



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3654

Introduced 2/24/2009, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

220 ILCS 50/10

from Ch. 111 2/3, par. 1610

Amends the Illinois Underground Utility Facilities Damage Prevention Act. Provides that after the effective date all new or replaced underground utility lines must be marked with detectable underground warning tape, which is able to be traced by inductive locating. Requires that the marking shall be a minimum of 6 inches and be buried as close to the ground surface as possible, or between 4 and 6 inches deep. Provides that the warning tape shall be American Public Works Association color-coded to match the type of utility line it is protecting.

LRB096 06209 MJR 16291 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 Section 10 as
6 follows:

7 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

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

9 (a) After the effective date of this amendatory Act of the
10 96th General Assembly, all new or replaced underground utility
11 lines must be marked with detectable underground warning tape
12 that is able to be traced by inductive locating. The marking
13 shall be a minimum of 6 inches and be buried as close to the
14 ground surface as possible, or between 4 and 6 inches deep.

15 The warning tape shall be American Public Works Association
16 color-coded to match the type of utility line it is protecting.

17 (b) Upon notice by the person engaged in excavation or
18 demolition, the person owning or operating underground utility
19 facilities or CATS facilities in or near the excavation or
20 demolition area shall cause a written record to be made of the
21 notice and shall mark, within 48 hours of receipt of notice,
22 the approximate locations of such facilities so as to enable
23 the person excavating or demolishing to establish the location

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

1 utility owner as required in Section 7.

2 All persons subject to the requirements of this Act shall
3 plan and conduct their work consistent with reasonable business
4 practices. Conditions may exist making it unreasonable to
5 request that locations be marked within 48 hours. It is
6 unreasonable to request owners and operators of underground
7 utility facilities and CATS facilities to locate all of their
8 facilities in an affected area upon short notice in advance of
9 a large or extensive nonemergency project, or to request
10 extensive locates in excess of a reasonable excavation or
11 demolition work schedule, or to request locates under
12 conditions where a repeat request is likely to be made because
13 of the passage of time or adverse job conditions. Owners and
14 operators of underground utility facilities and CATS
15 facilities must reasonably anticipate seasonal fluctuations in
16 the number of locate requests and staff accordingly.

17 If a person owning or operating underground utility
18 facilities or CATS facilities receives a notice under this
19 Section but does not own or operate any underground utility
20 facilities or CATS facilities within the proposed excavation or
21 demolition area described in the notice, that person, within 48
22 hours after receipt of the notice, shall so notify the person
23 engaged in excavation or demolition who initiated the notice,
24 unless the person who initiated the notice expressly waives the
25 right to be notified that no facilities are located within the
26 excavation or demolition area. The notification by the owner or

1 operator of underground utility facilities or CATS facilities
2 to the person engaged in excavation or demolition may be
3 provided in any reasonable manner including, but not limited
4 to, notification in any one of the following ways: by
5 face-to-face communication; by phone or phone message; by
6 facsimile; by posting in the excavation or demolition area; or
7 by marking the excavation or demolition area. The owner or
8 operator of those facilities has discharged the owner's or
9 operator's obligation to provide notice under this Section if
10 the owner or operator attempts to provide notice by telephone
11 or by facsimile, if the person has supplied a facsimile number,
12 but is unable to do so because the person engaged in the
13 excavation or demolition does not answer his or her telephone
14 or does not have an answering machine or answering service to
15 receive the telephone call or does not have a facsimile machine
16 in operation to receive the facsimile transmission. If the
17 owner or operator attempts to provide notice by telephone or by
18 facsimile but receives a busy signal, that attempt shall not
19 serve to discharge the owner or operator of the obligation to
20 provide notice under this Section.

21 A person engaged in excavation or demolition may expressly
22 waive the right to notification from the owner or operator of
23 underground utility facilities or CATS facilities that the
24 owner or operator has no facilities located in the proposed
25 excavation or demolition area. Waiver of notice is only
26 permissible in the case of regular or nonemergency locate

1 requests. The waiver must be made at the time of the notice to
 2 the State-Wide One-Call Notice System. A waiver made under this
 3 Section is not admissible as evidence in any criminal or civil
 4 action that may arise out of, or is in any way related to, the
 5 excavation or demolition that is the subject of the waiver.

6 For the purposes of this Act, underground facility
 7 operators may utilize a combination of flags, stakes, and paint
 8 when possible on non-paved surfaces and when dig site and
 9 seasonal conditions warrant. If the approximate location of an
 10 underground utility facility or CATS facility is marked with
 11 stakes or other physical means, the following color coding
 12 shall be employed:

13 Underground Facility	Identification Color
14 Facility Owner or Agent Use Only	
15 Electric Power, Distribution and	
16 Transmission	Safety Red
17 Municipal Electric Systems	Safety Red
18 Gas Distribution and Transmission	High Visibility Safety Yellow
20 Oil Distribution and Transmission	High Visibility Safety Yellow
22 Telephone and Telegraph Systems	Safety Alert Orange
23 Community Antenna Television Systems ..	Safety Alert Orange

- 1 Water Systems Safety Precaution Blue
- 2 Sewer Systems Safety Green
- 3 Non-potable Water and Slurry Lines Safety Purple

- 4 Excavator Use Only

- 5 Temporary Survey Safety Pink
- 6 Proposed Excavation Safety White (Black
- 7 when snow is on the
- 8 ground)
- 9 (Source: P.A. 93-430, eff. 8-5-03; 94-623, eff. 8-18-05.)