

1 H.759

2 Introduced by Representatives Botzow of Pownal, Kitzmiller of Montpelier,
3 and Marcotte of Coventry

4 Referred to Committee on

5 Date:

6 Subject: Utilities; underground utilities; damage prevention system

7 Statement of purpose of bill as introduced: This bill proposes to make
8 miscellaneous amendments to Vermont's Underground Utility Damage
9 Prevention System to provide clarity in the law and also to expand the scope of
10 the law to include certain underground potable water, hot water, steam, and
11 sewerage facilities.

12 An act relating to the Underground Damage Prevention System

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

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

15 § 7001. DEFINITIONS

16 In this chapter:

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

18 (2) "Company" means any ~~private or public utility company,~~
19 municipality, or person which supplies and sells gas, electricity, potable water,
20 hot water, steam, sewerage, or telecommunications service and which

1 maintains underground utility facilities, and any cable television company
2 operating a cable television system as defined in section 501 of this title and
3 which maintains underground utility facilities.

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

8 (4) "Excavation activities" means any activities involving which will
9 disturb the subsurface of the earth or could damage underground utility
10 facilities, which may involve the removal of earth, rock, or other materials in
11 the ground, ~~disturbing the subsurface of the earth,~~ or the demolition of any
12 structure; by the discharge of explosives or the use of powered or mechanized
13 equipment, including ~~but not limited to~~ digging, trenching, blasting, boring,
14 drilling, hammering, post driving, wrecking, razing, or tunneling, within
15 100 feet of an underground utility facility. Excavation activities shall not
16 include the tilling of the soil for agricultural purposes, routine home gardening
17 with hand tools outside easement areas and public rights-of-way, activities
18 relating to routine public highway maintenance, or the use of hand tools by a
19 company, or the company's agent or a contractor working under the agent's
20 direction, to locate or service the company's facilities, provided the company
21 has a written damage prevention program.

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

5 (6) “Public agency” means the ~~state~~ State or any political subdivision
6 thereof, including any governmental agency.

7 (7) “Approximate location of underground utility facilities” means a
8 strip of land extending not more than 18 inches on either side of the
9 underground utility facilities. For underground potable water, hot water,
10 steam, and sewerage facilities installed prior to July 1, 2014, and which cannot
11 be located to within an accuracy of 18 inches, the company may specify a
12 reasonably larger approximate location, on a case-by-case basis, as prescribed
13 by the Board under subdivision 7003(4) of this chapter.

14 (8) “System” means the public utility underground facility damage
15 prevention system referred to in section 7002 of this ~~title~~ chapter.

16 (9) “Underground utility facility” or “facility” means any pipe, conduit,
17 wire, or cable located beneath the surface of the earth and maintained by a
18 company, including the protective covering of the pipe, conduit, wire, or cable,
19 as well as any manhole, vault, or pedestal maintained by a company.

20 (10) “Premark” means to identify the general scope of excavation
21 activities using white paint, stakes, or other suitable white markings, in a

1 manner that will enable the operators of the underground utility facilities to
2 know the boundaries of the proposed excavation activities.

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

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

7 (13) “Verified” means the location and depth ~~have been physically~~
8 ~~determined by hand digging~~ visually determined using careful and prudent
9 excavating techniques such as hand digging, water excavation, or other safe
10 means.

11 (14) “Damage prevention program” means a program established to
12 ensure employees involved in excavation activities are aware of and utilize
13 appropriate and safe excavating practices.

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

15 § 7003. RULEMAKING

16 The ~~board~~ Board shall adopt rules, pursuant to 3 V.S.A. chapter 25
17 relative to:

18 (1) minimum requirements for the operation of the system, including
19 notification procedures and the reporting of underground utility facility
20 locations;

21 (2) procedures for the investigation of complaints;

1 (3) emergency situations ~~for which notice of excavation activities is not~~
2 ~~required;~~

3 (4) uniform standards for the marking of the approximate location of
4 underground utility facilities;

5 (5) uniform standards for the future installation of underground utility
6 facilities including ~~but not limited to~~ the following:

7 (A) color coding of facilities;

8 (B) depth requirements for the laying of facilities;

9 (C) subsurface marking of facilities;

10 (D) surface marking of facilities;

11 (E) the filing of as-built plans of facilities with municipalities; and

12 (F) capability for location of facilities by sensors; ;

13 (6) standards for the granting of exemptions under section 7002 of this
14 ~~title~~ chapter; and

15 (7) situations where the premarks cannot be found.

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

17 § 7004. NOTICE OF EXCAVATION ACTIVITIES

18 (a) No person or company shall engage in excavation activities, except in
19 an emergency situation as defined by the Board, without premarking the
20 proposed area of excavation activities and giving notice as required by this
21 section.

1 (b) Prior to notifying the System, the person must premark the area of
2 proposed excavation activities in a manner that will enable operators of
3 underground facilities to identify the boundaries of the proposed excavation
4 activities.

5 (c) At least 48 hours, excluding Saturdays, Sundays, and legal holidays, but
6 not more than 30 days before commencing excavation activities, each person
7 required to give notice of excavation activities shall notify the System referred
8 to in section 7002 of this title. Such notice shall set forth a reasonably accurate
9 and readily identifiable description of the geographical location of the
10 proposed excavation activities and the premarks.

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

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

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

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

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

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

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

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

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

9 § 7006b. EXCAVATION AREA PRECAUTIONS

10 Any person engaged in excavating activities in the approximate location of
11 underground utility facilities marked pursuant to section 7006 of this ~~title~~
12 chapter shall take reasonable precautions to avoid damage to underground
13 utility facilities, including ~~but not limited to~~ any substantial weakening of the
14 structural or lateral support of such facilities or penetration, severance, or
15 destruction of such facilities. ~~When excavation activities involve horizontal or~~
16 ~~directional boring, the~~ The person engaged in excavation activities shall expose
17 underground facilities to verify their location and depth, in a safe manner, at
18 each location where the work will cross a facility and at reasonable intervals
19 when paralleling an underground facility. Powered or mechanized equipment
20 may only be used within the approximate location where the facilities have
21 been verified.

- 1 Sec. 5. EFFECTIVE DATE
- 2 This act shall take effect on passage.