



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5756

Introduced 2/9/2010, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

220 ILCS 50/10
605 ILCS 5/9-131

from Ch. 111 2/3, par. 1610

Amends the Illinois Highway Code and the Illinois Underground Utility Facilities Damage Prevention Act. Provides that after the effective date all fiber-optic network conduit installed as new or replacement underground fiber-optic network conduit pursuant to specified provisions of the Illinois Highway Code must be marked with detectable underground warning tape that 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 18249 MJR 35684 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning utilities.

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 fiber-optic network conduit
11 installed as new or replacement underground fiber-optic
12 network conduit pursuant to subsection (b) of Section 9-131 of
13 the Illinois Highway Code must be marked with detectable
14 underground warning tape that is able to be traced by inductive
15 locating. The marking shall be a minimum of 6 inches and be
16 buried as close to the ground surface as possible, or between 4
17 and 6 inches deep.

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

20 (b) Upon notice by the person engaged in excavation or
21 demolition, the person owning or operating underground utility
22 facilities in or near the excavation or demolition area shall
23 cause a written record to be made of the notice and shall mark,

1 within 48 hours of receipt of notice or by the requested date
2 and time indicated on the notice, whichever is later, the
3 approximate locations of such facilities so as to enable the
4 person excavating or demolishing to establish the location of
5 the underground utility facilities. Owners and operators of
6 underground sewer facilities that are located outside the
7 boundaries of a municipality having a population of at least
8 1,000,000 inhabitants shall be required to respond and mark the
9 approximate location of those sewer facilities when the
10 excavator indicates, in the notice required in Section 4, that
11 the excavation or demolition project will exceed a depth of 7
12 feet. "Depth", in this case, is defined as the distance
13 measured vertically from the surface of the ground to the top
14 of the sewer facility. Owners and operators of underground
15 sewer facilities that are located outside the boundaries of a
16 municipality having a population of at least 1,000,000
17 inhabitants shall be required at all times to locate the
18 approximate location of those sewer facilities when: (1)
19 directional boring is the indicated type of excavation work
20 being performed within the notice; (2) the underground sewer
21 facilities owned are non-gravity, pressurized force mains; or
22 (3) the excavation indicated will occur in the immediate
23 proximity of known underground sewer facilities that are less
24 than 7 feet deep. Owners or operators of underground sewer
25 facilities that are located outside the boundaries of a
26 municipality having a population of at least 1,000,000

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

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

22 If a person owning or operating underground utility
23 facilities receives a notice under this Section but does not
24 own or operate any underground utility facilities within the
25 proposed excavation or demolition area described in the notice,
26 that person, within 48 hours or by the requested date and time

1 indicated on the notice, whichever is later, after receipt of
2 the notice, shall so notify the person engaged in excavation or
3 demolition who initiated the notice, unless the person who
4 initiated the notice expressly waives the right to be notified
5 that no facilities are located within the excavation or
6 demolition area. The notification by the owner or operator of
7 underground utility facilities to the person engaged in
8 excavation or demolition may be provided in any reasonable
9 manner including, but not limited to, notification in any one
10 of the following ways: by face-to-face communication; by phone
11 or phone message; by facsimile; by posting in the excavation or
12 demolition area; or by marking the excavation or demolition
13 area. The owner or operator of those facilities has discharged
14 the owner's or operator's obligation to provide notice under
15 this Section if the owner or operator attempts to provide
16 notice by telephone or by facsimile, if the person has supplied
17 a facsimile number, but is unable to do so because the person
18 engaged in the excavation or demolition does not answer his or
19 her telephone or does not have an answering machine or
20 answering service to receive the telephone call or does not
21 have a facsimile machine in operation to receive the facsimile
22 transmission. If the owner or operator attempts to provide
23 notice by telephone or by facsimile but receives a busy signal,
24 that attempt shall not serve to discharge the owner or operator
25 of the obligation to provide notice under this Section.

26 A person engaged in excavation or demolition may expressly

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

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

17 Underground Facility	Identification Color
18 Facility Owner or Agent Use Only	
19 Electric Power, Distribution and	
20 Transmission	Safety Red
21 Municipal Electric Systems	Safety Red
22 Gas Distribution and Transmission	High Visibility Safety
23	Yellow

- 1 Oil Distribution and Transmission High Visibility Safety
- 2 Yellow
- 3 Telephone and Telegraph Systems Safety Alert Orange
- 4 Community Antenna Television Systems .. Safety Alert Orange
- 5 Water Systems Safety Precaution Blue
- 6 Sewer Systems Safety Green
- 7 Non-potable Water and Slurry Lines Safety Purple

8 Excavator Use Only

9 Temporary Survey Safety Pink

10 Proposed Excavation Safety White (Black

11 when snow is on the

12 ground)

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

14 Section 10. The Illinois Highway Code is amended by

15 changing Section 9-131 as follows:

16 (605 ILCS 5/9-131)

17 Sec. 9-131. Installation of fiber-optic network conduit.

18 (a) For purposes of this Section:

19 "Fiber-optic network conduit" means a pipe or duct used to

20 enclose fiber-optic cable facilities buried alongside the

21 roadway or surface mounted on bridges, overpasses, and other

22 facilities where below ground placement is impossible or

1 impractical.

2 (b) In order to ensure affordable high-speed, world-class
3 core information and communication networks are available
4 throughout Illinois, the Illinois Department of Transportation
5 and the Department of Central Management Services shall
6 collaborate to install fiber-optic network conduit where it
7 does not already exist in every new State-funded construction
8 project that opens, bores, or trenches alongside a State-owned
9 infrastructure, including, but not limited to, roadways and
10 bridges. The Department of Central Management Services or the
11 Department of Transportation may permit a third party to manage
12 the fiber and conduit leasing. The Department of Central
13 Management Services and the Department of Transportation shall
14 take reasonable steps to ensure market-based,
15 non-discriminatory pricing. Public bidding notices for such
16 projects must describe the need for fiber-optic conduit or
17 cable. The Department of Transportation shall report annually
18 to the Governor and the General Assembly on the progress and
19 any associated costs incurred by this Section. All fiber-optic
20 network conduit installed pursuant to this Section must comply
21 with subsection (a) of Section 10 of the Illinois Underground
22 Utility Facilities Damage Prevention Act. This Section does not
23 prohibit the State from purchasing or installing fiber-optic
24 cable within the fiber-optic network conduit.

25 (Source: P.A. 96-37, eff. 7-13-09.)