



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3755

Introduced 2/25/2005, by Rep. Jack McGuire

SYNOPSIS AS INTRODUCED:

220 ILCS 50/2	from Ch. 111 2/3, par. 1602
220 ILCS 50/2.2	from Ch. 111 2/3, par. 1602.2
220 ILCS 50/2.9 new	
220 ILCS 50/2.10 new	
220 ILCS 50/4	from Ch. 111 2/3, par. 1604
220 ILCS 50/6	from Ch. 111 2/3, par. 1606
220 ILCS 50/10	from Ch. 111 2/3, par. 1610

Amends the Illinois Underground Utility Facilities Damage Prevention Act. Defines "forty-eight hours" as 2 business days beginning at 8 a.m. and ending at 4 p.m. (exclusive of Saturdays, Sundays, and holidays recognized by the State-Wide One-Call Notice System or a municipal One-Call Notice System). Makes corresponding changes. Defines "open cut utility locate". Provides that an open cut utility locate shall be deemed an emergency for purposes of emergency excavation or demolition requirements. Designates certain colors of flags, stakes, and paint used to mark an underground utility facility or CATS facility for use only by a facility owner or agent or for use only by an excavator. Effective immediately.

LRB094 09311 MKM 39551 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by changing Sections 2, 2.2,
6 4, 6, and 10 and by adding Sections 2.9 and 2.10 as follows:

7 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context clearly otherwise requires, the terms specified in
10 Sections 2.1 through 2.10 ~~2-8~~ have the meanings ascribed to
11 them in those Sections.

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

13 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

14 Sec. 2.2. Underground utility facilities. "Underground
15 utility facilities" or "facilities" means and includes wires,
16 ducts, fiber optic cable, conduits, pipes, sewers, and cables
17 and their connected appurtenances installed beneath the
18 surface of the ground by a public utility (as is defined in the
19 Illinois Public Utilities Act, as amended), or by a municipally
20 owned or mutually owned utility providing a similar utility
21 service, except an electric cooperative as defined in the
22 Illinois Public Utilities Act, as amended, or by a pipeline
23 entity transporting gases, crude oil, petroleum products, or
24 other hydrocarbon materials within the State, or by a
25 telecommunications carrier as defined in the Universal
26 Telephone Service Protection Law of 1985, or by a company
27 described in Section 1 of "An Act relating to the powers,
28 duties and property of telephone companies", approved May 16,
29 1903, as amended, or by a community antenna television system,
30 hereinafter referred to as "CATS", as defined in the Illinois
31 Municipal Code, as amended.

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

2 (220 ILCS 50/2.9 new)

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

9 (220 ILCS 50/2.10 new)

10 Sec. 2.10. "Open cut utility locate" means a method of
11 locating underground utility facilities that requires
12 excavation by the owner, operator, or agent of the underground
13 facility.

14 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

15 Sec. 4. Required activities. Every person who engages in
16 nonemergency excavation or demolition shall:

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

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

28 (c) if practical, use white paint, flags, stakes, or both,
29 to outline the dig site;

30 (d) provide notice not less than 48 hours ~~(exclusive of~~
31 ~~Saturdays, Sundays and holidays)~~ but no more than 14 calendar
32 days in advance of the start of the excavation or demolition to
33 the owners or operators of the underground utility facilities

1 or CATS facilities in and near the excavation or demolition
2 area through the State-Wide One-Call Notice System or, in the
3 case of nonemergency excavation or demolition within the
4 boundaries of a municipality of at least one million persons
5 which operates its own one-call notice system, through the
6 one-call notice system which operates in that municipality;

7 (e) provide, during and following excavation or
8 demolition, such support for existing underground utility
9 facilities or CATS facilities in and near the excavation or
10 demolition area as may be reasonably necessary for the
11 protection of such facilities unless otherwise agreed to by the
12 owner or operator of the underground facility or CATS facility;

13 (f) backfill all excavations in such manner and with such
14 materials as may be reasonably necessary for the protection of
15 existing underground utility facilities or CATS facilities in
16 and near the excavation or demolition area; and

17 (g) After February 29, 2004, when the excavation or
18 demolition project will extend past 28 calendar days from the
19 date of the original notice provided under clause (d), the
20 excavator shall provide a subsequent notice to the owners or
21 operators of the underground utility facilities or CATS
22 facilities in and near the excavation or demolition area
23 through the State-Wide One-Call Notice System or, in the case
24 of excavation or demolition within the boundaries of a
25 municipality having a population of at least 1,000,000
26 inhabitants that operates its own one-call notice system,
27 through the one-call notice system that operates in that
28 municipality informing utility owners and operators that
29 additional time to complete the excavation or demolition
30 project will be required. The notice will provide the excavator
31 with an additional 28 calendar days from the date of the
32 subsequent notification to continue or complete the excavation
33 or demolition project.

34 At a minimum, the notice required under clause (d) shall
35 provide:

36 (1) the person's name, address, and (i) phone number at

1 which a person can be reached and (ii) fax number;

2 (2) the start date of the planned excavation or
3 demolition;

4 (3) the address at which the excavation or demolition
5 will take place;

6 (4) the type and extent of the work involved; and

7 (5) section/quarter sections when the above
8 information does not allow the State-Wide One-Call Notice
9 System to determine the appropriate geographic
10 section/quarter sections. This item (5) does not apply to
11 residential property owners.

12 Nothing in this Section prohibits the use of any method of
13 excavation if conducted in a manner that would avoid
14 interference with underground utility facilities or CATS
15 facilities.

16 (Source: P.A. 92-179, eff. 7-1-02; 93-430, eff. 8-5-03.)

17 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

18 Sec. 6. Emergency excavation or demolition.

19 (a) Every person who engages in emergency excavation or
20 demolition outside of the boundaries of a municipality of at
21 least one million persons which operates its own one-call
22 notice system shall take all reasonable precautions to avoid or
23 minimize interference between the emergency work and existing
24 underground utility facilities or CATS facilities in and near
25 the excavation or demolition area, through the State-Wide
26 One-Call Notice System, and shall notify, as far in advance as
27 possible, the owners or operators of such underground utility
28 facilities or CATS facilities in and near the emergency
29 excavation or demolition area, through the State-Wide One-Call
30 Notice System. At a minimum, the notice required under this
31 subsection (a) shall provide:

32 (1) the person's name, address, and (i) phone number at
33 which a person can be reached and (ii) fax number;

34 (2) the start date of the planned emergency excavation
35 or demolition;

1 (3) the address at which the excavation or demolition
2 will take place; and

3 (4) the type and extent of the work involved.

4 A 2-hour wait time exists after an emergency locate
5 notification request is made through the State-Wide One-Call
6 Notice System. If the conditions at the site dictate an earlier
7 start than the 2-hour wait time, it is the responsibility of
8 the excavator to demonstrate that site conditions warranted
9 this earlier start time.

10 (b) Every person who engages in emergency excavation or
11 demolition within the boundaries of a municipality of at least
12 one million persons which operates its own one-call notice
13 system shall take all reasonable precautions to avoid or
14 minimize interference between the emergency work and existing
15 underground utility facilities or CATS facilities in and near
16 the excavation or demolition area, through the municipality's
17 one-call notice system, and shall notify, as far in advance as
18 possible, the owners and operators of underground utility
19 facilities or CATS facilities in and near the emergency
20 excavation or demolition area, through the municipality's
21 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 (Source: P.A. 92-179, eff. 7-1-02.)

27 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

28 Sec. 10. Record of notice; marking of facilities. Upon
29 notice by the person engaged in excavation or demolition, the
30 person owning or operating underground utility facilities or
31 CATS facilities in or near the excavation or demolition area
32 shall cause a written record to be made of the notice and shall
33 mark, within 48 hours ~~(excluding Saturdays, Sundays and~~
34 ~~holidays)~~ of receipt of notice, the approximate locations of
35 such facilities so as to enable the person excavating or

1 demolishing to establish the location of the underground
2 utility facilities or CATS facilities. Owners and operators of
3 underground sewer facilities that are located outside the
4 boundaries of a municipality having a population of at least
5 1,000,000 inhabitants shall be required to respond and mark the
6 approximate location of those sewer facilities when the
7 excavator indicates, in the notice required in Section 4, that
8 the excavation or demolition project will exceed a depth of 7
9 feet. "Depth", in this case, is defined as the distance
10 measured vertically from the surface of the ground to the top
11 of the sewer facility. Owners and operators of underground
12 sewer facilities that are located outside the boundaries of a
13 municipality having a population of at least 1,000,000
14 inhabitants shall be required at all times to locate the
15 approximate location of those sewer facilities when: (1)
16 directional boring is the indicated type of excavation work
17 being performed within the notice; (2) the underground sewer
18 facilities owned are non-gravity, pressurized force mains; or
19 (3) the excavation indicated will occur in the immediate
20 proximity of known underground sewer facilities that are less
21 than 7 feet deep. Owners or operators of underground sewer
22 facilities that are located outside the boundaries of a
23 municipality having a population of at least 1,000,000
24 inhabitants shall not hold an excavator liable for damages that
25 occur to sewer facilities that were not required to be marked
26 under this Section, provided that prompt notice of the damage
27 is made to the State-Wide One-Call Notice System and the
28 utility owner as required in Section 7.

29 All persons subject to the requirements of this Act shall
30 plan and conduct their work consistent with reasonable business
31 practices. Conditions may exist making it unreasonable to
32 request that locations be marked within 48 hours. It is
33 unreasonable to request owners and operators of underground
34 utility facilities and CATS facilities to locate all of their
35 facilities in an affected area upon short notice in advance of
36 a large or extensive nonemergency project, or to request

1 extensive locates in excess of a reasonable excavation or
2 demolition work schedule, or to request locates under
3 conditions where a repeat request is likely to be made because
4 of the passage of time or adverse job conditions. Owners and
5 operators of underground utility facilities and CATS
6 facilities must reasonably anticipate seasonal fluctuations in
7 the number of locate requests and staff accordingly.

8 If a person owning or operating underground utility
9 facilities or CATS facilities receives a notice under this
10 Section but does not own or operate any underground utility
11 facilities or CATS facilities within the proposed excavation or
12 demolition area described in the notice, that person, within 48
13 hours ~~(excluding Saturdays, Sundays, and holidays)~~ after
14 receipt of the notice, shall so notify the person engaged in
15 excavation or demolition who initiated the notice, unless the
16 person who initiated the notice expressly waives the right to
17 be notified that no facilities are located within the
18 excavation or demolition area. The notification by the owner or
19 operator of underground utility facilities or CATS facilities
20 to the person engaged in excavation or demolition may be
21 provided in any reasonable manner including, but not limited
22 to, notification in any one of the following ways: by
23 face-to-face communication; by phone or phone message; by
24 facsimile; by posting in the excavation or demolition area; or
25 by marking the excavation or demolition area. The owner or
26 operator of those facilities has discharged the owner's or
27 operator's obligation to provide notice under this Section if
28 the owner or operator attempts to provide notice by telephone
29 or by facsimile, if the person has supplied a facsimile number,
30 but is unable to do so because the person engaged in the
31 excavation or demolition does not answer his or her telephone
32 or does not have an answering machine or answering service to
33 receive the telephone call or does not have a facsimile machine
34 in operation to receive the facsimile transmission. If the
35 owner or operator attempts to provide notice by telephone or by
36 facsimile but receives a busy signal, that attempt shall not

1 serve to discharge the owner or operator of the obligation to
2 provide notice under this Section.

3 A person engaged in excavation or demolition may expressly
4 waive the right to notification from the owner or operator of
5 underground utility facilities or CATS facilities that the
6 owner or operator has no facilities located in the proposed
7 excavation or demolition area. Waiver of notice is only
8 permissible in the case of regular or nonemergency locate
9 requests. The waiver must be made at the time of the notice to
10 the State-Wide One-Call Notice System. A waiver made under this
11 Section is not admissible as evidence in any criminal or civil
12 action that may arise out of, or is in any way related to, the
13 excavation or demolition that is the subject of the waiver.

14 For the purposes of this Act, underground facility
15 operators may utilize a combination of flags, stakes, and paint
16 when possible on non-paved surfaces and when dig site and
17 seasonal conditions warrant. If the approximate location of an
18 underground utility facility or CATS facility is marked with
19 stakes or other physical means, the following color coding
20 shall be employed:

<u>Underground Facility</u> Utility or Community Antenna Television Systems and Type of Product	Identification Color
<u>Facility Owner or Agent Use Only</u>	
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
Telephone and Telegraph Systems	Safety Alert Orange
Community Antenna Television Systems ..	Safety Alert Orange

