

ASSEMBLY, No. 2194

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblymen KELLY and O'TOOLE

1 AN ACT concerning underground facilities, amending P.L.1994, c.118.

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3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 3 of P.L. 1994, c.118 (C.48:2-75) is amended to read
7 as follows:

8 3. As used in this act:

9 "Board" means the Board of Public Utilities;

10 "Business day" means any day other than Saturday, Sunday, or a
11 nationally or State recognized holiday;

12 "Damage" means any impact or contact with an underground
13 facility, its appurtenances or its protective coating or any weakening
14 of the support for the facility or protective housing, including, but not
15 limited to a break, leak, dent, gouge, groove, or other damage to the
16 facility, its lines, or their coating or cathodic protection[.];

17 "Emergency" means any condition constituting a clear and present
18 danger to life, health or property caused by the escape of any material
19 or substance transported by means of an underground facility or the
20 interruption of a vital communication or public service that requires
21 immediate action to prevent or mitigate loss or potential loss of the
22 communication or public service, or any condition on or affecting a
23 transportation right-of-way or transportation facility that creates a risk
24 to the public of potential injury or property damage;

25 "Excavate" or "excavating" or "excavation" or "demolition" means
26 any operation in which earth, rock, or other material in the ground is
27 moved, removed, or otherwise displaced by means of any tools,
28 equipment, or explosive, and includes but is not limited to drilling,
29 grading, boring, milling to a depth greater than six inches, trenching,
30 tunneling, scraping, tree and root removal, cable or pipe plowing,
31 fence post or pile driving, and wrecking, razing, rending, or removing
32 any structure or mass material, but does not include routine residential
33 property or right-of-way maintenance or landscaping activities or
34 landscape irrigation activities performed with non-mechanized

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 equipment, excavation within the flexible or rigid pavement box within
2 the right-of-way, or the tilling of soil for agricultural purposes to a
3 depth of 18 inches or less;

4 "Excavator" means any person performing excavation or
5 demolition;

6 "Hand digging" means any excavation involving non-mechanized
7 tools or equipment, including but not limited to digging with shovels,
8 picks and manual post-hole diggers;

9 "Landscape irrigation activities" means the construction, repair,
10 maintenance, improvement and alteration of any portion of a landscape
11 irrigation system, including required wiring within that system and
12 connection to the required power supply and the installation and
13 connection to a public or private water supply system under the terms
14 and conditions of a contract;

15 "Mechanized equipment" means equipment powered by a motor,
16 engine, or hydraulic, pneumatic or electrical device, including but not
17 limited to trenchers, bulldozers, power shovels, augers, backhoes,
18 scrapers, drills, cable and pipe plows, and other equipment used for
19 plowing-in cable or pipe, but does not include tools manipulated solely
20 by human power;

21 "One-Call Damage Prevention System" means the communication
22 system established pursuant to section 4 of this act;

23 "Operator" means a person owning or operating, or controlling the
24 operation of, an underground facility, but shall not include a
25 homeowner who owns only residential underground facilities, such as
26 an underground lawn sprinkler system or an underground structure for
27 a residential low-voltage lighting system;

28 "Person" means any individual, firm, joint venture, partnership,
29 corporation, association, State, county, municipality, public agency or
30 authority, bi-state or interstate agency or authority, public utility,
31 cooperation association, or joint stock association, and includes any
32 trustee, receiver, assignee, or personal representative thereof;

33 "Public entity" means any federal, State, county or municipal entity
34 responsible for issuing road opening, building, blasting, demolition or
35 excavation permits;

36 "Site" means the specific place where excavation work is performed
37 or to be performed and shall be identified by street address referenced
38 to the nearest intersecting street and subdivision name, if applicable,
39 as well as by lot and block number, if available and by kilometer or
40 mile marker for railways;

41 "State department or agency" means any department, public
42 authority, public agency, public commission, or other political
43 subdivision of the State, including any county, municipality or political
44 subdivision thereof[.];

45 "Underground facility" means any public or private personal
46 property which is buried, placed below ground, or submerged on a

1 right-of-way, easement, public street, other public place or private
2 property and is being used or will be used for the conveyance of water,
3 forced sewage, telecommunications, cable television, electricity, oil,
4 petroleum products, gas, optical signals, or traffic control, or for the
5 transportation of a hazardous liquid regulated pursuant to the
6 "Hazardous Liquid Pipeline Safety Act of 1979" (49 U.S.C. app. §
7 2001 et seq.), but does not include storm drains or gravity sewers.
8 (cf: P.L.1994, c.118, s.3)

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10 2. This act shall take effect immediately.

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STATEMENT

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15 This bill would amend the Underground Facility Protection Act, to
16 add "landscape irrigation activities" as an activity excluded from the
17 definition of "excavate" and propose a definition of "landscape
18 irrigation activities." "Landscape activities" are currently excluded
19 from the definition of "excavate." Under the bill, landscape irrigation
20 activities performed with non-mechanized equipment would not be
21 subject to the provisions of the Underground Facility Protection Act.

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26 Amends Underground Facility Protection Act to exclude certain
27 landscape irrigation activities from definition of "excavation."