and cable for relief or exemption from any fines. Any fine imposed under this section shall not  
20 be recoverable through rates without approval by the department or the department of  
21 telecommunications and cable.

22 SECTION 2. Not later than December 31, 2011, the department of public utilities, in  
23 consultation with the department of telecommunications and cable, shall adopt regulations for  
24 the implementation of section 34B of chapter 164 of the General Laws.

25 • Increases the allowable time to deal with a double pole site from 90 to 180 days; and  
26 from 6 months to 1 year in the case of an approved construction project.

27 • After the allowable time passes, municipality may impose a \$10/day fine for first 30  
28 days; \$20/day for next 30 days thereafter; \$30/day for that remaining first year; and \$100/day for  
29 subsequent days thereafter after the first 1 year of non compliance.

30 • Provides that all pole users are provided notice up to 96 hours of the pole owner's start of  
31 removal work.

- 32 • Allows the pole owner to impose a fine upon the pole user that is the direct result of the
- 33 immediate delay in removal.
- 34 • Allows the pole owner or user to petition DPU/DTC for relief from or exemption of fine.
- 35 • No fine may be recoverable through rates without approval by the DPU/DTC.
- 36 • DPU/DTC to promulgate rules and regulations to implement no later than December 31,
- 37 2011.