

HOUSE No. 4149

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas

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 authorizing the city of Haverhill to assess fines for failure to relocate or remove utility poles and wires.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>1/16/2018</i>

HOUSE No. 4149

By Mr. Vargas of Haverhill, a petition (accompanied by bill, House, No. 4149) of Andres X. Vargas (with the approval of the mayor and city council) that the city of Haverhill be authorized to assess fines for failure to relocate or remove utility poles and wires. Telecommunications, Utilities and Energy. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing the city of Haverhill to assess fines for failure to relocate or remove utility poles and wires.

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. For purposes of this act, a “utility company” shall mean a company,
2 department or other entity that distributes and/or supplies electricity, telephone, telegraph, gas,
3 communication, cable television services, and/or other utilities, and shall include the owner of
4 utility wires, cables, attachments, and poles used for such purposes.

5 SECTION 2. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164, §
6 34B, M.G.L. c. 166, § 22A, or any other general or special law to the contrary, the city of
7 Haverhill shall have the authority to assess fines to any utility company which fails to relocate
8 utility wires, cables and attachments which it is responsible or otherwise required or authorized
9 to relocate to an adjacent or nearby pole within twenty-one (21) days of the date on which said
10 relocation is practical as defined in this act, in an amount not to exceed the sum of two hundred

11 fifty dollars (\$250.00) per location per day after the twenty-first (21st) day, and one thousand
12 dollars (\$1,000.00) per location per day after the sixtieth (60th) day.

13 SECTION 3. For purposes of this act, the relocation of a utility wire, cable or attachment
14 is practical in circumstances in which the wire, cable or attachment is the highest mounted wire,
15 cable or attachment on a pole, a replacement pole or conduit has been installed at a nearby
16 location, no lighting or other fixture impedes the relocation, and any permits, grants of location
17 or other approvals necessary for such relocation have been provided.

18 SECTION 4. Notwithstanding the provisions of M.G.L. c. 164, §34B, or any other
19 general or special law to the contrary, the city of Haverhill shall have the authority to assess fine
20 to any utility company which fails to remove a utility pole which it is responsible or otherwise
21 required or authorized to remove as part of a relocation within ninety (90) days of the date on
22 which said relocation is practical as defined in this act, in an amount not to exceed the sum of
23 two hundred fifty dollar (\$250.00) per location per day after the ninetieth (90th) day, and one
24 thousand dollars (\$1,000.00) per location per day after the one hundred and twentieth (120th)
25 day.

26 SECTION 5. For purposes of this act, removal of a utility pole is practical in
27 circumstances in which all wires, cables and attachments have been removed from the pole
28 and/or relocated to one (1) or more adjacent utility poles or locations, and any permits, grants of
29 location or other approvals necessary for such relocation have been provided.

30 SECTION 6. Notwithstanding the provisions of M.G.L. c. 164, § 34B, or any other
31 general or special law to the contrary, the city of Haverhill shall have the authority to assess fines
32 to any utility company which fails to initiate the installation of a new utility pole which it is

33 responsible or otherwise required or authorized to install within ninety (90) days of the date on
34 which said installation is requested or ordered by the town as defined in this act, in an amount
35 not to exceed the sum of two hundred fifty dollars (\$250.00) per location per day after the
36 ninetieth (90th) day, and one thousand dollars (\$1,000.00) per location per day after the one
37 hundred and twentieth (120th) day.

38 SECTION 7. For purposes of this act, installation of a new utility pole is practical in
39 circumstances where the company responsible for installing a pole has been formally requested
40 or ordered to do so by the city of Haverhill or its authorized representative for reasons of
41 compliance which the Americans With Disabilities Act, the Massachusetts Architectural Access
42 Board, other applicable state or federal law or regulation, the requirements of a roadway project,
43 or compliance with city of Haverhill policy, and for which any permits, grants of location or
44 other approvals necessary for such installation have been provided.

45 SECTION 8. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164, §
46 34B, or any other general or special law to the contrary, the city of Haverhill shall have the
47 authority to assess fines to any utility company which fails to removed or fully secure a utility
48 wire, cable or attachment under its ownership or authority that has been disconnected from a
49 customer location and which remains attached to a utility pole or an adjoining fixture within
50 twenty one (21) days of the date on service has been discontinued, in an amount not to exceed
51 the sum of two hundred fifty dollars (\$250) per location per day after the twenty-first (21st) day,
52 and one thousand dollars (\$1,000) per location per day after the sixtieth (60th) day.

53 SECTION 9. For purposes of this act, removal or securing of a utility wire, cable or
54 attachment is practical in circumstances in which the service has been discontinued from a

55 customer location, and the wire, cable or attachment has been disconnected from the customer
56 location, and remains attached to, but is not fully secured to a utility pole or fixtures attached
57 thereto.

58 SECTION 10. No utility company may restrict access by the City of Haverhill to
59 information about utility poles and wires that are the subject of this act and which are
60 documented on any system to which two or more utility companies are a party.

61 SECTION 11. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164,
62 §34B, or any other general or special law to the contrary, the city of Haverhill shall have the
63 authority to assess fines to any utility company which is a participant in any system providing
64 information about the location of utility poles and wires that are the subject of this act, to which
65 system two or more utility companies are a party, and which fails to provide notifications
66 through such system about any attachments or detachments of utility wires, or setting or removal
67 of utility poles that will cause a violation of any provision of this act within seven (7) days of
68 such action, in an amount not to exceed the sum of two hundred fifty dollars (\$250) per location
69 per day after the seventh (7th) day, and one thousand dollars (\$1,000) per location per day after
70 the twenty first (21st) day.

71 SECTION 12. A utility company may request an exemption from provisions of this act,
72 which may be granted only following a duly posted public meeting of the Haverhill City
73 Council, who shall have sole authority to grant such exemption.

74 SECTION 13. Fines that are collected in accordance with this act shall be issued by the
75 Mayor or his/her designee, and shall be deposited in the city of Haverhill general fund, or in a
76 fund lawfully established for the improvement of public ways. The issuance of a fine shall not

77 preclude the city of Haverhill from seeking or obtaining any or all other legal and equitable
78 remedies to prevent or remove a violation of this act. The fines set forth herein may be annually
79 revised by the Mayor and City Council.

80 SECTION 14. This act shall take effect upon its passage.