

2024 -- S 2849 SUBSTITUTE A

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LC004950/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- EXCAVATION NEAR
UNDERGROUND UTILITY FACILITIES

Introduced By: Senators DiMario, Bissaillon, and F. Lombardi

Date Introduced: March 22, 2024

Referred To: Senate Environment & Agriculture

(Division of Public Utilities & Carriers)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-1.2-1 and 39-1.2-11 of the General Laws in Chapter 39-1.2
2 entitled "Excavation near Underground Utility Facilities" are hereby amended to read as follows:

3 **39-1.2-1. Definitions.**

4 As used in this chapter:

5 (1) "Abandoned utility facilities" means any known underground or submerged utility line
6 or facility that has been permanently taken out of service. For excavation purposes, the abandoned
7 underground utility facilities should always be considered to be active utility service.

8 (2) "Administrator" means the administrator of the division of public utilities and carriers.

9 (3) "Approximate location of underground facilities" means a strip of land extending not
10 more than one and one-half feet (1.5') on either side of the underground facilities.

11 (4) "Association" means the group of public utilities formed pursuant to § 39-1.2-4 for the
12 purpose of receiving and giving notice of excavation activity within the state.

13 (5) "Damage" means and includes, but is not limited to, the substantial weakening of
14 structural or lateral support of a utility line; penetration or destruction of any utility line protective
15 coating, housing, or other protective device; or the severance, partial or complete, of any utility
16 line. Notwithstanding the foregoing, damage shall not include an intentional penetration or
17 severance of a utility line by a public utility or its contractor(s) for the purpose of effectuating a
18 repair or replacement of the utility line.

1 (6) "Demolition" means the wrecking, razing, rending, moving, or removing of any
2 structure.

3 (7) "Excavation" means an operation for the purpose of movement or removal of earth,
4 rock, or other materials in or on the ground, or otherwise disturbing the subsurface of the earth, by
5 the use of powered or mechanized equipment, including, but not limited to: digging, blasting,
6 auguring, back filling, test boring, drilling, pile driving, grading, plowing in, hammering, pulling
7 in, trenching, and tunneling; excluding the movement of earth by tools manipulated only by human
8 or animal power and the tilling of soil for agricultural purposes.

9 (8) "Governing authority" means the permit-issuing authority.

10 (9) "Immediate danger to life and health" means likely to cause death or immediate or
11 delayed permanent adverse health effects or prevent escape from such an environment.

12 (10) "Inactive utility facilities" means any underground or submerged utility facilities line
13 or facility that has been temporarily taken out of service with the expectation of becoming usable
14 in the future.

15 (11) "Person" means an individual, partnership, corporation, association, or a public utility,
16 including a person engaged as a contractor by a public agency and including a public agency.

17 [\(12\) "PHMSA" means the federal Pipeline and Hazardous Materials Safety Administration](#)
18 [administered by the United States Department of Transportation.](#)

19 ~~(12)~~(13) "Public agency" means the state or any political subdivision thereof, including
20 any governmental agency.

21 ~~(13)~~(14) "Public utility" means the owner or operator of underground facilities for
22 furnishing electric, gas, telephone, or water service as defined in § 39-1-2(a)(20); and also means
23 and includes, for the purposes of this chapter only, electric transmission companies and
24 nonregulated power producers, as defined in § 39-1-2(a)(13) and (19); any cable television service;
25 and any water company that voluntarily becomes a member of the association provided for under
26 § 39-1.2-4.

27 ~~(14)~~(15) "Public utility facilities" means the underground plant and equipment owned and
28 operated by a public utility for the purpose of furnishing electricity, gas, water, cable television, or
29 telephone service; including the underground plant and equipment owned and operated by any
30 water company, not subject to regulation by the administrator of the division of the public utilities,
31 that voluntarily joins the association provided for under § 39-1.2-4. Utility facilities shall include
32 active, newly installed, and inactive or abandoned utility facilities.

33 **39-1.2-11. Damage — Notice to public utility.**

34 (a) Upon the occurrence of any contact with, or damage to, any pipe, cable, or its protective

1 coating, or any other underground facility of a public utility, the appropriate and/or affected public
2 utility shall be notified immediately by the person or public agency responsible for the operation
3 causing the contact or damage prior to backfilling the excavation. Upon the receipt of the notice,
4 the public utility shall immediately dispatch personnel to the subject location to effect temporary
5 or permanent repair of the damage. Under no circumstances shall the excavator backfill or conceal
6 the damaged area until the public utility arrives at the subject location. Upon the occurrence of a
7 serious electrical short, or the ~~escape of dangerous fluids or gases from a broken line, the person or~~
8 ~~public agency responsible for the operations causing the damage shall call 911 if the damage~~
9 ~~presents an immediate danger to life and health of employees or pedestrians in the surrounding area~~
10 unanticipated release of any federal Pipeline and Hazardous Materials Safety Administration
11 (PHMSA) regulated natural or other gas or hazardous liquid from a damaged pipeline, the person
12 or public agency responsible for the operations causing the damage shall promptly report the release
13 to first responders by calling 9-1-1. In the event of an immediate danger to life and health
14 occurrence, the area shall be evacuated until proper emergency services arrive.

15 (b) Any person, public agency, or public utility shall report all suspected violations of this
16 chapter to the division of public utilities and carriers within thirty (30) days after learning of the
17 circumstances constituting the suspected violation.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS -- EXCAVATION NEAR
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1 This act would amend the provision of notice to be provided for the release of any
2 hazardous gas or liquid as determined by the federal Pipeline and Hazardous Materials Safety
3 Administration.

4 This act would take effect upon passage.

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