

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 722 Session of
1991

INTRODUCED BY VAN HORNE, CESSAR, PETRARCA, TRELLO, STAIRS,
BELARDI, SALOOM, CARLSON, HERMAN, STEIGHNER, STURLA,
ARMSTRONG, CLYMER, PESCI, ITKIN, HERSHEY, LEVDANSKY, KASUNIC,
HESS, MICHLOVIC, PISTELLA, STABACK, VROON, GEIST, VEON,
M. N. WRIGHT, MELIO, COLAFELLA, JOHNSON, RICHARDSON,
BATTISTO, FAIRCHILD, LANGTRY, SAURMAN, HECKLER, BUNT, LINTON,
FARMER, MARSICO, NAILOR, CAPPABIANCA, PRESTON, STRITTMATTER,
FARGO, OLASZ, DURHAM, KING, VANCE AND TELEK, MARCH 13, 1991

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 22, 1991

AN ACT

1 Amending the act of December 10, 1974 (P.L.852, No.287),
2 entitled "An act to protect the public health and safety by
3 preventing excavation or demolition work from damaging
4 underground lines used in providing electricity,
5 communication, gas, oil delivery, oil product delivery,
6 sewage, water or other service; imposing duties upon the
7 providers of such service, recorders of deeds, and persons
8 and other entities preparing drawings or performing
9 excavation or demolition work; and prescribing penalties,"
10 ~~further providing for the definitions of "excavation work"~~ <—
11 ~~and "user"; defining "roadway"~~ DEFINING "CONSUMER PRICE <—
12 INDEX" and "tolerance zone"; further providing for the duty
13 of users, for duties of designers, for duties of contractors
14 and for the one-call system; and making a repeal.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. The definitions of "excavation work" and "user"~~ <—
18 ~~in section 1 of the act of December 10, 1974 (P.L.852, No.287),~~
19 ~~referred to as the Underground Utility Line Protection Law,~~
20 ~~amended December 12, 1986 (P.L.1574, No.172), are amended and~~

1 ~~the section is amended by adding definitions to read:~~

2 ~~Section 1. As used in this act:~~

3 ~~* * *~~

4 ~~"Excavation work" means the use of powered equipment or~~
5 ~~explosives in the movement of earth, rock or other material, and~~
6 ~~includes but is not limited to anchoring, augering, backfilling,~~
7 ~~blasting, digging, ditching, drilling, driving in, grading,~~
8 ~~plowing in, pulling in, ripping, scraping, trenching and~~
9 ~~tunneling; but shall not include such use in agricultural~~
10 ~~operations nor operations necessary or incidental to the~~
11 ~~purposes of finding or extracting natural resources including~~
12 ~~all well site operations and shall not include work [within a~~
13 ~~State highway right of way,] performed by employes of the~~
14 ~~Commonwealth [acting within the scope of their employment, which~~
15 ~~does not extend more than twenty four inches beneath the~~
16 ~~existing surface] or political subdivisions [performing] which~~
17 ~~constitutes minor routine maintenance within [the right of way~~
18 ~~of roads] any roadway within their jurisdiction.~~

19 ~~* * *~~

20 ~~"Roadway" means that portion of a highway improved, designed~~
21 ~~or ordinarily used for vehicular travel, exclusive of the~~
22 ~~sidewalk, berm or shoulder even though such sidewalk, berm or~~
23 ~~shoulder is used by pedalcycles. In the event a highway includes~~
24 ~~two or more separate roadways, the term "roadway" refers to each~~
25 ~~roadway separately but not to all such roadways collectively.~~

26 SECTION 1. SECTION 1 OF THE ACT OF DECEMBER 10, 1974
27 (P.L.852, NO.287), REFERRED TO AS THE UNDERGROUND UTILITY LINE
28 PROTECTION LAW, IS AMENDED BY ADDING DEFINITIONS TO READ:

29 SECTION 1. AS USED IN THIS ACT:

30 * * *

1 "CONSUMER PRICE INDEX" MEANS THE INDEX OF CONSUMER PRICES
2 DEVELOPED AND UPDATED BY THE BUREAU OF LABOR STATISTICS OF THE
3 UNITED STATES DEPARTMENT OF LABOR.

4 * * *

5 "Tolerance zone" means that space within eighteen inches
6 horizontally from the outside wall of a line.

7 ~~"User" means the Commonwealth, public utility, political~~ <—
8 ~~subdivision, municipality, authority, rural electric cooperative~~
9 ~~or its named representative trade association, or other person~~
10 ~~or entity who or which owns or operates a line. [The term does~~
11 ~~not include the Commonwealth or its agencies.]~~

12 * * *

13 Section 2. Section 2(1), (3) and (5) of the act, amended
14 December 12, 1986 (P.L.1574, No.172), are amended to read:

15 Section 2. It shall be the duty of each user:

16 (1) To give written notice to the recorder of deeds of each
17 county in which its lines are located and to any one-call system
18 serving that county, which notice shall state:

19 (i) the name of the user;

20 (ii) the names of the county's municipalities, down to and
21 including wards in Philadelphia, Pittsburgh, ALLENTOWN and Erie, <—
22 in which its lines are located;

23 (iii) the user's office address (by street, number and
24 political subdivision), and the telephone number to which
25 inquiries may be directed as to the location of such lines[.]; <—

26 AND

27 (IV) AT THE OPTION OF ANY MUNICIPAL USER, THE STREET
28 IDENTIFICATIONS, WITHIN OR OUTSIDE OF THE MUNICIPALITY, FOR
29 LOCATION OF ITS LINES. THIS IDENTIFICATION ALSO SHALL INCLUDE
30 THE NAMES OF STREETS BOUNDING, CROSSING OR ADJACENT TO THE

1 USER'S LINES. UPON RECEIPT OF A SIGNED STREET IDENTIFICATION
2 LIST FROM A MUNICIPAL USER, THE ONE-CALL SYSTEM SHALL PROVIDE
3 THE MUNICIPAL USER WITH NOTIFICATION WITHIN THE BOUNDARIES
4 DESCRIBED IN THE STREET IDENTIFICATION LIST. ALL MUNICIPAL USERS
5 WHICH OPT FOR THIS SERVICE SHALL AGREE TO INDEMNIFY AND HOLD
6 HARMLESS THE RECORDER OF DEEDS AND THE ONE-CALL SYSTEM FOR ANY
7 STREET IDENTITY ERRORS AND OMISSIONS ON THE PART OF THE USER
8 PROVIDING STREET IDENTIFICATIONS.

9 * * *

10 (3) To accompany each such written notice to the recorder of
11 deeds with a filing fee of five dollars (\$5) payable to and for
12 the use of the county. No fee is required to accompany the
13 written notice supplied to any one-call system.

14 * * *

15 (5) Not more than two working days after receipt of a timely
16 request therefor from a contractor or operator who identifies
17 the site of excavation or demolition work he intends to perform:

18 (i) To mark, stake, locate or otherwise provide the position
19 of the user's underground lines at the site within eighteen
20 inches horizontally from the outside wall of such line in a
21 manner so as to enable the contractor, where appropriate, to
22 employ prudent techniques, which may include hand-dug test
23 holes, to determine the precise position of the underground
24 user's lines. This shall be done to the extent such information
25 is available in the user's records or by use of standard
26 locating techniques other than excavation.

27 (ii) A user, at its option, timely may elect to excavate
28 around its facilities in fulfillment of this subparagraph.

29 (iii) In marking the approximate position of underground
30 utilities, the user shall follow the color coding described

1 herein:

2		Specific
3	Utility and Type of Product	Group Identifying Color
4	Electric Power Distribution and	Safety Red
5	Transmission	
6	Municipal Electric Systems	Safety Red
7	Gas Distribution and Transmission	High Visibility Safety
8		Yellow
9	Oil Distribution and Transmission	High Visibility Safety
10		Yellow
11	Dangerous Materials, Product	High Visibility Safety
12	Lines, Steam Lines	Yellow
13	Telephone and Telecommunications	Safety Alert Orange
14	Police and Fire Communications	Safety Alert Orange
15	Cable Television	Safety Alert Orange
16	Water Systems	Safety Precaution Blue
17	Slurry Systems	Safety Precaution Blue
18	Sewer Lines	Safety Green

19 (iv) If there are no lines at the site, make a reasonable
20 effort to so advise the person making the request, providing the
21 request is made in the time frame set forth in clause [(2)] (3)
22 of section 5 or notify the one-call system to which it belongs.

23 * * *

24 Section 3. Section 4 of the act is amended by adding a
25 clause to read:

26 Section 4. It shall be the duty of each designer preparing a
27 drawing requiring excavation or demolition work within the
28 Commonwealth:

29 * * *

1 (6) If, after receiving information from a one-call system
2 or directly from a user, the designer decides to change the
3 location of a proposed excavation, the obligations imposed by
4 this section shall apply to the new location.

5 Section 4. Section 5(4) and (11) of the act, amended
6 December 12, 1986 (P.L.1574, No.172), are amended and the
7 section is amended by adding a clause to read:

8 Section 5. It shall be the duty of each contractor who
9 intends to perform excavation or demolition work within this
10 Commonwealth:

11 * * *

12 (4) To exercise due care; and to take all reasonable steps
13 necessary to avoid injury to or otherwise interfere with all
14 lines where positions have been provided to the contractor by
15 the users pursuant to clause (5) of section 2. [If] Within the
16 tolerance zone or if insufficient information is available
17 pursuant to clause (5) of section 2, the contractor shall employ
18 prudent techniques, which may include hand-dug test holes, to
19 ascertain the precise position of such facilities, which shall
20 be paid for by the owner pursuant to subsection (e) of section
21 7.1.

22 * * *

23 (11) A contractor [may] shall use the color white to mark a
24 proposed excavation site when exact site information cannot be
25 provided.

26 * * *

27 (13) If, after receiving information from a one-call system
28 or directly from a user, the contractor decides to change the
29 location of a proposed excavation, the obligations imposed by
30 this section shall apply to the new location.

1 Section 5. Section ~~7.1(e)(2) and (3)~~ 7.1(B) AND (C) of the <—
2 act, added December 12, 1986 (P.L.1574, No.172), are amended and <—
3 ~~the section is amended by adding a clause and a subsection to~~
4 read:

5 Section 7.1. * * *

6 ~~(e) * * *~~ <—

7 (B) (1) A ONE-CALL SYSTEM SHALL BE GOVERNED BY A BOARD OF <—
8 DIRECTORS, TO BE CHOSEN BY THE USERS. NO LESS THAN TWENTY
9 PERCENT OF THE SEATS ON THE BOARD SHALL BE HELD BY
10 MUNICIPALITIES OR MUNICIPAL AUTHORITIES, INCLUDING THE
11 COMMONWEALTH.

12 (2) ALL FEES ARE TO BE BASED ON THE LATEST AVAILABLE AUDITED
13 COST FACTORS. FEES SHALL BE SET AND ADJUSTED TO A RATE NOT MORE
14 THAN FIVE PERCENT ABOVE THE AUDITED COST FACTOR PLUS THE CURRENT
15 AVERAGE PUBLISHED CONSUMER PRICE INDEX FOR PENNSYLVANIA. COSTS
16 OF CAPITAL IMPROVEMENTS MAY BE ADDED, PROVIDED THE IMPROVEMENT
17 RECEIVES A MAJORITY VOTE OF THE BOARD OF DIRECTORS.

18 (C) (1) THE AUDITOR GENERAL, FOR THE PURPOSES SET FORTH IN
19 CLAUSE (2), AND ANY CONTRACTOR, USER OR MEMBER OF A ONE-CALL
20 SYSTEM SHALL HAVE THE RIGHT AT ANY TIME TO INSPECT AND COPY ANY
21 RECORD, BOOK, ACCOUNT, DOCUMENT OR ANY OTHER INFORMATION
22 RELATING TO THE PROVISION OF ONE-CALL SERVICES BY THE ONE-CALL
23 SYSTEM OR BY A PERSON WITH WHOM THE ONE-CALL SYSTEM CONTRACTS
24 FOR THE PROVISION OF SUCH SERVICES IN PENNSYLVANIA.

25 (2) The Auditor General shall conduct an annual performance
26 and financial audit of each one-call system. If a one-call
27 system does not provide the actual one-call services, the
28 Auditor General shall also conduct such an audit of the person
29 with whom the one-call system contracts for provision of one-
30 call services in Pennsylvania. A copy of any audit conducted by

1 the Auditor General under this paragraph shall be submitted to
2 the General Assembly no later than [sixty] one hundred and
3 eighty days following the end of the fiscal year of the one-call
4 system or person being audited.

5 ~~(3) The Auditor General shall notify any political~~ <—
6 ~~subdivisions found not in compliance with this act and advise~~
7 ~~that the noncompliance is a violation of this act.~~

8 ~~{(3)} (4)~~ (3) Each one-call system shall submit an annual
9 report to its users and members, and a copy of the report shall
10 be submitted to the General Assembly.

11 * * *

12 ~~(h) One call systems may aid and assist the Auditor General~~ <—
13 ~~in providing notification to political subdivisions pursuant to~~
14 ~~clause (3) of subsection (c).~~

15 SECTION 6. SECTION 7.3 OF THE ACT IS REPEALED. <—

16 SECTION 7. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

17 SECTION 7.4. THE ACTUAL COST OF EXPENSES INCURRED BY THE
18 AUDITOR GENERAL IN PERFORMING HIS OBLIGATIONS UNDER SECTION 7.1
19 SHALL BE REIMBURSED BY THE AFFECTED ONE-CALL SYSTEM.

20 Section ~~6~~ 8. This act shall expire on December 31, 1996. <—

21 Section ~~7~~ 9. This act shall take effect immediately. <—