

**HOUSE . . . . . No. 3059**

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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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/21/2011</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>2/4/2011</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	<i>2/4/2011</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>	<i>2/4/2011</i>

**HOUSE . . . . . No. 3059**

By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 3059) of Paul McMurtry and others relative to addressing the removal of double utility poles. 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  
2 Edition, is hereby amended by striking out section 34B, and inserting in place thereof the  
3 following new section:-

4 Section 34B. (a) A distribution company or telephone company engaging in the removal  
5 of an 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  
15 and installation work at least 72 hours prior to the commencement of such work. Said owner  
16 may impose a fine upon the user who has not removed their wiring and other attachments when  
17 said 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  
19 telecommunications and cable for relief or exemption from any fines. Any fine imposed under  
20 this section shall not be recoverable through rates without approval by the department or the  
21 department of 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;  
26 and 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  
28 30 days; \$20/day for next 30 days thereafter; \$30/day for that remaining first year; and \$100/day  
29 for 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  
31 start of removal work.

32 • Allows the pole owner to impose a fine upon the pole user that is the direct result  
33 of the immediate delay in removal.

- 34           •       Allows the pole owner or user to petition DPU/DTC for relief from or exemption  
35 of fine.
- 36           •       No fine may be recoverable through rates without approval by the DPU/DTC.
- 37           •       DPU/DTC to promulgate rules and regulations to implement no later than  
38 December 31, 2011.