

P.L. 1997, CHAPTER 7, *approved January 24, 1997*  
Assembly, No. 2247

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  
35 underground facility shall be marked in accordance with standards

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

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

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

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

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

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

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

45 a. First using the One-Call Damage Prevention System to  
46 determine the location of underground facilities in the area being

1 excavated; or

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

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

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

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

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18 4. This act shall take effect immediately.

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#### STATEMENT

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

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

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

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