
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1237 Session of
2024

INTRODUCED BY BAKER, BARTOLOTTA, SANTARSIERO, COSTA, SCHWANK,
J. WARD, MILLER AND CULVER, JUNE 6, 2024

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JUNE 6, 2024

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, propane, oil delivery, oil product
6 delivery, sewage, water or other service; imposing duties
7 upon the providers of such service and persons and other
8 entities preparing drawings or performing excavation or
9 demolition work; and prescribing penalties," further
10 providing for definitions, for duties of facility owners, for
11 duties of designers, for duties of excavators, for duties of
12 project owners, for damage prevention committee, for
13 compliance orders and administrative penalties and for
14 expiration of act.

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

17 Section 1. The definitions of "alleged violation,"
18 "emergency," "excavation work," "injury," "locate request" and
19 "subsurface utility engineering" or "SUE" in section 1 of the
20 act of December 10, 1974 (P.L.852, No.287), referred to as the
21 Underground Utility Line Protection Law, are amended and the
22 section is amended by adding definitions to read:

23 Section 1. The following words and phrases when used in this

1 act shall have the meanings given to them in this section unless
2 the context clearly indicates otherwise:

3 * * *

4 "Alleged violation" means an instance when a person by action
5 or inaction [fails] is alleged to have failed to fulfill the
6 obligations of this act.

7 * * *

8 "Damage prevention investigator" means an employee of the
9 commission tasked with reviewing and investigating an alleged
10 violation reported to the commission under sections 2(10), 4(8),
11 5(16) and 6.1(7) and offering recommendations to the committee
12 to address the alleged violation in the form of a warning
13 letter, administrative penalty or participation in an
14 educational program established by the commission.

15 * * *

16 "Drawing" means a type of technical plan that shows
17 information about existing and proposed underground facilities,
18 grading, landscaping or other site details for the purpose of
19 providing a clear picture of construction to the excavator. The
20 term does not include sketches made for the purpose of obtaining
21 excavation related to permits.

22 "Emergency" means a sudden or unforeseen occurrence involving
23 a clear and immediate danger to life, property [and] or the
24 environment, including, but not limited to, serious breaks or
25 defects in a facility owner's lines.

26 "Excavation work" means the use of [powered] equipment or
27 explosives in the movement of earth, rock or other material, and
28 includes, but is not limited to, anchoring, augering,
29 backfilling, blasting, boring, digging, ditching, dredging,
30 drilling, driving-in, grading, plowing-in, pulling-in, ripping,

1 scraping, trenching and tunneling. The term does not include
2 soft excavation technology such as vacuum, high pressure air or
3 water, tilling of soil for agricultural purposes or for general
4 yard or garden purposes to a depth of less than eighteen inches,
5 performing minor routine maintenance up to a depth of less than
6 eighteen inches measured from the top of the edge of the cartway
7 or the top of the outer edge of an improved shoulder, in
8 addition to the performance of incidental de minimis excavation
9 associated with the routine maintenance and the removal of
10 sediment buildup, within the right-of-way of public roads or
11 work up to a depth of twenty-four inches beneath the existing
12 surface within the right-of-way of a State highway, work
13 performed by persons whose activities must comply with the
14 requirements of and regulations promulgated under the act of May
15 31, 1945 (P.L.1198, No.418), known as the Surface Mining
16 Conservation and Reclamation Act, the act of April 27, 1966 (1st
17 Sp.Sess., P.L.31, No.1), known as The Bituminous Mine Subsidence
18 and Land Conservation Act, or the act of September 24, 1968
19 (P.L.1040, No.318), known as the Coal Refuse Disposal Control
20 Act, that relate to the protection of utility facilities or the
21 direct operations on a well pad following construction of the
22 well pad and that are necessary or operations incidental to the
23 extraction of oil or natural gas.

24 * * *

25 "Injury" means a bodily harm to a person, who, as a result of
26 the bodily harm, immediately receives medical attention at a
27 health care facility away from the scene of the incident.

28 * * *

29 "Locate request" means a communication or notification
30 between an excavator or designer and the One Call System in

1 which a request for locating facilities is processed. Locate
2 requests submitted by an excavator performing work within the
3 right-of-way of any State highway, either under contract to the
4 Department of Transportation or under authority of a permit
5 issued by the Department of Transportation, shall include the
6 number of the Department of Transportation contract or permit.

7 * * *

8 "Service line" means a distribution line that transports a
9 product from a common source of supply to any of the following:

10 (1) A customer meter, or the connection to a customer's
11 piping, whichever is further downstream.

12 (2) The connection to a customer's piping if there is no
13 meter.

14 "Sketch" means a physical depiction of a work site generally
15 for permitting purposes and not solely or specifically
16 applicable to design requirements.

17 * * *

18 "Subsurface utility engineering" or "SUE" means those
19 techniques set forth in the American Society of Civil Engineers
20 (ASCE) most recently published standard CI/ASCE [38-02] 38-22,
21 or its successor document as determined by the One Call System.

22 * * *

23 "Trenchless technology" means a family of construction
24 techniques for installing or rehabilitating underground
25 infrastructure with minimal disruption to surface traffic,
26 businesses and residents. The term shall include technologies
27 for inspection, leak location and leak detection with minimal
28 disruption and minimal excavation from the ground surface.

29 * * *

30 "Violation" means an instance when it has been determined by

1 the commission that a person by action or inaction has failed to
2 fulfill the obligations of this act.

3 * * *

4 Section 2. Section 2(1)(ii) and (iv), (5)(i) and (i.1), (10)
5 and (13) of the act are amended, clause (5) is amended by adding
6 subparagraphs and the section is amended by adding a clause to
7 read:

8 Section 2. It shall be the duty of each facility owner:

9 (1) To be a member of and give written notice to the One
10 Call System. Such notice shall be in a form acceptable to the
11 One Call System and include:

12 * * *

13 (ii) as follows:

14 (A) The names of the counties and municipalities, down to
15 and including wards in Philadelphia, Pittsburgh, Allentown and
16 Erie, in which its lines are located and other related
17 information as may be required by the One Call System regarding
18 the location of a member's facilities.

19 [(B) The One Call System may not require its members to
20 locate lines or facilities installed before the effective date
21 of this clause unless the member has existing maps of the lines
22 or facilities and the member's existing maps meet the
23 specifications of the One Call System's Member Mapping
24 Solutions. Nothing under this clause shall prohibit the One Call
25 System members from voluntarily submitting to the One Call
26 System maps of lines or facilities installed before the
27 effective date of this clause.]

28 (C) A facility owner may not be required to locate lines or
29 facilities installed before the effective date of this clause
30 unless the facility owner has existing maps of the lines or

1 facilities and the facility owner's existing maps meet the
2 specifications of the One Call System's Member Mapping
3 Solutions. Nothing under this clause shall prohibit a facility
4 owner as a member of the One Call System from voluntarily
5 submitting to the One Call System maps of lines or facilities
6 installed before the effective date of this clause.

7 * * *

8 (iv) the street identifications or like information within
9 each of the municipalities in which its lines are located. This
10 information shall be in a form acceptable to the One Call
11 System. Upon acceptance of the information from a facility
12 owner, the One Call System shall provide the facility owner with
13 notification within the boundaries described. All facility
14 owners shall agree to indemnify and hold harmless the One Call
15 System for any errors and omissions on the part of the facility
16 owner or the excavator or designer providing the information as
17 the agent of the facility owner or member mapping information as
18 required by the One Call System; and

19 * * *

20 (5) After receipt of a timely request from an excavator or
21 operator who identifies the work site of excavation or
22 demolition work he intends to perform and not later than the
23 business day prior to the lawful start date of excavation:

24 (i) To mark, stake, locate or otherwise provide the position
25 of the facility owner's underground lines at the work site
26 within eighteen inches horizontally from the outside wall of
27 such line in a manner so as to enable the excavator, where
28 appropriate, to employ prudent techniques, which may include
29 hand-dug test holes, to determine the precise position of the
30 underground facility owner's lines. This shall be done to the

1 extent such information is available in the facility owner's
2 records or by use of standard locating techniques other than
3 excavation. Standard locating techniques shall include, at the
4 utility owner's discretion, the option to choose available
5 technologies suitable to each type of line or facility being
6 located at the work site, topography or soil conditions or to
7 assist the facility owner in locating its lines or facilities,
8 based on accepted engineering and operational practices.

9 [Facility owners shall make reasonable efforts during the
10 excavation phase to locate or notify excavators of the existence
11 and type of abandoned lines.] Facility owners shall make
12 reasonable efforts during the excavation phase to locate and
13 notify excavators of the existence and type of abandoned lines
14 or any lines at depths less than the depth of installation
15 required by Federal law.

16 (i.1) To identify the location of an actually known
17 facility's point of connection to its facilities, where the
18 point of connection is not owned or operated by the facility
19 owner. [A facility owner may identify the location of a known
20 facility connected to its facilities, but not owned or operated
21 by the facility owner, as a helpful guide to the excavator or
22 owner.] The identification shall not be deemed to impose any
23 liability upon the facility owner for the accuracy of the other
24 facility's identification.

25 (i.2) To identify the location of a known service line
26 connected to its facilities through which the facility owner
27 uses the service line to pursue a business that derives revenue
28 by providing a product or service to an end-use customer via the
29 service line, regardless of whether the service line is owned or
30 operated by the facility owner.

1 (i.3) To document communications between a facility owner
2 and the excavator to ensure that the excavator is aware of a
3 facility owner's inability to locate its facilities.

4 * * *

5 (10) To submit a report of alleged violation to the
6 commission through the One Call System not more than thirty
7 business days after receipt of notice that the facility owner's
8 lines have been damaged by excavation or demolition work or if
9 the facility owner believes a violation of this act has been
10 committed in association with excavation or demolition work. The
11 report of alleged violation shall be in a form and manner as
12 required by the commission. [No report may be required where the
13 cost to repair the damage to the facility owner's lines is less
14 than two thousand five hundred dollars (\$2,500), unless the same
15 person damaged the facility owner's lines two or more times
16 within a six-month period.]

17 * * *

18 (13) To maintain existing records of main lines abandoned on
19 or after the effective date of this paragraph and to mark,
20 locate [or] and identify the main lines if [possible], based
21 upon the existing records. The records shall include written or
22 electronic documents or drawings in the possession of the
23 facility owner that show the location of an existing line or
24 facility.

25 (14) To comply with all requests for information by the
26 commission relating to the commission's enforcement authority
27 under this act within thirty days of receipt of the request.

28 Section 3. Sections 4(4) and (5), 5(2.1), (4), (8), (11.2),
29 (15), (16) and (20) and 6.1(1), (2) and (7) of the act are
30 amended and the sections are amended by adding clauses to read:

1 Section 4. It shall be the duty of each designer preparing a
2 drawing which requires excavation or demolition work within this
3 Commonwealth:

4 * * *

5 (2.2) To submit a design notification through the One Call
6 System when a design drawing is completed.

7 (2.3) To timely respond to notifications received from
8 excavators in accordance with section 5(15).

9 (2.4) To inform the project owner of the project owner's
10 duties under sections 5(15) and 6.1(1).

11 (2.5) To comply with all requests for information by the
12 commission relating to the commission's enforcement authority
13 under this act within thirty days of receipt of the request.

14 * * *

15 (4) To make a reasonable effort to prepare the construction
16 drawings to depict lines or facilities with quality levels
17 obtained through the SUE process in the planning and design
18 phases, including test hole data sheet details for all lines or
19 facilities crossing existing lines or facilities, in accordance
20 with the American Society of Civil Engineers (ASCE) most
21 recently published standard CI/ASCE 22 and 75-22 to avoid damage
22 to and minimize interference with a facility owner's facilities
23 in the construction area by maintaining the clearance as
24 provided for in the applicable easement condition or an
25 eighteen-inch clearance of the facility owner's facilities if no
26 easement restriction exists.

27 (4.1) To depict lines or facilities with the appropriate
28 quality levels based on the complexity of the design and
29 construction activities obtained through the SUE process in the
30 planning and design phases, including test hole data sheet

1 details for lines, service lines or facilities crossing existing
2 lines, service lines or facilities in accordance with the
3 American Society of Civil Engineers (ASCE) most recently
4 published standard CI/ASCE 38.

5 (4.2) In the event that as-builts are required during the
6 construction phase, to prepare the as-builts in accordance with
7 the most recently published standard of CI/ASCE 75.

8 (5) A designer shall be deemed to have met the obligations
9 of clause (2) if he [calls] notifies the One Call System and
10 shows, as proof, the serial number of one call notice on
11 drawings. The designer shall also show the toll-free number of
12 the One Call System on the drawing near his serial number.

13 * * *

14 Section 5. It shall be the duty of each excavator who
15 intends to perform excavation or demolition work within this
16 Commonwealth:

17 (2.1) To [request] submit a locate request to identify the
18 location and type of facility owner lines at each work site by
19 notifying the facility owner through the One Call System.
20 Notification shall be not less than three nor more than ten
21 business days in advance of beginning excavation or demolition
22 work. No work shall begin earlier than the lawful start date
23 which shall be on or after the third business day after
24 notification. The lawful start date shall exclude the date upon
25 which notification was received by the One Call System and
26 notification received on a Saturday, Sunday or holiday, which
27 shall be processed on the following business day. In the case of
28 a complex project, notification shall not be less than ten
29 business days in advance of the beginning of excavation or
30 demolition work.

1 * * *

2 (4) To exercise due care and to take all reasonable steps
3 necessary to avoid injury to or otherwise interfere with all
4 lines where positions have been provided to the excavator by the
5 facility owners pursuant to section 2(5). Within the tolerance
6 zone the excavator shall employ prudent techniques, which may
7 include hand-dug test holes, vacuum excavation or similar
8 devices to ascertain the precise position of such facilities. If
9 insufficient information to safely excavate is available
10 pursuant to section 2(5), the excavator shall employ like
11 prudent techniques which shall be paid for by the project owner
12 pursuant to clause (15). An excavator shall not be liable for a
13 violation relating to shallow depth lines not installed or
14 maintained by a facility owner to a depth required by Federal
15 law.

16 * * *

17 (8) To immediately notify 911 and the facility owner if the
18 damage results in the escape of any flammable, toxic or
19 corrosive gas or liquid [which endangers life, health or
20 property]. The excavator shall take reasonable measures, based
21 on its knowledge, training, resources, experience and
22 understanding of the situation, to protect themselves and those
23 in immediate danger, the general public, the property and the
24 environment until the facility owner or emergency responders
25 have arrived and completed their assessment and shall remain on
26 the work site to convey any pertinent information to responders
27 that may help them to safely mitigate the situation.

28 * * *

29 (11.2) [If using horizontal directional drilling (HDD), at]
30 At a minimum, to utilize the best practices published by the HDD

1 Consortium.

2 * * *

3 (15) When the information required from the facility owner
4 under section 2(5)(i) cannot be provided or, due to the nature
5 of the information received from the facility owner, it is
6 reasonably necessary for the excavator to ascertain the precise
7 location of any line or abandoned or unclaimed lines by prudent
8 techniques, which may include hand-dug test holes, vacuum
9 excavation or other similar devices, the excavator shall
10 promptly notify the project owner or the project owner's
11 representative, either orally or in writing. If oral
12 notification is given, the notice shall be reduced to writing
13 within a reasonable time by the project owner or excavator.
14 After giving such notice, the excavator shall be entitled to
15 compensation from the project owner for this additional work as
16 provided in the latest edition of the Pennsylvania Department of
17 Transportation Form 408 specifications for extra work performed
18 on a force account basis. The provisions of this subsection
19 shall not be deemed to limit any other rights which the
20 excavator has under its contract with the project owner or
21 otherwise. Provisions in any contract, public or private, which
22 attempt to limit the rights of excavators under this section
23 shall not be valid for any reason, and any attempted waiver of
24 this section shall be void and unenforceable as against public
25 policy and any such attempted waiver shall be reported to the
26 commission prosecutor staff for appropriate action, including
27 the imposition of an administrative penalty under section 7.10.

28 (16) To submit a report of an alleged violation to the
29 commission through the One Call System not more than [ten
30 business] thirty days after striking or damaging a facility

1 owner's line during excavation or demolition or if the excavator
2 believes a violation of this act has been committed in
3 association with excavation or demolition work. The report of an
4 alleged violation shall be in a form and manner as required by
5 the commission.

6 * * *

7 (20) To renotify the One Call System of an unmarked or
8 incorrectly marked facility, if an original, proper[,
9 nonemergency] locate request has been made to the One Call
10 System and, upon initial arrival at the proposed work site, it
11 is apparent to the excavator that there is an unmarked or
12 incorrectly marked facility. An excavator may not begin
13 excavating in the affected area of the work site until after
14 receiving sufficient information from the facility owner to
15 safely excavate. If the facility owner fails to provide
16 sufficient information to the excavator within three hours after
17 the excavator has notified the One Call System of the unmarked
18 or incorrectly marked facility, the excavator may proceed with
19 excavation subject to the limitations under clause (5). This
20 clause shall apply to an emergency or nonemergency locate
21 request.

22 * * *

23 (22) To refrain from providing a misrepresentation of an
24 emergency excavation, subject to an administrative penalty
25 imposed under section 7.10.

26 (23) To not delegate the excavator's duty to submit a locate
27 request to the One Call System to another person. The excavator
28 shall have the sole responsibility to submit each locate request
29 to the One Call System.

30 Section 6.1. It shall be the duty of each project owner who

1 engages in excavation or demolition work to be done within this
2 Commonwealth:

3 (1) To utilize [sufficient quality levels of] subsurface
4 utility engineering or other similar techniques whenever
5 practicable to properly determine the existence and positions of
6 underground facilities when designing known complex projects
7 having an estimated cost of four hundred thousand dollars
8 (\$400,000) or more.

9 (2) To timely respond to notifications received from
10 excavators pursuant to section 5(15). Provisions in any
11 contract, public or private, which attempt to limit the rights
12 of excavators under section 5 shall not be valid for any reason,
13 and any attempted waiver of section 5 shall be void and
14 unenforceable as against public policy and any such attempted
15 waiver shall be reported to the commission prosecutor staff for
16 appropriate action, including the imposition of an
17 administrative penalty under section 7.10.

18 * * *

19 (7) To submit a report of alleged violation to the
20 commission through the One Call System not more than [ten
21 business] thirty days after striking or damaging a facility
22 owner's line during excavation or demolition work activities,
23 after a project owner's contracted excavator strikes or damages
24 a facility owner's line during excavation or demolition
25 activities or if the project owner believes a violation of this
26 act has been committed in association with excavation or
27 demolition. The report of alleged violation shall be in a form
28 and manner as required by the commission.

29 (8) To comply with all requests for information by the
30 commission relating to the commission's enforcement authority

1 under this act within thirty days of receipt of the request.

2 Section 4. Section 7.8(a)(1)(iv), (2), (3), (5)(i), (b)(1)
3 and (5), (c)(1)(ii) and (2), (d) and (e)(3) of the act are
4 amended, subsection (a)(1) is amended by adding a subparagraph
5 and subsection (c) is amended by adding a clause to read:

6 Section 7.8. (a) A damage prevention committee shall be
7 established as follows:

8 (1) The committee shall consist of the following members,
9 appointed by the commission:

10 * * *

11 (iv) One representative from each of the following
12 nonmunicipally owned or affiliated facility owner industries:
13 electric, [natural gas or petroleum pipelines,] telephone, water
14 or wastewater and cable television, nominated by facility owners
15 or affiliated organizations.

16 (iv.1) Two representatives from nonmunicipally owned or
17 affiliated facility owner natural gas or petroleum pipelines
18 industries, nominated by facility owners or affiliated
19 organizations.

20 * * *

21 (2) A person appointed to the committee must [have expertise
22 within the operation of this act] maintain employment within the
23 industry represented.

24 (3) A nomination under clause (1)(iv), (iv.1), (v), (vi) and
25 (vii) shall be forwarded to the secretary of the commission. The
26 executive director of the commission shall provide recommended
27 candidates to the commission for approval.

28 * * *

29 (5) The initial term of committee members shall be as
30 follows:

1 (i) Two representatives of facility owners under clause (1)
2 (iv) shall serve three years, one representative shall serve two
3 years and two representatives shall serve one year.

4 * * *

5 (b) The committee shall meet regularly to carry out the
6 following purposes:

7 (1) Review a report of an alleged violation of this act and
8 damage prevention investigator findings [and recommendations.]
9 concerning the basis or root cause of the alleged violation
10 reported and recommendations proposed to address the alleged
11 violation.

12 * * *

13 (5) Issue an informal determination that modifies or
14 dismisses a recommendation of [committee staff] the damage
15 prevention investigator.

16 (c) The following shall apply to alleged violations:

17 (1) A person determined, in a report issued by a damage
18 prevention investigator, to have committed an alleged violation
19 shall do one of the following:

20 * * *

21 (ii) Appear before the [commission] committee to present its
22 position.

23 (2) A person who is subject to an informal determination of
24 the committee may accept or reject the result. If [an informal
25 determination is rejected,] a person who is subject to an
26 informal determination opts to reject the informal
27 determination, the person shall reject the informal
28 determination in writing within thirty days of the date when the
29 informal determination is made by the committee and the matter
30 shall be [returned to the damage prevention investigator for

1 further action, if appropriate, including referring the matter]
2 referred to the commission prosecutor staff for [the purpose of
3 issuing a formal complaint.] an action resulting in a formal
4 complaint before the commission. An action resulting in a formal
5 complaint before the commission must be brought by commission
6 prosecutor staff within the time limits specified under 66
7 Pa.C.S. § 3314(a) (relating to limitation of actions and
8 cumulation of remedies).

9 (3) When a written rejection of an informal determination
10 under clause (2) results in a formal complaint before the
11 commission, the commission shall conduct a de novo review of the
12 alleged violation. The informal determination of the committee
13 shall not be binding upon the commission.

14 (d) Except for alleged violations involving injury or death,
15 the provisions of subsection (c) [may] shall be applied in
16 advance or instead of filing a formal complaint against a person
17 determined, in a report issued by a damage prevention
18 investigator, to have committed an alleged violation. An
19 informal determination of the committee shall be binding on the
20 commission unless the person rejects the informal determination.

21 (e) The committee shall have the following additional
22 duties:

23 * * *

24 (3) Submit an annual report containing relevant damage
25 prevention data to the commission, the Committee on Consumer
26 Protection and Professional Licensure of the Senate and the
27 Committee on Consumer Affairs of the House of Representatives.
28 The report shall include relevant metrics to demonstrate how the
29 committee's actions advance the goal of minimizing the
30 occurrence of line hits and enhance public safety.

1 * * *

2 Section 5. Sections 7.10(c) and 39 of the act are amended to
3 read:

4 Section 7.10. * * *

5 (c) The following shall apply:

6 (1) An administrative penalty recovered under this section
7 shall be payable to the commission and collected in the manner
8 provided for by law.

9 (2) A person or entity violating this act must pay an
10 administrative penalty to the commission within sixty days of
11 issuance of the informal determination, unless the person who is
12 subject to the informal determination rejects the informal
13 determination within thirty days in accordance with section
14 7.8(c) (2).

15 (3) The commission shall assess an additional administrative
16 penalty of one hundred dollars (\$100) per day, not to exceed a
17 total of five thousand dollars (\$5,000), for an administrative
18 penalty not paid within the period specified under paragraph
19 (2).

20 (4) A person subject to an informal determination of the
21 committee requiring a damage prevention educational program
22 under section 7.8(b) (4) shall successfully complete the program
23 within sixty days of issuance of the informal determination.
24 The commission shall assess an additional administrative penalty
25 of one hundred dollars (\$100) per day, not to exceed a total of
26 five thousand dollars (\$5,000), on a person who fails to comply
27 with this clause.

28 * * *

29 Section 39. This act shall expire on December 31, [2024]
30 2034.

1 Section 6. This act shall take effect in 60 days.