

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,
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M. N. WRIGHT, MELIO, COLAFELLA, JOHNSON, RICHARDSON,
BATTISTO, FAIRCHILD, LANGTRY, SAURMAN, HECKLER, BUNT, LINTON,
FARMER, MARSICO, NAILOR, CAPPABIANCA, PRESTON, STRITTMATTER,
FARGO AND OLASZ, MARCH 13, 1991

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 13, 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" and "tolerance zone"; further
12 providing for the duty of users, for duties of designers, for
13 duties of contractors and for the one-call system; and making
14 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
21 the section is amended by adding definitions to read:

1 Section 1. As used in this act:

2 * * *

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

18 * * *

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

25 * * *

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

28 "User" means the Commonwealth, public utility, political
29 subdivision, municipality, authority, rural electric cooperative
30 or its named representative trade association, or other person

1 or entity who or which owns or operates a line. [The term does
2 not include the Commonwealth or its agencies.]

3 * * *

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

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

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

10 (i) the name of the user;

11 (ii) the names of the county's municipalities, down to and
12 including wards in Philadelphia, Pittsburgh and Erie, in which
13 its lines are located;

14 (iii) the user's office address (by street, number and
15 political subdivision), and the telephone number to which
16 inquiries may be directed as to the location of such lines.

17 * * *

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

22 * * *

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

26 (i) To mark, stake, locate or otherwise provide the position
27 of the user's underground lines at the site within eighteen
28 inches horizontally from the outside wall of such line in a
29 manner so as to enable the contractor, where appropriate, to
30 employ prudent techniques, which may include hand-dug test

1 holes, to determine the precise position of the underground
2 user's lines. This shall be done to the extent such information
3 is available in the user's records or by use of standard
4 locating techniques other than excavation.

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

7 (iii) In marking the approximate position of underground
8 utilities, the user shall follow the color coding described
9 herein:

10		Specific
11	Utility and Type of Product	Group Identifying Color
12	Electric Power Distribution and	Safety Red
13	Transmission	
14	Municipal Electric Systems	Safety Red
15	Gas Distribution and Transmission	High Visibility Safety
16		Yellow
17	Oil Distribution and Transmission	High Visibility Safety
18		Yellow
19	Dangerous Materials, Product	High Visibility Safety
20	Lines, Steam Lines	Yellow
21	Telephone and Telecommunications	Safety Alert Orange
22	Police and Fire Communications	Safety Alert Orange
23	Cable Television	Safety Alert Orange
24	Water Systems	Safety Precaution Blue
25	Slurry Systems	Safety Precaution Blue
26	Sewer Lines	Safety Green

27 (iv) If there are no lines at the site, make a reasonable
28 effort to so advise the person making the request, providing the
29 request is made in the time frame set forth in clause [(2)] (3)

1 of section 5 or notify the one-call system to which it belongs.

2 * * *

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

5 Section 4. It shall be the duty of each designer preparing a
6 drawing requiring excavation or demolition work within the
7 Commonwealth:

8 * * *

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

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

16 Section 5. It shall be the duty of each contractor who
17 intends to perform excavation or demolition work within this
18 Commonwealth:

19 * * *

20 (4) To exercise due care; and to take all reasonable steps
21 necessary to avoid injury to or otherwise interfere with all
22 lines where positions have been provided to the contractor by
23 the users pursuant to clause (5) of section 2. [If] Within the
24 tolerance zone or if insufficient information is available
25 pursuant to clause (5) of section 2, the contractor shall employ
26 prudent techniques, which may include hand-dug test holes, to
27 ascertain the precise position of such facilities, which shall
28 be paid for by the owner pursuant to subsection (e) of section
29 7.1.

30 * * *

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

4 * * *

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

9 Section 5. Section 7.1(c)(2) and (3) of the act, added
10 December 12, 1986 (P.L.1574, No.172), are amended and the
11 section is amended by adding a clause and a subsection to read:

12 Section 7.1. * * *

13 (c) * * *

14 (2) The Auditor General shall conduct an annual performance
15 and financial audit of each one-call system. If a one-call
16 system does not provide the actual one-call services, the
17 Auditor General shall also conduct such an audit of the person
18 with whom the one-call system contracts for provision of one-
19 call services in Pennsylvania. A copy of any audit conducted by
20 the Auditor General under this paragraph shall be submitted to
21 the General Assembly no later than [sixty] one hundred and
22 eighty days following the end of the fiscal year of the one-call
23 system or person being audited.

24 (3) The Auditor General shall notify any political
25 subdivisions found not in compliance with this act and advise
26 that the noncompliance is a violation of this act.

27 ~~[(3)]~~ (4) Each one-call system shall submit an annual report
28 to its users and members, and a copy of the report shall be
29 submitted to the General Assembly.

30 * * *

1 (h) One-call systems may aid and assist the Auditor General
2 in providing notification to political subdivisions pursuant to
3 clause (3) of subsection (c).

4 Section 6. Section 7.3 of the act is repealed.

5 Section 7. This act shall take effect immediately.