

ASSEMBLY, No. 2247

STATE OF NEW JERSEY

INTRODUCED JULY 18, 1996

By Assemblyman STUHLTRAGER

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

3

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

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7 1. Section 5 of P.L.1994, c.118 (C.48:2-77) is amended to read as
8 follows:

9 5. a. **[Two]** Five years after the effective date of this act, the board
10 shall designate, through an appropriate administrative mechanism, a
11 person to operate the One-Call Damage Prevention System. The
12 board may, as necessary, adopt rules establishing the process by which
13 it shall select a person to operate the system.

14 b. The board shall designate the Garden State Underground Plant
15 Location Service (GSUPLS), a non-profit corporation of this State, to
16 operate the One-Call Damage Prevention System, on an interim basis,
17 for **[two]** five years after the effective date of this act. During this
18 interim period, GSUPLS will operate the system in conformance with
19 the provisions of this act and the board shall have policy oversight
20 over operation of the system.

21 (cf: P.L.1994, c.118, s.5)

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23 2. Section 8 of P.L.1994, c.118 (C.48:2-80) is amended to read as
24 follows:

25 8. a. Except as provided in sections 6 and 9 of this act, the
26 operator of an underground facility shall:

27 (1) Participate in and comply with the requirements of the One-Call
28 Damage Prevention System established pursuant to section 4 of this
29 act; and

30 (2) Mark, stake, locate or otherwise provide the position and
31 number of its underground facilities which may be affected by a
32 planned excavation or demolition within three business days after
33 receipt of the information concerning a notice of intent to excavate
34 transmitted pursuant to subsection **[c.]** a. of section 10 of this act. An

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 underground facility shall be marked in accordance with standards
2 approved by the board, which shall be based upon approved industry
3 standards, and shall be marked at the site within 18 inches horizontally
4 from the outside wall of the facility, in a manner that will enable the
5 excavator to employ prudent techniques, which may include hand-dug
6 test holes, to determine the precise position of the operator's
7 underground facility. An underground facility shall be marked from
8 information available in the operator's records or by use of standard
9 locating techniques other than excavation. In temporarily marking the
10 approximate position of an underground facility, an operator shall
11 utilize the following color coding:

12 Utility and Type Product Identifying color
13 Electric Power Distribution Safety Red
14 and Transmission
15 Municipal Electric Systems Safety Red
16 Gas Distribution and High Visibility Safety
17 Transmission Yellow
18 Oil Distribution and High Visibility Safety
19 Transmission Yellow
20 Dangerous Materials, Product High Visibility Safety
21 Lines, Steam Lines Yellow
22 Telephone and Telecommunications Safety Alert Orange
23 Police and Fire Communications Safety Alert Orange
24 Cable Television Safety Alert Orange
25 Water Systems Safety Precaution Blue
26 Slurry Systems Safety Precaution Blue
27 Sewer Lines Safety Green

28 b. If an operator does not own, operate or control any
29 underground facilities at the site concerning which he received
30 information of a notice of intent to excavate transmitted pursuant to
31 subsection c. of section 4 of this act, the operator shall make a
32 reasonable effort to so advise the person giving the notice of intent to
33 excavate, providing the notice is given within the time frame set forth
34 in subsection a. of section 10 of this act.

35 c. An operator shall maintain a record of all damage to its
36 underground facilities, including all damage reported by an excavator
37 pursuant to subsection e. of section 10 of this act. An operator shall
38 provide an updated copy of this record to the board on a quarterly
39 basis.

40 (cf: P.L.1994, c.118, s.8)

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42 3. Section 15 of P.L.1994, c.118 (C.48:2-87) is amended to read
43 as follows:

44 15. Any person who knowingly [and willfully] engages in an
45 excavation without:

46 a. First using the One-Call Damage Prevention System to

1 determine the location of underground facilities in the area being
2 excavated; or

3 b. Heeding appropriate location information or markings
4 established by any operator; or

5 c. Otherwise complying with the provisions of this act; [and who
6 because of that violation damages] is guilty of a disorderly persons
7 offense. If, because of the violation, damage occurs to an
8 underground facility resulting in death, serious bodily harm, or actual
9 damage to property or loss of service revenue exceeding \$50,000, or
10 [damages] damage occurs to an underground hazardous liquid pipeline
11 facility resulting in the release of more than 50 barrels of product, the
12 person shall, upon conviction, be guilty of a crime of the third degree.

13 Nothing in this section shall limit the jurisdiction of the board with
14 respect to natural gas pipeline safety or limit the jurisdiction of the
15 board or a court of competent jurisdiction with respect to the civil
16 administrative penalty and enforcement provisions of this act.

17 (cf: P.L.1994, c.118, s.15)

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19 4. This act shall take effect immediately.

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STATEMENT

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24 This bill amends the "Underground Facility Protection Act,"
25 P.L.1994, c.118 (C.48:2-73 et seq.), to provide a five-year interim
26 period in which the Garden State Underground Plant Location Service
27 (GSPULS) will operate the one-call damage prevention system.
28 Current law provides that GSPULS will operate the one-call system
29 for a two-year period. At the end of the interim period, the Board of
30 Public Utilities will designate the operator of the one-call system.

31 The bill also amends section 15 of the act (C.48:2-87), which
32 establishes a crime of the third degree, to include a disorderly persons
33 offense. Proof of serious damage is an element of the third degree
34 crime established in the act. Inclusion of language concerning a
35 disorderly persons offense would permit a jury to return a guilty
36 verdict on that lesser-included offense, if it is not persuaded as to the
37 damage element. The bill further amends the definition of the crime
38 of the third degree to remove language requiring a defendant to have
39 acted "willfully." The term "willfully" is not defined in the Code of
40 Criminal Justice and the term "knowingly," also used in this section,
41 encompasses the state of mind intended by the use of the term
42 "willfully." These amendments were recommended by the Department
43 of Law and Public Safety.

44 Finally, the bill makes a technical correction to section 8 of the act
45 to correct a cross reference.

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3 Amends "Underground Facility Protection Act" to provide a five-year
4 interim period for system operator; establishes a disorderly persons
5 offense.