S T A T E O F N E W Y O R K

8411

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. NOLAN -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the general business law, in relation to establishing the "pipeline safety and community empowerment act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "pipeline safety and community empowerment act".

S 2. Section 762 of the general business law, as amended by chapter 685 of the laws of 1994, is amended to read as follows:

S 762. A. Duties of local governing bodies. The local governing bodies shall display in an appropriate location and provide a notice to each applicant for an excavation and demolition permit that informs them about their responsibilities under the law and regulations to protect underground facilities and the existence, operation and programs of the one-call notification system.

B. THE LOCAL GOVERNING BODY SHALL CONDUCT A PUBLIC HEARING ABOUT THE ISSUANCE OR RENEWAL OF A PERMIT OR APPROVAL OF A LEASE OR OTHER CONTRACT FOR AN UNDERGROUND FACILITY BEFORE ANY SUCH PERMIT IS ISSUED OR ANY SUCH LEASE OR OTHER CONTRACT IS APPROVED. NOTICE OF TIME, PLACE AND AGENDA FOR THE HEARING SHALL BE PUBLICLY PROVIDED UPON CERTIFICATION OF NOTICE AS REQUIRED BY SUBDIVISION FOUR OF SECTION SEVEN HUNDRED SIXTY-THREE OF THIS ARTICLE AND AT LEAST TWENTY DAYS IN ADVANCE OF THE HEARING. THE AGENDA SHALL IDENTIFY THE OWNER AND OPERATOR OF THE UNDERGROUND FACILITY, ITS REQUEST FOR A PERMIT OR A LEASE OR OTHER CONTRACT, THE PRECISE LOCATION OF THE UNDERGROUND FACILITY, ITS USE AND THE NAME OF A PERSON KNOWLEDGEABLE ABOUT THE HEARING AND CONTACT INFORMATION FOR SUCH PERSON, INCLUDING OFFICE ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER, FROM WHOM INFORMATION ABOUT THE HEARING MAY BE OBTAINED AND TO WHOM WRITTEN COMMENTS MAY BE SUBMITTED. THE NOTICE AND AGENDA SHALL BE CONSIDERED A PUBLIC RECORD.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13112-01-1

S 3. Section 763 of the general business law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. PRIOR TO THE HEARING REQUIRED BY SECTION SEVEN HUNDRED SIXTY-TWO OF THIS ARTICLE FOR THE RENEWAL OF ANY PERMIT, LEASE OR CONTRACT FOR AN UNDERGROUND FACILITY, THE OWNER OR OPERATOR SHALL NOTIFY ALL OWNERS AND RESIDENTS OF PROPERTY LOCATED WITHIN TWO THOUSAND FEET OF A PROPOSED OR EXISTING UNDERGROUND FACILITY ABOUT SUCH UNDERGROUND FACILITY, ITS PRECISE LOCATION, ITS USE AND THE OWNER OR OPERATOR'S REQUEST FOR A PERMIT, LEASE OR CONTRACT. SUCH NOTICE SHALL BE POSTED ON THE WEBSITES OF THE OWNER, THE OPERATOR AND THE PUBLIC SERVICE COMMISSION AND PUBLISHED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE PUBLIC SERVICE COMMISSION, TO ALL SUCH OWNERS AND RESIDENTS. AN OWNER AND OPERATOR SHALL, IN ACCORDANCE WITH RULES AND REGULATIONS OF THE PUBLIC SERVICE COMMISSIONER, CERTIFY TO THE LOCAL GOVERNING BODY, ITS PERMIT AUTHORITY AND THE PUBLIC SERVICE COMMISSION THAT SUCH NOTICE HAS BEEN GIVEN.

5. A. AN OWNER OR OPERATOR SHALL INSPECT UNDERGROUND FACILITIES TO DETECT CORROSION AND PIPE STRESS AND OTHERWISE PROVIDE FOR THE SAFETY OF THE UNDERGROUND FACILITIES PRIOR TO THE ISSUANCE OR RENEWAL OF ANY PERMIT REQUIRED BY LAW OR LEASE, AT LEAST ONCE EVERY FIVE YEARS AND AFTER AN EVENT OF CONTACT WITH AND/OR DAMAGE TO AN UNDERGROUND FACILITY. THE RESULTS OF SUCH INSPECTION SHALL BE INCLUDED IN ANY APPLICATION FOR A PERMIT AND REPORTED, IN ACCORDANCE WITH RULES AND REGULATIONS OF THE PUBLIC SERVICE COMMISSION, TO THE PUBLIC SERVICE COMMISSION, THE LOCAL GOVERNING BODY WHERE THE UNDERGROUND FACILITY IS LOCATED AND ONE-CALL NOTIFICATION SYSTEMS ESTABLISHED PURSUANT TO SECTION SEVEN HUNDRED SIXTY-ONE OF THIS ARTICLE. THE REPORT SHALL BE CONSIDERED A PUBLIC RECORD AND MADE AVAILABLE TO THE PUBLIC IN ACCORDANCE WITH RULES AND REGULATIONS OF THE PUBLIC SERVICE COMMISSION.

B. AN INSPECTION OF PIPELINES IN UNDERGROUND FACILITIES AS REQUIRED BY PARAGRAPH A OF THIS SUBDIVISION SHALL BE CONDUCTED WITH AN INSTRUMENTED INTERNAL INSPECTION DEVICE, PROVIDED, HOWEVER, IF SUCH DEVICE CANNOT BE USED IN A SEGMENT OF A PIPELINE, THE PUBLIC SERVICE COMMISSION SHALL REQUIRE THE USE OF AN ALTERNATIVE INSPECTION METHOD WHICH MUST BE AT LEAST AS EFFECTIVE AS USING THE DEVICE IN DETECTING CORROSION, DETECTING PIPE STRESS AND OTHERWISE PROVIDING FOR THE SAFETY OF THE PIPELINE. IF A SEGMENT OF THE UNDERGROUND FACILITY CANNOT BE INSPECTED WITH THE DEVICE OR ALTERNATIVE METHOD ESTABLISHED BY THE PUBLIC SERVICE COMMISSION, THE UNDERGROUND FACILITY SHALL NOT OPERATE UNDER HIGH PRESSURE.

6. THE PUBLIC SERVICE COMMISSION SHALL PRESCRIBE MINIMUM STANDARDS TO REQUIRE AN OWNER OR OPERATOR OF A NEWLY CONSTRUCTED OR ENTIRELY REPLACED UNDERGROUND FACILITY TO INSTALL AND USE AUTOMATIC OR REMOTE SHUT-OFF VALVES TO REDUCE THE RISKS IN THE EVENT OF A RUPTURE.

S 4. Section 764 of the general business law, as amended by chapter 685 of the laws of 1994, subdivisions 1, 2 and 4 as amended by chapter 445 of the laws of 1995, is amended to read as follows:

S 764. Duties of excavators. 1. No excavator shall commence or engage in any excavation or demolition unless and until timely notice is served of the location and date of the proposed excavation or demolition as provided in this article to operators who maintain underground facilities in the area in which the excavation or demolition is to take place. The provision of such notice to a one-call notification system is deemed to be in compliance with this section; and notice to the one-call notification center is notice to each member. Such notice shall be served in accordance with the rules and regulations adopted by the

public service commission pursuant to section one hundred nineteen-b of the public service law.

2. Prior to any excavation or demolition, the excavator shall verify the precise location of the underground facilities in a manner set forth in the rules and regulations adopted by the public service commission pursuant to section one hundred nineteen-b of the public service law.

3. PRIOR TO ANY EXCAVATION OR DEMOLITION, THE EXCAVATOR SHALL NOTIFY THE FIRE DEPARTMENT WHICH SERVES THE LOCATION OF THE EXCAVATION OR DEMOLITION AND THE OWNER AND RESIDENTS OF COMMERCIAL AND RESIDENTIAL PROPERTY IN OR WITHIN ONE HUNDRED FEET OF THE SITE OF THE EXCAVATION OR DEMOLITION ABOUT THE EXCAVATION OR DEMOLITION INCLUDING THE PRECISE LOCATION OF THE EXCAVATION OR DEMOLITION, THE DATES AND TIMES FOR THE EXCAVATION OR DEMOLITION AND THE NAME OF A PERSON KNOWLEDGEABLE ABOUT THE EXCAVATION OR DEMOLITION AND CONTACT INFORMATION FOR SUCH PERSON, INCLUDING THE OFFICE ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER, FROM WHOM INFORMATION ABOUT THE EXCAVATION OR DEMOLITION CAN BE OBTAINED. SUCH NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED BY THE PUBLIC SERVICE COMMISSION.

4. An excavator may proceed with such work if he OR SHE has received notice from each operator notified by the one-call system that it has no underground facility in or within [fifteen] ONE HUNDRED feet of the proposed work area or that the operator marked any underground facility located in or within [fifteen] ONE HUNDRED feet of the proposed work area; PROVIDED, HOWEVER, THAT AN EXCAVATOR SHALL NOT PROCEED WITH SUCH WORK UNLESS A REPRESENTATIVE OF THE FIRE DEPARTMENT OF THE LOCAL GOVERNING BODY IS ON THE SITE OF WORK AT ALL TIMES DURING THE EXCAVATION OR DEMOLITION.

[4.] 5. An excavator engaged in excavation or demolition shall be responsible for protecting and preserving the staking, marking or other designation by the operator until no longer required for proper and safe excavation or demolition work at or near the underground facility, maintain clearance between the underground facility, and the cutting edge or point of any equipment to avoid damage to the underground facility and provide support to and prevent damage to any underground facility or its protective coating, in the means and according to the methods set forth in the rules and regulations adopted by the public service commission pursuant to section one hundred nineteen-b of the public service law.

[5.] 6. In the event of contact with and/or damage to an underground facility, the excavator shall immediately notify the operator of the facility and no backfilling shall be done by the excavator until inspection and/or repairs have been made by the operator and no repairs shall be undertaken by the excavator until authorized by the operator. In the event of an electrical short or the escape of gas or hazardous fluids endangering life, the excavator shall immediately notify the operator of the electric, gas or hazardous liquid underground facility and all persons who might be endangered and assist in the evacuation of such persons.

S 5. Paragraph a of subdivision 1 of section 765 of the general business law, as amended by chapter 685 of the laws of 1994, is amended to read as follows:

a. Failure to comply with any provision of this article shall subject an excavator or an operator to a civil penalty of up to [one] FIVE thousand dollars for the first violation and up to an additional [seven] FIFTEEN thousand [five hundred] dollars for each succeeding violation which occurs in connection with the entire self-same excavation or demolition activity within a two month period.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.