

By Mr. DiMasi of Boston, petition of John G. Serino and Salvatore F. DiMasi for legislation to provide for installation of utility services for abutting owners on private ways. Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Five.

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AN ACT RELATIVE TO RIGHTS OF OWNERS OF CERTAIN EASEMENTS.

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

1 Chapter 187 of the General Laws is hereby amended by striking  
2 out section 5, as most recently amended by Chapter 251 of the Acts  
3 of 1980, and inserting in place thereof the following section: —  
4 The owner or owners of real estate abutting on a private way who  
5 have by deed existing rights of ingress and egress upon such way or  
6 other private ways shall have the right by implication to place,  
7 install or construct in, on, along, under and upon said private way  
8 or other private ways pipes, conduits, manholes and other appurte-  
9 nances necessary for the transmission of gas, electricity and tele-  
10 phone, or data, video, audio, control and sensing communication  
11 signals and of water and sewer service, provided such facilities do  
12 not unreasonably obstruct said private way or other private ways,  
13 and provided that such use of the private way or other private ways  
14 does not interfere with or be inconsistent with the existing use by  
15 others of such way or other private ways; and, provided further,  
16 that such placement, installation or construction is done in accord-  
17 ance with regulations, plans and practices of the utility company  
18 which is to provide the gas, electricity, telephone or communication  
19 signal service, and the appropriate cities, towns, districts or water  
20 or sewer service. Said agencies, which provide such service, shall  
21 comply with any applicable rules and regulations of the division of  
22 water supply and sewage control and the department of public  
23 utilities. Any such owner or owners may grant permission to a

24 public utility company or water or sewer company to enter upon  
25 said way or other private ways to place, install, repair, or relocate  
26 pipes, conduits, manholes, and other necessary appurtenances for  
27 the transmission of gas, electricity, telephone, communication sig-  
28 nal or water or sewer service in accordance with such company or  
29 companies regulations, practices and tariffs filed with the depart-  
30 ment of public utilities or the division of water supply or sewage  
31 control; provided, however, that no charge or added assessment  
32 shall be levied by such public utility company or companies against  
33 any such owner or owners not connected to such service or services.  
34 Neither the person installing or repairing public utility facilities,  
35 nor such facilities, nor the gas, electricity, telephone or communica-  
36 tion signals or water service transmitted shall be deemed to consti-  
37 tute a trespass upon said way or ways. As used herein the term  
38 "public utility" company shall be deemed to include any cable  
39 television person or entities having a franchise from the municipal-  
40 ity in which such service is to be provided and any person or entity  
41 distributing a service provided by a public utility company which  
42 service had previously been distributed by such public utility  
43 company.