

1 H.749

2 Introduced by Representative Sibia of Dover

3 Referred to Committee on

4 Date:

5 Subject: Utilities; underground; damage prevention system; hot water and  
6 steam facilities

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 to expand the scope of the  
10 law to include underground hot water and steam facilities.

11 An act relating to the Underground Utility Damage Prevention System

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

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

14 § 7001. DEFINITIONS

15 In this chapter:

16 (1) "Commission" means the Public Utility Commission under section 3  
17 of this title.

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

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

4 (3) "Damage" includes the substantial weakening of structural or lateral  
5 support of an underground utility facility; penetration or destruction of any  
6 underground utility facility's protective coating, housing, or device; or the  
7 partial or complete severance of any underground utility facility.

8 (4) "Excavation activities" means any activities involving that will  
9 disturb the subsurface of the earth or could damage underground utility  
10 facilities and that 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 digging, trenching, blasting, boring, drilling, hammering,  
14 post driving, wrecking, razing, ~~or~~ tunneling, or pavement or concrete slab  
15 removal within 100 feet of an underground utility facility. Excavation  
16 activities shall not include the tilling of the soil for agricultural purposes,  
17 routine home gardening with hand tools outside easement areas and public  
18 rights-of-way, activities relating to routine public highway maintenance, or the  
19 use of hand tools by a company, or the company's agent or a contractor  
20 working under the agent's direction, to locate or service the company's  
21 facilities, provided the company 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, state,  
3 municipality, commission, political subdivision of the ~~state~~ State, or any  
4 interstate body.

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

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

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

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

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

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

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

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

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

13 § 7003. RULEMAKING

14           The Commission shall adopt rules, pursuant to 3 V.S.A. chapter 25  
15 relative to:

16           (1) minimum requirements for the operation of the System, including  
17 notification procedures and the reporting of underground utility facility  
18 locations;

19           (2) procedures for the investigation of complaints;

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

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

3 (5) uniform standards for the future installation of underground utility  
4 facilities, including the following:

5 (A) color coding of facilities;

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

7 (C) subsurface marking of facilities;

8 (D) surface marking of facilities;

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

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

11 (6) standards for the granting of exemptions under section 7002 of this  
12 title; and

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

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

15 § 7004. NOTICE OF EXCAVATION ACTIVITIES

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

20 (b) Prior to notifying the System, the person shall premark the area of  
21 proposed excavation activities in a manner that will enable operators of

1 underground facilities to identify the boundaries of the proposed excavation  
2 activities.

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

9 ~~(e)~~(d) Notice to the System may be in writing or by telephone. For  
10 purposes of this section, the System shall provide a toll-free telephone number.

11 ~~(d) Prior to notifying the System, the person must 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. Premarking is not required if the actual excavation will be~~  
15 ~~continuous and will exceed 500 feet in length.~~

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

- 18 (1) the excavation is not completed within 30 days of the notification;  
19 (2) the markings become faded, illegible, or destroyed; or  
20 (3) the company installs new underground facilities in a marked area  
21 still under excavation.

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

2 § 7006b. EXCAVATION AREA PRECAUTIONS

3 Any person engaged in excavating activities in the approximate location of  
4 underground utility facilities marked pursuant to section 7006 of this title shall  
5 take reasonable precautions to avoid damage to underground utility facilities,  
6 including any substantial weakening of the structural or lateral support of such  
7 facilities or penetration, severance, or destruction of such facilities. ~~When~~  
8 ~~excavation activities involve horizontal or directional boring, the~~ The person  
9 engaged in excavation activities shall expose underground facilities to verify  
10 their location and depth, in a safe manner, at each location where the work will  
11 cross a facility and at reasonable intervals when paralleling an underground  
12 facility. Powered or mechanized equipment may only be used within the  
13 approximate location where the facilities have been verified.

14 Sec. 5. 30 V.S.A. § 7007 is amended to read:

15 § 7007. NOTICE OF DAMAGE

16 When any underground utility facility is damaged during excavation  
17 activities, the excavator shall immediately notify the affected company. Under  
18 no circumstances shall the excavator backfill or conceal the damaged area until  
19 the company inspects and repairs the damage, provided that the excavator shall  
20 take reasonable and prudent actions to protect the public from serious injury  
21 from the damaged facilities until the company or emergency response

1 personnel arrive at the damaged area. An excavator who causes damage to a  
2 pipeline that results in a release of natural or other gas or hazardous liquid shall  
3 promptly report the release to emergency responders by calling 911.

4 Sec. 6. EFFECTIVE DATE

5 This act shall take effect on passage.