



Sen. Sue Rezin

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1 AMENDMENT TO SENATE BILL 1383

2 AMENDMENT NO. _____. Amend Senate Bill 1383, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Underground Utility Facilities
6 Damage Prevention Act is amended by changing Sections 2, 2.1.3,
7 2.1.4, 2.1.5, 2.2, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 2.11, 3,
8 4, 6, 7, 8, 9, 10, 11, 11.3, 12, 13, and 14 and by adding
9 Sections 2.1.1, 2.1.2, 2.1.7, 2.1.8, 2.12, 2.13, and 7.5 as
10 follows:

11 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

12 Sec. 2. Definitions. As used in this Act, unless the
13 context clearly otherwise requires, the terms specified in
14 Sections 2.1.1 ~~2.1~~ through 2.13 ~~2.11~~ have the meanings ascribed
15 to them in those Sections.

16 (Source: P.A. 94-623, eff. 8-18-05.)

1 (220 ILCS 50/2.1.1 new)

2 Sec. 2.1.1. Excavator. "Excavator" means any person or
3 legal entity, public or private, that engages in excavation or
4 demolition work.

5 (220 ILCS 50/2.1.2 new)

6 Sec. 2.1.2. Pre-mark. "Pre-mark" means to use white paint,
7 stakes, or flags to delineate the work area at the site of the
8 proposed excavation or demolition area. An existing above
9 ground structure may be considered a pre-mark. A verbal
10 pre-mark is adequate when the scope requested to be marked is
11 narrow and explicit enough to prevent marking a large area
12 beyond the actual area of excavation or demolition. If
13 utilized, physical pre-marking for the area of the planned
14 excavation or demolition must be accomplished prior to
15 notifying the One-Call Notice System.

16 (220 ILCS 50/2.1.3)

17 Sec. 2.1.3. No show request. "No show request" means a
18 notice initiated by an excavator through the ~~State-wide~~
19 One-Call Notice System to the owners or operators of
20 underground utility facilities notified in the prior locate
21 request that such facility owners or operators, as identified
22 by the excavator, either failed to mark their facilities or to
23 communicate their non-involvement with the excavation prior to

1 the requested dig start date and time.

2 (Source: P.A. 96-714, eff. 1-1-10.)

3 (220 ILCS 50/2.1.4)

4 Sec. 2.1.4. Incomplete request. "Incomplete request"
5 means a notice initiated by an excavator through the ~~State Wide~~
6 One-Call Notice System to the owners or operators of
7 underground utility facilities notified in a prior locate
8 request that such facility owners or operators, as identified
9 by the excavator ~~person excavating~~, did not completely mark the
10 entire extent or the entire segment of the proposed excavation,
11 as identified ~~by the excavator~~ in the prior notice.

12 (Source: P.A. 96-714, eff. 1-1-10.)

13 (220 ILCS 50/2.1.5)

14 Sec. 2.1.5. Re-mark request. "Re-mark request" means a
15 notice initiated by an excavator through the ~~State Wide~~
16 One-Call Notice System to the owners or operators of
17 underground utility facilities notified in the initial locate
18 request requesting facility owners or operators to re-mark all
19 or part of the work area identified in the initial locate
20 request, because facility markings are becoming or have become
21 indistinguishable due to factors, including, but not limited
22 to, weather, fading, construction activity, or vandalism. Only
23 the affected areas where excavation or demolition is to
24 continue shall be requested to be re-marked.

1 (Source: P.A. 96-714, eff. 1-1-10.)

2 (220 ILCS 50/2.1.7 new)

3 Sec. 2.1.7. Normal notice request. "Normal notice request"
4 means a request for locates that provides no less than 48
5 hours, but no more than 14 calendar days, advance notice of a
6 planned excavation or demolition. A normal notice request is
7 only valid for 28 calendar days from the date of the original
8 normal notice, unless a subsequent request for extension, as
9 described in subsection (g) of Section 4, is made.

10 (220 ILCS 50/2.1.8 new)

11 Sec. 2.1.8. One-Call Notice System. "One-Call Notice
12 System" means JULIE or the State-Wide One-Call Notice System
13 for all excavation or demolition performed and underground
14 facilities owned outside the jurisdiction of the city limits of
15 Chicago. "One-Call Notice System" also means the Chicago
16 Utility Alert Network or Digger (Chicago 811) for all
17 excavation or demolition performed and underground facilities
18 owned within the jurisdiction of the city limits of Chicago.

19 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

20 Sec. 2.2. Underground utility facilities.

21 (a) "Underground utility facilities" or "facilities" means
22 and includes wires, ducts, fiber optic cable, conduits, pipes,
23 sewers, and cables and their connected appurtenances existing

1 ~~installed~~ beneath the surface of the ground and owned or
2 operated by:

3 (1) a public utility as defined in the Public Utilities
4 Act;

5 (2) a municipally owned or mutually owned utility
6 providing a similar utility service;

7 (3) a pipeline entity transporting gases, crude oil,
8 petroleum products, or other hydrocarbon materials within
9 the State;

10 (4) a telecommunications carrier as defined in the
11 Universal Telephone Service Protection Law of 1985, or by a
12 company described in Section 1 of the Telephone Company
13 Act;

14 (5) a community antenna television system, as defined
15 in the Illinois Municipal Code or the Counties Code;

16 (6) a holder, as that term is defined in the Cable and
17 Video Competition Law of 2007;

18 (7) any other entity owning or operating underground
19 facilities that transport generated electrical power to
20 other utility owners or operators or transport generated
21 electrical power within the internal electric grid of a
22 wind turbine generation farm; ~~and~~

23 (8) an electric cooperative as defined in the Public
24 Utilities Act; ~~and~~

25 (9) an agency of the State of Illinois; and

26 (10) any other active member of a One-Call Notice

1 System.

2 (Source: P.A. 96-714, eff. 1-1-10.)

3 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

4 Sec. 2.3. Excavation. "Excavation" means any operation in
5 which earth, rock, or other material in or on the ground is
6 moved, removed, or otherwise displaced by means of any tools,
7 power equipment or explosives, and includes, without
8 limitation, grading, trenching, digging, ditching, drilling,
9 augering, boring, tunneling, scraping, cable or pipe plowing,
10 saw cutting when penetrating into the base or subbase of a
11 paved surface, and driving, but does not include:

12 (1) farm tillage operations; ~~or~~

13 (2) railroad right-of-way maintenance; ~~or operations~~

14 ~~or~~

15 (3) coal mining operations regulated under the Federal
16 Surface Mining Control and Reclamation Act of 1977 or any
17 State law or rules or regulations adopted under the federal
18 statute; ~~or~~

19 (4) land surveying operations as defined in the
20 Illinois Professional Land Surveyor Act of 1989 when
21 manually excavating to a depth not to exceed 24 inches;
22 prior to driving any pin or rod under this paragraph (4),
23 the intended location for the pin or rod shall be hand
24 probed to the depth of the intended excavation; not using
25 power equipment, or

- 1 (5) roadway surface milling;
2 (6) manually inserting a temporary ground or probe rod
3 as part of underground utility facility locating;
4 (7) manually inserting a temporary probe rod for bar
5 holing to determine the area of a leaking underground
6 hazardous gas or liquid facility; or
7 (8) manually inserting a ground rod for the purpose of
8 grounding utility equipment when an emergency exists and no
9 other ground source is available.

10 An exclusion to this Section in no way prohibits a request
11 from being made for the marking of underground utility
12 facilities.

13 (Source: P.A. 94-623, eff. 8-18-05.)

14 (220 ILCS 50/2.4) (from Ch. 111 2/3, par. 1602.4)

15 Sec. 2.4. Demolition. "Demolition" means the wrecking,
16 razing, rending, moving, or removing of a structure by means of
17 any power tool, power equipment (exclusive of transportation
18 equipment) or explosives.

19 (Source: P.A. 86-674.)

20 (220 ILCS 50/2.5) (from Ch. 111 2/3, par. 1602.5)

21 Sec. 2.5. Damage. "Damage" means the contact or dislocation
22 of any underground utility facility ~~or CATS facility~~ during
23 excavation or demolition which necessitates immediate or
24 subsequent repair by the owner or operator of such facility due

1 to a weakening or the partial or complete destruction of the
2 facility, including, but not limited to, the protective
3 coating, lateral support, cathodic protection, or housing for
4 the line, device, or facility.

5 (Source: P.A. 86-674.)

6 (220 ILCS 50/2.7)

7 Sec. 2.7. Tolerance zone. "Tolerance zone" means: (i) if
8 the diameter of the facility is indicated, the distance of
9 one-half of the known diameter plus 1.5 feet on either side of
10 the designated center line of the utility marking; (ii) if the
11 diameter of the facility is not indicated, 1.5 feet on either
12 side of the outside edge of the utility marking; or (iii) for
13 subaqueous facilities, a distance of 10 feet on either side of
14 the indicated facility. For purposes of this Section,
15 "subaqueous" means a facility located under a lake, river, or
16 navigable waterway. The utility markings provided cannot
17 indicate that the width of the marked facility is any greater
18 than the actual width of the underground facility. The
19 tolerance zone shall also apply to visible utility structures,
20 including, but not limited to, poles with overhead to
21 underground transitions, pedestals, transformers, meters,
22 hydrants, and valve boxes; there shall be a 1.5 foot tolerance
23 zone entirely around such facilities ~~the approximate location~~
24 ~~of underground utility facilities or CATS facilities defined as~~
25 ~~a strip of land at least 3 feet wide, but not wider than the~~

1 ~~width of the underground facility or CATS facility plus 1-1/2~~
2 ~~feet on either side of such facility based upon the markings~~
3 ~~made by the owner or operator of the facility.~~ Excavation
4 within the tolerance zone requires extra care and precaution
5 including, but not limited to, as set forth in Section 4.

6 (Source: P.A. 92-179, eff. 7-1-02.)

7 (220 ILCS 50/2.8)

8 Sec. 2.8. Approximate location. "Approximate location"
9 means the actual location of the marked underground facility
10 that lies entirely within the tolerance zone ~~a strip of land at~~
11 ~~least 3 feet wide, but not wider than the width of the~~
12 ~~underground facility or CATS facility plus 1.5 feet on either~~
13 ~~side of the facility.~~

14 (Source: P.A. 92-179, eff. 7-1-02.)

15 (220 ILCS 50/2.9)

16 Sec. 2.9. 48 Hours. "48 hours" ~~"Forty eight hours"~~ means 2
17 business days beginning at 8 a.m. and ending at 4 p.m.
18 (exclusive of Saturdays, Sundays, and holidays recognized by
19 the ~~State-Wide One-Call Notice System or the municipal one-call~~
20 ~~notice system~~). All requests for locates received after 4 p.m.
21 will be processed as if received at 8 a.m. the next business
22 day.

23 (Source: P.A. 94-623, eff. 8-18-05.)

1 (220 ILCS 50/2.10)

2 Sec. 2.10. Open cut utility locate. "Open cut utility
3 locate" means a method of locating underground utility
4 facilities that requires excavation by the owner, operator, or
5 agent of the underground facility.

6 (Source: P.A. 94-623, eff. 8-18-05.)

7 (220 ILCS 50/2.11)

8 Sec. 2.11. Roadway surface milling. "Roadway surface
9 milling" means the removal of a uniform pavement section by
10 rotomilling, grinding, saw cutting, or other means that does
11 not penetrate into ~~including~~ the roadway base or subbase.

12 (Source: P.A. 94-623, eff. 8-18-05.)

13 (220 ILCS 50/2.12 new)

14 Sec. 2.12. Damage notification. "Damage notification"
15 means a notice to the owners or operators that damage to an
16 underground line has occurred in the area of the excavation or
17 demolition.

18 (220 ILCS 50/2.13 new)

19 Sec. 2.13. Exposed notification. "Exposed notification"
20 means a notification to the owners or operators that a
21 previously unmarked underground line has been exposed, but not
22 damaged.

1 (220 ILCS 50/3) (from Ch. 111 2/3, par. 1603)

2 Sec. 3. One-Call Notice System membership. The owners or
3 operators of underground utility facilities are required to be
4 members of a One-Call Notice System ~~or CATS facilities that are~~
5 ~~not currently participants in the State Wide One Call Notice~~
6 ~~System shall, within 6 months of the effective date of this~~
7 ~~Act, join the State Wide One Call Notice System. This Section~~
8 ~~shall not apply to utilities operating facilities or CATS~~
9 ~~facilities exclusively within the boundaries of a municipality~~
10 ~~with a population of at least one million persons.~~

11 (Source: P.A. 86-674.)

12 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

13 Sec. 4. Required activities. Every excavator ~~person~~ who
14 engages in nonemergency excavation or demolition shall:

15 (a) take reasonable action to inform himself or herself
16 of the location of any underground utility facilities in
17 and near the area for which such operation is to be
18 conducted;

19 (b) plan the excavation or demolition to avoid or
20 minimize interference with underground utility facilities
21 within the tolerance zone by utilizing such precautions
22 that include, but are not limited to, hand excavation, or
23 vacuum excavation methods to the depth of the proposed
24 excavation or demolition, and visually inspecting the
25 excavation while in progress until clear of the existing

1 marked facility;

2 (c) pre-mark in accordance with Section 2.1.2 ~~if~~
3 ~~practical, use white paint, flags, stakes, or both, to~~
4 ~~outline the dig site;~~

5 (d) provide notice not less than 48 hours but no more
6 than 14 calendar days in advance of the start of the
7 excavation or demolition to the owners or operators of the
8 underground utility facilities in and near the excavation
9 or demolition area through the ~~State-Wide~~ One-Call Notice
10 System ~~or, in the case of nonemergency excavation or~~
11 ~~demolition within the boundaries of a municipality of at~~
12 ~~least one million persons which operates its own one-call~~
13 ~~notice system, through the one-call notice system which~~
14 ~~operates in that municipality.~~

15 At a minimum, the notice required under this subsection
16 (d) shall provide:

17 (1) the person's name, address, phone number at
18 which a person can be reached, and if available, a fax
19 number and email address ~~, if available;~~

20 (2) the start date and time of the planned
21 excavation or demolition;

22 (3) all counties, cities, or townships, or any
23 combination thereof, where the proposed excavation or
24 demolition shall take place;

25 (4) the address or location at which the excavation
26 or demolition shall take place;

1 (5) the type of work, and the ~~and~~ extent and
2 description of the area where excavation or demolition
3 is to occur ~~of the work involved; and~~

4 (6) the section or quarter sections when the
5 information in items (1) through (5) of this subsection
6 (d) does not allow the ~~State Wide~~ One-Call Notice
7 System to determine the appropriate excavation or
8 demolition site. This item (6) does not apply to
9 residential property owners;

10 (7) an indication of whether directional boring or
11 horizontal drilling will be used;

12 (8) an indication of whether the excavation will
13 exceed 7 feet in depth;

14 (9) an indication of whether the proposed
15 excavation or demolition has been physically
16 pre-marked as defined in Section 2.1.2; and

17 (10) the latitude and longitude, if available. The
18 information specified in items (1) through (9) of this
19 subsection (d) is still required when providing
20 latitude and longitude;

21 (e) provide, during and following excavation or
22 demolition, such support for existing underground utility
23 facilities in and near the excavation or demolition area as
24 may be reasonably necessary for the protection of such
25 facilities unless otherwise agreed to by the owner or
26 operator of the underground facility;

1 (f) backfill all excavations in such manner and with
2 such materials as may be reasonably necessary for the
3 protection of existing underground utility facilities in
4 and near the excavation or demolition area;

5 (g) ~~after February 29, 2004,~~ when the excavation or
6 demolition project will extend past 28 calendar days from
7 the date of the original notice provided under clause (d),
8 the excavator shall provide a subsequent notice to the
9 owners or operators of the underground utility facilities
10 in and near the excavation or demolition area through the
11 ~~State Wide One-Call Notice System or, in the case of~~
12 ~~excavation or demolition within the boundaries of a~~
13 ~~municipality having a population of at least 1,000,000~~
14 ~~inhabitants that operates its own one call notice system,~~
15 ~~through the one call notice system that operates in that~~
16 ~~municipality informing utility owners and operators that~~
17 ~~additional time to complete the excavation or demolition~~
18 ~~project will be required.~~ The notice will provide the
19 excavator with an additional 28 calendar days from the date
20 of the subsequent notification to continue or complete the
21 excavation or demolition project. The excavator may not
22 provide a subsequent notice under this Section simply for
23 the purpose of keeping a prior notice open or valid without
24 continued excavation occurring within the period of that
25 subsequent notice;

26 (h) exercise due care at all times to protect

1 underground utility facilities. If, after proper
2 notification through a ~~the State-Wide~~ One-Call Notice
3 System and upon arrival at the site of the proposed
4 excavation, the excavator observes clear evidence of the
5 presence of an unmarked or incompletely marked utility in
6 the area of the proposed excavation, the excavator shall
7 not begin excavating until all affected facilities have
8 been marked or 2 hours, whichever is shorter, after an
9 additional call is made to the ~~State-Wide~~ One-Call Notice
10 System ~~for the area~~. The owner or operator of the utility
11 shall respond within 2 hours of the excavator's call to the
12 ~~State-Wide~~ One-Call Notice System; and

13 (i) when factors, including, but not limited to,
14 weather, construction activity, or vandalism, at the
15 excavation site have caused the utility markings to become
16 faded or indistinguishable, the excavator shall initiate a
17 remark request ~~provide an additional notice~~ through the
18 ~~State-Wide~~ One-Call Notice System requesting that only the
19 affected areas where excavation or demolition is to
20 continue be re-marked. Facility owners or operators must
21 respond to the notice to re-mark according to the
22 requirements of Section 10 of this Act.

23 If upon notice, a facility operator determines there is a
24 critical facility within the proposed excavation area and the
25 facility operator desires to have an authorized representative
26 present during excavation near the critical facility, the

1 facility operator shall contact the excavator prior to the
2 requested dig start time provided on the notice to schedule a
3 date and time for the facility operator to be present when
4 excavation will occur near the critical facility. All
5 excavators must comply with the facility operator's request to
6 be present during excavation near critical facilities. In lieu
7 of having an authorized representative present, the facility
8 operator may choose to complete a minimal excavation near the
9 critical facility to expose its location. However, it is
10 incumbent on the facility operator to comply with the
11 excavator's schedule for when excavation will occur near the
12 critical facility. For excavation that may be near critical
13 facilities intermittently during the course of the project, the
14 excavator shall provide notice to the facility operator not
15 less than one business day before excavation is expected to be
16 near the critical facility. Nothing in this Section shall
17 prohibit an excavator from excavating prudently and carefully
18 near a critical facility without the facility operator present,
19 provided the facility operator waives the request to be present
20 or to complete a minimal excavation exposing the critical
21 facility or is unable to comply with the excavator's schedule.

22 Nothing in this Section prohibits the use of any method of
23 excavation if conducted in a manner that would avoid
24 interference with underground utility facilities.

25 (Source: P.A. 96-714, eff. 1-1-10.)

1 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

2 Sec. 6. Emergency excavation or demolition.

3 (a) Every excavator ~~person~~ who engages in emergency
4 excavation or demolition ~~outside of the boundaries of a~~
5 ~~municipality of at least one million persons which operates its~~
6 ~~own one call notice system~~ shall take all reasonable
7 precautions to avoid or minimize interference between the
8 emergency work and existing underground utility facilities in
9 and near the excavation or demolition area, ~~through the~~
10 ~~State Wide One-Call Notice System~~, and shall notify, as far in
11 advance as possible, the owners or operators of such
12 underground utility facilities in and near the emergency
13 excavation or demolition area, through the ~~State Wide~~ One-Call
14 Notice System. At a minimum, the notice required under this
15 subsection (a) shall provide:

16 (1) the person's name, address, and ~~(i)~~ phone number at
17 which a person can be reached and, if available, a ~~(ii)~~ fax
18 number and email address ~~, if available;~~

19 (2) the start date and time of the planned emergency
20 excavation or demolition;

21 (3) the address or location at which the excavation or
22 demolition will take place; ~~and~~

23 (4) the type of work, and the ~~and~~ extent and
24 description of the area where excavation or demolition is
25 to occur; and ~~of the work involved.~~

26 (5) all counties, cities, or townships, or any

1 combination thereof, where the emergency excavation or
2 demolition will take place.

3 There is a wait time of 2 hours or the date and time
4 requested on the notice, whichever is longer, after an
5 emergency locate notification request is made through the
6 ~~State Wide~~ One-Call Notice System. If the conditions at the
7 site dictate an earlier start than the required wait time, it
8 is the responsibility of the excavator to demonstrate that site
9 conditions warranted this earlier start time.

10 Upon notice by the excavator ~~person~~ engaged in emergency
11 excavation or demolition, the owner or operator of an
12 underground utility facility in or near the excavation or
13 demolition area shall communicate with the excavator ~~person~~
14 engaged in emergency excavation or demolition within 2 hours or
15 by the date and time requested on the notice, whichever is
16 longer by (1) marking the approximate location of underground
17 facilities; (2) advising the excavator ~~person-excavating~~ that
18 their underground facilities are not in conflict with the
19 emergency excavation; or (3) notifying the excavator ~~person~~
20 ~~excavating~~ that the owner or operator shall be delayed in
21 marking because of conditions as referenced in subsection (g)
22 of Section 11 of this Act.

23 The notice by the owner or operator to the excavator ~~person~~
24 ~~engaged in emergency excavation or demolition~~ may be provided
25 by phone or phone message or by marking the excavation or
26 demolition area. The owner or operator has discharged the

1 owner's or operator's obligation to provide notice under this
2 Section if the owner or operator attempts to provide notice by
3 telephone but is unable to do so because the excavator person
4 ~~engaged in the emergency excavation or demolition~~ does not
5 answer his or her telephone or does not have an answering
6 machine, ~~or~~ answering service or voicemail to receive the
7 telephone call. If the owner or operator attempts to provide
8 notice by telephone ~~or by facsimile~~ but receives a busy signal,
9 that attempt shall not discharge the owner or operator from the
10 obligation to provide notice under this Section.

11 (b) Blank. ~~Every person who engages in emergency excavation~~
12 ~~or demolition within the boundaries of a municipality of at~~
13 ~~least one million persons which operates its own one-call~~
14 ~~notice system shall take all reasonable precautions to avoid or~~
15 ~~minimize interference between the emergency work and existing~~
16 ~~underground utility facilities in and near the excavation or~~
17 ~~demolition area, through the municipality's one call notice~~
18 ~~system, and shall notify, as far in advance as possible, the~~
19 ~~owners and operators of underground utility facilities in and~~
20 ~~near the emergency excavation or demolition area, through the~~
21 ~~municipality's one-call notice system.~~

22 (c) The reinstallation of traffic control devices shall be
23 deemed an emergency for purposes of this Section.

24 (d) An open cut utility locate shall be deemed an emergency
25 for purposes of this Section.

26 (e) During emergency situations, as described in Section

1 2.6, where the owner or operator of underground utility
2 facilities has a widespread situation beyond its equipment or
3 personnel capabilities to facilitate a timely repair or
4 correction of the emergency, the facility owner or operator may
5 utilize subcontractors to facilitate the work without a
6 separate emergency locate request by the subcontractor.
7 However, for the purposes of this Act, in such a situation, the
8 facility owner or operator shall be responsible for the actions
9 of its subcontractor, unless the subcontractor has obtained its
10 own notice.

11 (f) Emergency notices provided through a One-Call Notice
12 System shall expire 14 calendar days after the date of the
13 initial notice.

14 (Source: P.A. 96-714, eff. 1-1-10.)

15 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

16 Sec. 7. Damage or dislocation. In the event of any damage
17 to or dislocation of any underground utility facilities in
18 connection with any excavation or demolition, emergency or
19 nonemergency, the excavator ~~person~~ responsible for the
20 excavation or demolition operations shall immediately notify
21 the affected utility and the ~~State-Wide~~ One-Call Notice System
22 and cease excavation in the area of the damage when the damaged
23 facility is a threat to life or property or if otherwise
24 required by law ~~or, in the case of damage or dislocation in~~
25 ~~connection with any excavation or demolition within the~~

1 ~~boundaries of a municipality having a population of at least~~
2 ~~1,000,000 inhabitants that operates its own one-call notice~~
3 ~~system, notify the affected utility and the one-call notice~~
4 ~~system that operates in that municipality.~~ The excavator ~~person~~
5 responsible for the excavation or demolition shall not attempt
6 to repair, clamp, or constrict the damaged utility facility
7 unless under the supervision or advisement of the utility
8 facility owner or operator. At no time shall an excavator ~~a~~
9 ~~person~~ under this Act be required by a utility facility owner
10 or operator to attempt to repair, clamp, or constrict a damaged
11 utility facility. In the event of any damage to any underground
12 utility facility that results in the escape of any flammable,
13 toxic, or corrosive gas or liquid, the excavator ~~person~~
14 responsible for the excavation or demolition shall call 9-1-1
15 and notify authorities of the damage. Owners and operators of
16 underground utility facilities that are damaged and the
17 excavator involved shall work in a cooperative and expeditious
18 manner to repair the affected utility.

19 At a minimum, the notice required under this Section shall
20 provide:

21 (1) a reference to the original excavation or
22 demolition notice, if one exists;

23 (2) the type of damaged underground utility facility;

24 (3) the name of the affected underground utility
25 facility owner, if known; and

26 (4) the location of the damaged underground line at the

1 excavation or demolition site.

2 (Source: P.A. 96-714, eff. 1-1-10.)

3 (220 ILCS 50/7.5 new)

4 Sec. 7.5. Exposed facility. In the event of any previously
5 unmarked underground utility facility being exposed during
6 excavation or demolition, emergency or nonemergency, the
7 excavator responsible for the excavation or demolition
8 operations shall immediately notify the One-Call Notice
9 System.

10 At a minimum, the notice required under this Section shall
11 provide:

12 (1) a reference to the original excavation or
13 demolition notice, if one exists;

14 (2) the type of exposed underground utility facility;

15 (3) the name of the affected underground utility
16 facility owner, if known; and

17 (4) the location of the exposed underground line at the
18 excavation or demolition site.

19 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

20 Sec. 8. Liability or financial responsibility.

21 (a) Nothing in this Act shall be deemed to affect or
22 determine the financial responsibility for any operation under
23 this Act or liability of any entity or individual ~~person~~ for
24 any damages that occur unless specifically stated otherwise.

1 (b) Except for enforcement penalties authorized pursuant
2 to this Act, nothing ~~Nothing~~ in this Act shall be deemed to
3 provide for liability or financial responsibility of the
4 Department of Transportation, its officers and employees
5 concerning any underground utility facility ~~or CATS facility~~
6 located on highway right-of-way by permit issued under the
7 provisions of Section 9-113 of the Illinois Highway Code. It is
8 not the intent of this Act to change any remedies in law
9 regarding the duty of providing lateral support.

10 (c) Neither a ~~the State-Wide~~ One-Call Notice System nor any
11 of its officers, agents, or employees shall be liable for
12 damages for injuries or death to persons or damage to property
13 caused by acts or omissions in the receipt, recording, or
14 transmission of locate requests or other information in the
15 performance of its duties as the ~~State-Wide~~ One-Call Notice
16 System, unless the act or omission was the result of willful
17 and wanton misconduct.

18 (d) Any residential property owner who fails to comply with
19 any provision of this Act and damages underground utility
20 facilities ~~or CATS facilities~~ while engaging in excavation or
21 demolition on such residential property shall not be subject to
22 a penalty under this Act, but shall be liable for the damage
23 caused to the owner or operator of the damaged underground
24 utility facilities ~~or CATS facilities~~.

25 (Source: P.A. 92-179, eff. 7-1-02.)

1 (220 ILCS 50/9) (from Ch. 111 2/3, par. 1609)

2 Sec. 9. Negligence. When it is shown by competent evidence
3 in any action for damages to underground utility facilities ~~or~~
4 ~~CATS facilities~~ that such damages resulted from excavation or
5 demolition and that the excavator ~~person~~ engaged in such
6 excavation or demolition failed to comply with the provisions
7 of this Act, that excavator ~~person~~ shall be deemed prima facie
8 guilty of negligence.

9 When it is shown by competent evidence in any action for
10 damages to excavators ~~persons~~, material or equipment brought by
11 persons undertaking excavation or demolition acting in
12 compliance with the provisions of this Act that such damages
13 resulted from the failure of owners and operators of
14 underground facilities ~~or CATS facilities~~ to comply with the
15 provisions of this Act, those owners and operators shall be
16 deemed prima facie guilty of negligence.

17 (Source: P.A. 86-674.)

18 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

19 Sec. 10. Record of notice; marking of facilities.

20 (a) Upon notice by the excavator~~person~~ engaged in
21 ~~excavation or demolition~~, the entity ~~person~~ owning or operating
22 underground utility facilities in or near the excavation or
23 demolition area shall cause a written record to be made of the
24 notice and shall mark, within 48 hours of receipt of notice or
25 by the requested date and time indicated on the notice,

1 whichever is later, the approximate locations of such
2 facilities so as to enable the excavator ~~person excavating or~~
3 ~~demolishing~~ to establish the location of the underground
4 utility facilities.

5 (b) Owners and operators of underground sewer facilities
6 ~~that are located outside the boundaries of a municipality~~
7 ~~having a population of at least 1,000,000 inhabitants~~ shall be
8 required to respond and mark the approximate location of those
9 sewer facilities when the excavator indicates, in the notice
10 required in Section 4, that the excavation or demolition
11 project will exceed a depth of 7 feet. "Depth", in this case,
12 is defined as the distance measured vertically from the surface
13 of the ground to the top of the sewer facility.

14 (c) Owners and operators of underground sewer facilities
15 ~~that are located outside the boundaries of a municipality~~
16 ~~having a population of at least 1,000,000 inhabitants~~ shall be
17 required at all times to locate the approximate location of
18 those sewer facilities when: (1) directional boring is the
19 indicated type of excavation work being performed within the
20 notice; (2) the underground sewer facilities owned are
21 non-gravity, pressurized force mains; or (3) the excavation
22 indicated will occur in the immediate proximity of known
23 underground sewer facilities that are less than 7 feet deep.

24 (d) Owners or operators of underground sewer facilities
25 ~~that are located outside the boundaries of a municipality~~
26 ~~having a population of at least 1,000,000 inhabitants~~ shall not

1 hold an excavator liable for damages that occur to sewer
2 facilities that were not required to be marked under this
3 Section, provided that prompt notice of the damage is made to
4 the ~~State-Wide One-Call Notice System and the utility owner~~ as
5 required in Section 7.

6 (e) All entities ~~persons~~ subject to the requirements of
7 this Act shall plan and conduct their work consistent with
8 reasonable business practices. Conditions may exist making it
9 unreasonable to request that locations be marked within 48
10 hours or by the requested date and time indicated on the
11 notice, whichever is later. In such situations, the excavator
12 and the owner or operator shall interact in good faith to
13 establish a mutually agreeable date and time for the completion
14 of the locate request. It is unreasonable to request owners and
15 operators of underground utility facilities to locate all of
16 their facilities in an affected area upon short notice in
17 advance of a large ~~or extensive~~ nonemergency project, or to
18 request extensive locates in excess of a reasonable excavation
19 or demolition work schedule, or to request locates under
20 conditions where a repeat request is likely to be made because
21 of the passage of time or adverse job conditions.

22 (f) Owners and operators of underground utility facilities
23 must reasonably anticipate seasonal fluctuations in the number
24 of locate requests and staff accordingly.

25 (g) If an entity ~~a person~~ owning or operating underground
26 utility facilities receives a notice under this Section but

1 does not own or operate any underground utility facilities
2 within the proposed excavation or demolition area described in
3 the notice, that entity person, within 48 hours or by the
4 requested date and time indicated on the notice, whichever is
5 later, after receipt of the notice, shall so notify the
6 excavator person engaged in excavation or demolition who
7 ~~initiated the notice, unless the person who initiated the~~
8 ~~notice expressly waives the right to be notified that no~~
9 ~~facilities are located within the excavation or demolition~~
10 ~~area.~~

11 (h) The notification by the owner or operator of
12 underground utility facilities to the excavator person engaged
13 ~~in excavation or demolition~~ may be provided in any reasonable
14 manner including, but not limited to, notification in any one
15 of the following ways:

16 (1) by face-to-face communication;

17 (2) by phone or phone message;

18 (3) by facsimile or email;

19 (4) by posting in the excavation or demolition area; or

20 (5) by marking the excavation or demolition area.

21 (i) The owner or operator of those facilities has
22 discharged the owner's or operator's obligation to provide
23 notice under this Section if the owner or operator attempts to
24 provide notice by one of the following ways:

25 (1) telephone ~~or by facsimile, if the person has~~
26 ~~supplied a facsimile number~~, but is unable to do so because

1 the excavator ~~person engaged in the excavation or~~
2 ~~demolition~~ does not answer his or her telephone and ~~or~~ does
3 not have the ability to receive telephone messages;

4 (2) facsimile, if the excavator has supplied a
5 facsimile number and does not have a facsimile machine in
6 operation to receive the facsimile transmission; or

7 (3) email, if the excavator has supplied an email
8 address and the message is electronically undeliverable ~~an~~
9 ~~answering machine or answering service to receive the~~
10 ~~telephone call or does not have a facsimile machine in~~
11 ~~operation to receive the facsimile transmission.~~

12 If the owner or operator attempts to provide notice by
13 telephone or by facsimile but receives a busy signal, that
14 attempt shall not serve to discharge the owner or operator of
15 the obligation to provide notice under this Section.

16 ~~A person engaged in excavation or demolition may expressly~~
17 ~~waive the right to notification from the owner or operator of~~
18 ~~underground utility facilities that the owner or operator has~~
19 ~~no facilities located in the proposed excavation or demolition~~
20 ~~area. Waiver of notice is only permissible in the case of~~
21 ~~regular or nonemergency locate requests. The waiver must be~~
22 ~~made at the time of the notice to the State Wide One Call~~
23 ~~Notice System. A waiver made under this Section is not~~
24 ~~admissible as evidence in any criminal or civil action that may~~
25 ~~arise out of, or is in any way related to, the excavation or~~
26 ~~demolition that is the subject of the waiver.~~

1 (j) For the purposes of this Act, the following color
 2 coding shall be used to mark the approximate location of
 3 underground utility facilities by the underground facility
 4 operators who may utilize a combination of flags, stakes, or
 5 and paint as ~~when possible on non paved surfaces and when dig~~
 6 ~~site and seasonal conditions warrant. If the approximate~~
 7 ~~location of an underground utility facility is marked with~~
 8 ~~stakes or other physical means, the following color coding~~
 9 ~~shall be employed:~~

10	Underground Facility	Identification Color
11	Facility Owner or Agent Use Only	
12	Electric Power, Distribution and	
13	Transmission	Safety Red
14	Municipal Electric Systems	Safety Red
15	Gas Distribution and Transmission	High Visibility Safety
16		Yellow
17	Oil Distribution and Transmission	High Visibility Safety
18		Yellow
19	Telephone and Telegraph Systems	Safety Alert Orange
20	Community Antenna Television Systems ..	Safety Alert Orange
21	Water Systems	Safety Precaution Blue
22	Sewer Systems	Safety Green
23	Non-potable Water and Slurry Lines	Safety Purple

1 Excavator Use Only

2 Temporary Survey Safety Pink

3 Proposed Excavation..... Safety White (Black
4 when snow is on the
5 ground)

6 (Source: P.A. 96-714, eff. 1-1-10.)

7 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

8 Sec. 11. Penalties; liability; fund.

9 (a) Every excavator ~~person~~ who, while engaging in
10 excavation or demolition, ~~willfully~~ fails to comply with the Act
11 by failing to provide the notice to the owners or operators of
12 the underground facilities near the excavation or demolition
13 area through the State-Wide One-Call Notice System as required
14 by Section 4 or 6 of this Act shall be subject to a penalty of
15 up to \$5,000 for each separate offense and shall be liable for
16 the damage caused to the owners or operators of the facility.
17 Every excavator ~~person~~ who fails to provide notice and
18 ~~willfully~~ fails to comply with other provisions of this Act
19 shall be subject to additional penalties of up to \$2,500 for
20 each separate offense and shall be liable for the damage caused
21 to the owners or operators of the facility.

22 (b) Every excavator ~~person~~ who has provided the notice to
23 the owners or operators of the underground utility facilities

1 in and near the excavation or demolition area through the
2 ~~State-Wide~~ One-Call Notice System as required by Section 4 or 6
3 of this Act, but otherwise ~~wilfully~~ fails to comply with this
4 Act, shall be subject to a penalty of up to \$2,500 for each
5 separate offense and shall be liable for the damage caused to
6 the owners or operators of the facility.

7 (c) Every excavator ~~person~~ who, while engaging in
8 excavation or demolition, has provided the notice to the owners
9 or operators of the underground utility facilities in and near
10 the excavation or demolition area through the ~~State-Wide~~
11 One-Call Notice System as required by Section 4 or 6 of this
12 Act, but otherwise, while acting reasonably, damages any
13 underground utility facilities, shall not be subject to a
14 penalty, but shall be liable for the damage caused to the
15 owners or operators of the facility provided the underground
16 utility facility is properly marked as provided in Section 10
17 of this Act.

18 (d) Every excavator ~~person~~ who provides notice to the
19 owners or operators of the underground utility facilities
20 through the ~~State-Wide~~ One-Call Notice System as a no-show,
21 incomplete, or an emergency locate request and the locate
22 request is not a no-show, incomplete, or ~~an~~ emergency locate
23 request as defined in Section 2.1.3, 2.1.4, or 2.6 of this Act
24 shall be subject to a penalty of up to \$2,500 for each separate
25 offense.

26 (e) Owners and operators of underground utility facilities

1 who ~~willfully~~ fail to comply with this Act by a failure to
2 ~~respond or~~ mark the approximate location of an underground
3 utility as required by subsection (h) of Section 4, subsection
4 (a) of Section 6, or Section 10 of this Act after being
5 notified of planned excavation or demolition through the
6 ~~State Wide~~ One-Call Notice System, shall be subject to a
7 penalty of up to \$5,000 for each separate offense. A facility
8 operator will not be subject to a penalty under this Section
9 for failing to properly mark the approximate location of an
10 underground facility if the facility operator responded to the
11 locate request in the timeframes provided by this Act and took
12 reasonable care when locating the underground facility.

13 (f) As provided in Section 3 of this Act, all owners or
14 operators of underground utility facilities who fail to join
15 the ~~State Wide~~ One-Call Notice System by January 1, 2003 shall
16 be subject to a penalty of \$100 per day for each separate
17 offense. Every day an owner or operator fails to join the
18 ~~State Wide~~ One-Call Notice System is a separate offense. ~~This~~
19 ~~subsection (f) does not apply to utilities operating facilities~~
20 ~~exclusively within the boundaries of a municipality with a~~
21 ~~population of at least 1,000,000 persons.~~

22 (g) No owner or operator of underground utility facilities
23 shall be subject to a penalty where a delay in marking or a
24 failure to mark or properly mark the location of an underground
25 utility is caused by conditions beyond the reasonable control
26 of such owner or operator.

1 (h) Any entity that ~~person who~~ is neither an agent,
2 employee, or authorized locating contractor of the owner or
3 operator of the underground utility facility nor an excavator
4 involved in the excavation or demolition activity that ~~who~~
5 removes, alters, or otherwise damages markings, flags, or
6 stakes used to mark the location of an underground utility
7 other than during the course of the excavation or demolition
8 for which the markings were made or before completion of the
9 project shall be subject to a penalty up to \$1,000 for each
10 separate offense.

11 (i) (Blank).

12 (j) The Illinois Commerce Commission shall have the power
13 and jurisdiction to, and shall, enforce the provisions of this
14 Act. The Illinois Commerce Commission may impose
15 administrative penalties as provided in this Section. The
16 Illinois Commerce Commission may promulgate rules and develop
17 enforcement policies in the manner provided by the Public
18 Utilities Act in order to implement compliance with this Act.
19 When a penalty is warranted, the following criteria shall be
20 used in determining the magnitude of the penalty:

21 (1) gravity of noncompliance;

22 (2) culpability of offender;

23 (3) history of noncompliance for the 18 months prior to
24 the date of the incident; however, when determining
25 non-compliance, the alleged violator's roles as operator
26 or owner and the entity ~~person~~ engaged in excavating shall

1 be treated separately;

2 (4) (blank); ~~ability to pay penalty;~~

3 (5) show of good faith of offender;

4 (6) (blank); ~~and ability to continue business; and~~

5 (7) other special circumstances.

6 (k) There is hereby created in the State treasury a special
7 fund to be known as the Illinois Underground Utility Facilities
8 Damage Prevention Fund. All penalties recovered by the Illinois
9 Commerce Commission in any action under this Section shall be
10 paid into the Fund and shall be distributed annually as a grant
11 to the ~~State-Wide~~ One-Call Notice System operated by JULIE to
12 be used in safety and informational programs to reduce the
13 number of incidents of damage to underground utility facilities
14 in Illinois. The distribution shall be made during January of
15 each calendar year based on the balance in the Illinois
16 Underground Utility Facilities Damage Prevention Fund as of
17 December 31 of the previous calendar year. In all such actions
18 under this Section, the procedure and rules of evidence shall
19 conform with the Code of Civil Procedure, and with rules of
20 courts governing civil trials.

21 (l) The Illinois Commerce Commission shall establish an
22 Advisory Committee consisting of a representative from each of
23 the following: utility operator, JULIE, excavator,
24 municipality, and the general public. The Advisory Committee
25 shall serve as a peer review panel for any contested penalties
26 resulting from the enforcement of this Act.

1 The members of the Advisory Committee shall be immune,
2 individually and jointly, from civil liability for any act or
3 omission done or made in performance of their duties while
4 serving as members of such Advisory Committee, unless the act
5 or omission was the result of willful and wanton misconduct.

6 (m) If, after the Advisory Committee has considered a
7 particular contested penalty and performed its review
8 functions under this Act and the Commission's rules, there
9 remains a dispute as to whether the Commission should impose a
10 penalty under this Act, the matter shall proceed in the manner
11 set forth in Article X of the Public Utilities Act, including
12 the provisions governing judicial review.

13 (Source: P.A. 96-714, eff. 1-1-10.)

14 (220 ILCS 50/11.3)

15 Sec. 11.3. Emergency telephone system outages;
16 reimbursement. Any excavator person who negligently damages an
17 underground facility ~~or CATS facility~~ causing an emergency
18 telephone system outage must reimburse the public safety agency
19 that provides personnel to answer calls or to maintain or
20 operate an emergency telephone system during the outage for the
21 agency's costs associated with answering calls or maintaining
22 or operating the system during the outage. For the purposes of
23 this Section, "public safety agency" means the same as in
24 Section 2.02 of the Emergency Telephone System Act.

25 (Source: P.A. 92-149, eff. 1-1-02.)

1 (220 ILCS 50/12) (from Ch. 111 2/3, par. 1612)

2 Sec. 12. Submittal of non-compliance report and
3 enforcement actions timeframes. No action may be brought under
4 Section 11 of this Act unless commenced within 2 years after
5 the date of violation of this Act.

6 (Source: P.A. 86-674.)

7 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

8 Sec. 13. Mandamus or injunction. Where public safety or the
9 preservation of uninterrupted, necessary utility service ~~or~~
10 ~~community antenna television system service~~ is endangered by
11 any excavator ~~person~~ engaging in excavation or demolition in a
12 negligent or unsafe manner which has resulted in or is likely
13 to result in damage to underground utility facilities ~~or CATS~~
14 ~~facilities~~ or proposing to use procedures for excavation or
15 demolition which are likely to result in damage to underground
16 utility facilities ~~or CATS facilities~~, or where the owner or
17 operator of underground utility facilities ~~or CATS facilities~~
18 endangers an excavator by willfully failing to respond to a
19 locate request, the owner or operator of such facilities or the
20 excavator or the State's Attorney or the Illinois Commerce
21 Commission at the request of the owner or operator of such
22 facilities or the excavator may commence an action in the
23 circuit court for the county in which the excavation or
24 demolition is occurring or is to occur, or in which the person

1 complained of has his principal place of business or resides,
2 for the purpose of having such negligent or unsafe excavation
3 or demolition stopped and prevented or to compel the marking of
4 underground utilities facilities ~~or CATS facilities~~, either by
5 mandamus or injunction.

6 (Source: P.A. 92-179, eff. 7-1-02.)

7 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)

8 Sec. 14. Home rule. The regulation of underground utility
9 facilities ~~and CATS facilities~~ damage prevention, as provided
10 for in this Act, is an exclusive power and function of the
11 State. A home rule unit may not regulate underground utility
12 facilities ~~and CATS facilities~~ damage prevention, as provided
13 for in this Act. All units of local government, including home
14 rule units ~~that are not municipalities of more than 1,000,000~~
15 ~~persons~~, must comply with the provisions of this Act. To this
16 extent, this Section is a denial and limitation of home rule
17 powers and functions under subsection (h) of Section 6 of
18 Article VII of the Illinois Constitution. A home rule
19 municipality of more than 1,000,000 persons may regulate
20 underground utility facilities ~~and CATS facilities~~ damage
21 prevention.

22 (Source: P.A. 99-121, eff. 7-23-15.)

23 (220 ILCS 50/2.1 rep.)

24 (220 ILCS 50/2.1.9 rep.)

1 (220 ILCS 50/5 rep.)

2 Section 10. The Illinois Underground Utility Facilities
3 Damage Prevention Act is amended by repealing Sections 2.1,
4 2.1.9, and 5."