

1 H.58

2 Introduced by Representatives Botzow of Pownal and Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Utilities; underground utilities; damage prevention system

6 Statement of purpose of bill as introduced: This bill proposes to make
7 miscellaneous amendments to Vermont's Public Utility Underground Facility
8 Damage Prevention System to provide clarity in the law, to expand the scope
9 of the law to include underground hot water and steam facilities, and to direct
10 the Public Service Board to determine, through rulemaking, whether certain
11 water and wastewater facilities should also be covered by the System.

12 An act relating to the Public Utility Underground Facility Damage
13 Prevention System

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 30 V.S.A. § 7001 is amended to read:

16 § 7001. DEFINITIONS

17 In this chapter:

18 (1) "Board" means the ~~public service board~~ Public Service Board.

19 (2) "Company" means any private or public utility company which,
20 municipality, or person that supplies gas, electricity, hot water, steam, or

1 telecommunications service and ~~which~~ maintains underground utility facilities,
2 ~~and~~ any cable television company operating a cable television system as
3 defined in section 501 of this title ~~and which~~ that maintains underground utility
4 facilities, and any water or wastewater operator as determined by the Board
5 under subdivision 7003(8) of this chapter.

6 (3) "Damage" includes, ~~but is not limited to~~, the substantial weakening
7 of structural or lateral support of an underground utility facility, penetration or
8 destruction of any underground utility facility's protective coating, housing, or
9 device, or the partial or complete severance of any underground utility facility.

10 (4) "Excavation activities" means any activities involving that will
11 disturb the subsurface of the earth or could damage underground utility
12 facilities, and may involve the removal of earth, rock, or other materials in the
13 ground, ~~disturbing the subsurface of the earth~~, or the demolition of any
14 structure, by the discharge of explosives or the use of powered or mechanized
15 equipment, including ~~but not limited to~~ digging, trenching, blasting, boring,
16 drilling, hammering, post driving, wrecking, razing, ~~or~~ tunneling, or pavement
17 or concrete slab removal, within 100 feet of an underground utility facility.

18 Excavation activities shall not include the tilling of the soil for agricultural
19 purposes, routine home gardening with hand tools outside easement areas and
20 public rights-of-way, activities relating to routine public highway maintenance,
21 or the use of hand tools by a company, or the company's agent or a contractor

1 working under the agent's direction, to locate or service the company's
2 facilities, provided the company has a written damage prevention program.

3 (5) "Person" means any individual, trust, firm, joint stock company,
4 corporation, including a government corporation, partnership, association,
5 state, municipality, commission, political subdivision of the ~~state~~ State, or any
6 interstate body.

7 (6) "Public agency" means the ~~state~~ State or any political subdivision
8 thereof, including any governmental agency.

9 (7) "Approximate location of underground utility facilities" means a
10 strip of land extending not more than 18 inches on either side of the
11 underground utility facilities. For underground hot water and steam facilities
12 installed prior to July 1, 2015, that cannot be located to within an accuracy of
13 18 inches, the company may specify a reasonably larger approximate location,
14 on a case-by-case basis, as prescribed by the Board under subdivision 7003(4)
15 of this chapter.

16 (8) "System" means the ~~public utility underground facility damage~~
17 ~~prevention system~~ Public Utility Underground Facility Damage Prevention
18 System referred to in section 7002 of this ~~title~~ chapter.

19 (9) "Underground utility facility" or "facility" means any pipe, conduit,
20 wire, or cable located beneath the surface of the earth and maintained by a
21 company, including the protective covering of the pipe, conduit, wire, or cable,

1 as well as any manhole, vault ~~or~~, pedestal, or component maintained by a
2 company.

3 (10) “Premark” means to identify the general scope of excavation
4 activities using white paint, stakes, or other suitable white markings, in a
5 manner that will enable the operators of the underground utility facilities to
6 know the boundaries of the proposed excavation activities.

7 (11) “Powered or mechanized equipment” means equipment that is
8 powered or energized by any motor, engine, or hydraulic or pneumatic device
9 and ~~that is~~ used for excavation or demolition work.

10 (12) “Hand tools” means tools powered solely by human energy.

11 (13) “Verified” means the location and depth have been ~~physically~~
12 ~~determined by hand digging~~ visually determined using careful and prudent
13 excavating techniques such as hand digging, water excavation, or other safe
14 means to avoid facility damage.

15 (14) “Damage prevention program” means a program established to
16 ensure employees involved in excavation activities are aware of and ~~utilize~~ use
17 appropriate and safe excavating practices.

18 Sec. 2. 30 V.S.A. § 7003 is amended to read:

19 § 7003. RULEMAKING

20 The ~~board~~ Board shall adopt rules, ~~pursuant to 3 V.S.A. chapter 25~~
21 ~~relative to~~ regarding:

- 1 (1) ~~minimum~~ Minimum requirements for the operation of the ~~system~~
2 System, including notification procedures and the reporting of underground
3 utility facility locations;
- 4 (2) ~~procedures~~ Procedures for the investigation of complaints;
- 5 (3) ~~emergency~~ Emergency situations ~~for which notice of excavation~~
6 ~~activities is not required~~;
- 7 (4) ~~uniform~~ Uniform standards for ~~the~~ marking ~~of~~ the approximate
8 location of underground utility facilities;
- 9 (5) ~~uniform~~ Uniform standards for the future installation of underground
10 utility facilities, including ~~but not limited to the following~~:
- 11 (A) color coding of facilities;
- 12 (B) depth requirements for ~~the~~ laying ~~of~~ facilities;
- 13 (C) subsurface marking of facilities;
- 14 (D) surface marking of facilities;
- 15 (E) the filing of as-built plans of facilities with municipalities; and
- 16 (F) capability for location of facilities by sensors.
- 17 (6) ~~standards~~ Standards for ~~the~~ granting ~~of~~ exemptions under section
18 7002 of this ~~title~~ chapter.
- 19 (7) Situations where the premarks cannot be found.
- 20 (8) Requiring certain operators of water or wastewater facilities, or both,
21 to become members of the System under section 7002 of this chapter, provided

1 the Board determines there is good cause to do so. The Board shall consider
2 the risks relative to the burdens imposed and, for good cause, may waive or
3 alter the requirements of this chapter, as appropriate, for underground water or
4 wastewater facilities installed prior to the effective date of the applicable rules.

5 Sec. 3. 30 V.S.A. § 7004 is amended to read:

6 § 7004. NOTICE OF EXCAVATION ACTIVITIES

7 (a) ~~No~~ A person ~~or company~~ shall not engage in excavation activities,
8 except in an emergency situation as defined by ~~the Board~~ rule, without
9 premarking the proposed area of excavation activities and giving notice as
10 required by this section.

11 (b) Prior to notifying the System, a person shall premark the area of
12 proposed excavation activities in a manner that will enable operators of
13 underground facilities to identify the boundaries of the proposed excavation
14 activities.

15 (c) At least 48 hours, excluding Saturdays, Sundays, and legal holidays, but
16 not more than 30 days before commencing excavation activities, each person
17 required to give notice of excavation activities shall notify the System ~~referred~~
18 to in section 7002 of this title. ~~Such.~~ The notice shall ~~set forth~~ describe a

19 reasonably accurate and readily identifiable description of the geographical

20 location of the proposed excavation activities and the premarks.

1 ~~(e)~~(d) Notice to the System may be ~~in writing or~~ by telephone or electronic
2 means offered by the System. For purposes of this section, the System shall
3 provide a toll-free telephone number.

4 ~~(d) Prior to notifying the System, the person must premark the area of~~
5 ~~proposed excavation activities in a manner that will enable operators of~~
6 ~~underground facilities to identify the boundaries of the proposed excavation~~
7 ~~activities. Premarking is not required:~~

8 ~~(1) if the actual excavation will be continuous and will exceed 500 feet~~
9 ~~in length; or~~

10 ~~(2) [Repealed.]~~

11 (e) Notice of excavation activities shall be valid for an excavation site until
12 one of the following occurs:

13 (1) ~~The~~ the excavation is not completed within 30 days of the
14 notification;

15 (2) ~~The~~ the markings become faded, illegible, or destroyed; or

16 (3) ~~The~~ the company installs new underground facilities in a marked
17 area still under excavation.

18 Sec. 4. 30 V.S.A. § 7006b is amended to read:

19 § 7006b. EXCAVATION AREA PRECAUTIONS

20 Any person engaged in excavating activities in the approximate location of
21 underground utility facilities marked pursuant to section 7006 of this ~~title~~

1 chapter shall take reasonable precautions to avoid damage to underground
2 utility facilities, including ~~but not limited to~~ any substantial weakening of the
3 structural or lateral support of such facilities or penetration, severance, or
4 destruction of such facilities. ~~When excavation activities involve horizontal or~~
5 ~~directional boring, the~~ A person engaged in excavation activities shall expose
6 underground facilities to verify their location and depth, in a safe manner to
7 avoid damage, at each location where the work will cross a facility and at
8 reasonable intervals when paralleling an underground facility. Powered or
9 mechanized equipment may only be used within the approximate location
10 where the facilities have been verified.

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on passage.