

**2017 -- S 0552 SUBSTITUTE A**

LC001357/SUB A

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2017**

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Senator P Fogarty

Date Introduced: March 15, 2017

Referred To: Senate Commerce

(DPUC)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-1.2-1, 39-1.2-5 and 39-1.2-11 of the General Laws in Chapter  
2 39-1.2 entitled "Excavation Near Underground Utility Facilities" are hereby amended to read as  
3 follows:

4 **39-1.2-1. Definitions.**

5 As used in this chapter:

6 (1) "Administrator" means the administrator of the division of public utilities and  
7 carriers.

8 (2) "Approximate location of underground facilities" means a strip of land extending not  
9 more than one and one-half (1 1/2) feet on either side of the underground facilities.

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

12 (4) "Damage" means and includes but is not limited to the substantial weakening of  
13 structural or lateral support of a utility line, penetration, or destruction of any utility line  
14 protective coating, housing, or other protective device or the severance, partial or complete of any  
15 utility line.

16 (5) "Demolition" means the wrecking, razing, rending, moving, or removing of any  
17 structure.

18 (6) "Excavation" means an operation for the purpose of movement or removal of earth,  
19 rock, or other materials in or on the ground, or otherwise disturbing the subsurface of the earth,

1 by the use of powered or mechanized equipment, including but not limited to digging, blasting,  
2 auguring, back filling, test boring, drilling, pile driving, grading, plowing in, hammering, pulling  
3 in, trenching, and tunneling; excluding the movement of earth by tools manipulated only by  
4 human or animal power and the tilling of soil for agricultural purposes.

5 (7) "Governing authority" means the permit issuing authority.

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

8 (9) "Public agency" means the state or any political subdivision thereof, including any  
9 governmental agency.

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

15 (11) "Public utility facilities" means the underground plant and equipment owned and  
16 operated by a public utility for the purpose of furnishing electricity, gas, water, cable television  
17 or telephone service; including the underground plant and equipment owned and operated by any  
18 water company, not subject to regulation by the administrator of the division of the public utilities  
19 which voluntarily joins the association provided for under § 39-1.2-4. Utility facilities shall  
20 include active, newly installed and inactive or abandoned, utility facilities.

21 (12) "Abandoned utility facilities" means any known underground or submerged utility  
22 line or facility that has been permanently taken out of service. For excavation purposes the  
23 abandoned underground utility facilities should always be considered to be active utility service.

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

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

29 **39-1.2-5. Notice of excavation.**

30 (a) Except as provided in § 39-1.2-9, any person, public agency, or public utility  
31 responsible for excavating within one hundred feet (100') or for discharging explosives within  
32 one hundred feet (100') of a public utility facility shall notify the association of the proposed  
33 excavation or discharge at least seventy-two (72) hours, excluding Saturdays, Sundays, and  
34 holidays, but not more than thirty (30) days before commencing the excavation or discharge of

1 explosives. Actual excavation must thereupon commence within thirty (30) days ~~and be~~  
2 ~~completed within sixty (60) days, including Saturdays, Sundays, and holidays, or the excavator~~  
3 ~~must renotify the association.~~ Each public utility shall, upon receipt of each notice of excavation,  
4 mark within seventy-two (72) hours or, where applicable in accordance with § 39-1.2-12, re-mark  
5 within forty-eight (48) hours, the location of all underground facilities.

6 (b) Each excavator shall provide a description of the excavation location that shall  
7 include:

8 (1) The name of the city or town where the excavation will take place;

9 (2) The name of the street, way, or route number where appropriate;

10 (3) The name of the streets at the nearest intersection to the excavation;

11 (4) The numbered address of buildings closest to the excavation; and

12 (5) Any other description that will accurately define the excavation location, including  
13 landmarks and utility pole numbers.

14 (c) If an excavator determines that a public utility facility has been mismarked, the  
15 excavator may notify the association and the appropriate public utility shall remark no later than  
16 three (3) hours after receipt of notification from the association. The failure to mark or re-mark  
17 the location of all underground facilities upon each notice of excavation shall constitute a separate  
18 violation of this chapter. Where an excavation is to be made by a contractor as part of the work  
19 required by a contract with the state or with any political subdivision thereof or other public  
20 agency for the construction, reconstruction, relocation, or improvement of a public way or for the  
21 installation of a railway track, conduit, sewer, or water main, the contractor shall be deemed to  
22 have complied with the requirements of this section by giving one such notice to the association  
23 as required by this section, except when unanticipated obstructions are encountered, setting forth  
24 the location and the approximate time required to perform the work involved. In addition, the  
25 initial notice shall indicate whether the excavation is anticipated to involve blasting and, if so, the  
26 date on which and specific location at which the blasting is to occur. If after the commencement  
27 of an excavation it is found there is an unanticipated obstruction requiring blasting, the excavator  
28 shall give at least four (4) hours notice to the association before commencing the blasting. When  
29 demolition of a building containing a public utility facility is proposed, the public utility or  
30 utilities involved will be given written notice by registered mail at least ten (10) days prior to the  
31 commencement of the demolition of the building. All notices shall include the name, address, and  
32 telephone number of the entity giving notice; the name of the person, public agency, or public  
33 utility performing the work; and the commencement date and proposed type of excavation,  
34 demolition, or discharge of explosives. The association shall immediately transmit the

1 information to the public utilities whose facilities may be affected. An adequate record shall be  
2 maintained by the association to document compliance with the requirements of this chapter.

3 **39-1.2-11. Damage -- Notice to public utility.**

4 (a) Upon the occurrence of any contact with, or damage to, any pipe, cable, or its  
5 protective coating, or any other underground facility of a public utility, the appropriate and/or  
6 affected public utility shall be notified immediately by the person or public agency responsible  
7 for the operation causing the contact or damage prior to backfilling the excavation. Upon the  
8 receipt of the notice, the public utility shall immediately dispatch personnel to the subject location  
9 to effect temporary or permanent repair of the damage. Under no circumstances shall the  
10 excavator backfill or conceal the damaged area until the public utility arrives at the subject  
11 location. Upon the occurrence of a serious electrical short, or the escape of dangerous fluids or  
12 gases from a broken line, the person or public agency responsible for the operations causing the  
13 damage shall ~~evacuate the immediate area while awaiting the arrival of the public utility~~  
14 ~~personnel.~~ call 911 if the damage presents an immediate danger to life and health of employees or  
15 pedestrians in the surrounding area. In the event of an immediate danger to life and health  
16 occurrence, the area shall be evacuated until proper emergency services arrive.

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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1           This act would remove the renotification requirement to the requisite association  
2 subsequent to the sixty (60) day excavation completion requirement for work near public utilities  
3 and would require accidents to be reported to 911.

4           This act would take effect upon passage.

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