

No. 1991-38

AN ACT

HB 722

Amending the act of December 10, 1974 (P.L.852, No.287), entitled "An act to protect the public health and safety by preventing excavation or demolition work from damaging underground lines used in providing electricity, communication, gas, oil delivery, oil product delivery, sewage, water or other service; imposing duties upon the providers of such service, recorders of deeds, and persons and other entities preparing drawings or performing excavation or demolition work; and prescribing penalties," defining "Consumer Price Index" and "tolerance zone"; further providing for the duty of users, for duties of designers, for duties of contractors and for the one-call system; and making a repeal.

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

Section 1. Section 1 of the act of December 10, 1974 (P.L.852, No.287), referred to as the Underground Utility Line Protection Law, is amended by adding definitions to read:

Section 1. As used in this act:

* * *

"Consumer Price Index" means the index of consumer prices developed and updated by the Bureau of Labor Statistics of the United States Department of Labor.

* * *

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

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

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

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

(i) the name of the user;

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

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

(iv) at the option of any municipal user, the street identifications, within or outside of the municipality, for location of its lines. This identification also shall include the names of streets bounding, crossing or adjacent to the user's lines. Upon receipt of a signed street identification list from a municipal user, the one-call system shall provide the municipal user with notifica-

tion within the boundaries described in the street identification list. All municipal users which opt for this service shall agree to indemnify and hold harmless the recorder of deeds and the one-call system for any street identity errors and omissions on the part of the user providing street identifications.

* * *

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

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

(i) To mark, stake, locate or otherwise provide the position of the user's underground lines at the site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the contractor, where appropriate, to employ prudent techniques, which may include hand-dug test holes, to determine the precise position of the underground user's lines. This shall be done to the extent such information is available in the user's records or by use of standard locating techniques other than excavation.

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

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

Utility and Type of Product	Specific Group Identifying Color
Electric Power Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Dangerous Materials, Product Lines, Steam Lines	High Visibility Safety Yellow
Telephone and Telecommunications	Safety Alert Orange
Police and Fire Communications	Safety Alert Orange
Cable Television	Safety Alert Orange
Water Systems	Safety Precaution Blue
Slurry Systems	Safety Precaution Blue
Sewer Lines	Safety Green

(iv) If there are no lines at the site, make a reasonable effort to so advise the person making the request, providing the request is made in the time frame set forth in clause [(2)] (3) of section 5 or notify the one-call system to which it belongs.

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

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

* * *

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

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

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

* * *

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

* * *

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

* * *

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

Section 5. Section 7.1(b) and (c) of the act, added December 12, 1986 (P.L.1574, No.172), are amended to read:

Section 7.1. * * *

(b) (1) A one-call system shall be governed by a board of directors, to be chosen by the users. No less than twenty percent of the seats on the board shall be held by municipalities or municipal authorities, including the Commonwealth.

(2) All fees are to be based on the latest available audited cost factors. Fees shall be set and adjusted to a rate not more than five percent above the audited cost factor plus the current average published Consumer Price Index for Pennsylvania. Costs of capital improvements may be added, provided the improvement receives a majority vote of the board of directors.

(c) (1) The Auditor General, for the purposes set forth in clause (2), and any contractor, user or member of a one-call system shall have the right at any time to inspect and copy any record, book, account, document or any other information relating to the provision of one-call services by the one-call system or by a person with whom the one-call system contracts for the provision of such services in Pennsylvania.

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

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

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Section 6. Section 7.3 of the act is repealed.

Section 7. The act is amended by adding a section to read:

Section 7.4. The actual cost of expenses incurred by the Auditor General in performing his obligations under section 7.1 shall be reimbursed by the affected one-call system.

Section 8. This act shall expire on December 31, 1996.

Section 9. This act shall take effect immediately.

APPROVED—The 12th day of December, A. D. 1991.

ROBERT P. CASEY