

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:

1 Section 1. This act shall be known and may be cited as the "pipeline
2 safety and community empowerment act".
3 S 2. Section 762 of the general business law, as amended by chapter
4 685 of the laws of 1994, is amended to read as follows:
5 S 762. A. Duties of local governing bodies. The local governing bodies
6 shall display in an appropriate location and provide a notice to each
7 applicant for an excavation and demolition permit that informs them
8 about their responsibilities under the law and regulations to protect
9 underground facilities and the existence, operation and programs of the
10 one-call notification system.
11 B. THE LOCAL GOVERNING BODY SHALL CONDUCT A PUBLIC HEARING ABOUT THE
12 ISSUANCE OR RENEWAL OF A PERMIT OR APPROVAL OF A LEASE OR OTHER CONTRACT
13 FOR AN UNDERGROUND FACILITY BEFORE ANY SUCH PERMIT IS ISSUED OR ANY SUCH
14 LEASE OR OTHER CONTRACT IS APPROVED. NOTICE OF TIME, PLACE AND AGENDA
15 FOR THE HEARING SHALL BE PUBLICLY PROVIDED UPON CERTIFICATION OF NOTICE
16 AS REQUIRED BY SUBDIVISION FOUR OF SECTION SEVEN HUNDRED SIXTY-THREE OF
17 THIS ARTICLE AND AT LEAST TWENTY DAYS IN ADVANCE OF THE HEARING. THE
18 AGENDA SHALL IDENTIFY THE OWNER AND OPERATOR OF THE UNDERGROUND FACILI-
19 TY, ITS REQUEST FOR A PERMIT OR A LEASE OR OTHER CONTRACT, THE PRECISE
20 LOCATION OF THE UNDERGROUND FACILITY, ITS USE AND THE NAME OF A PERSON
21 KNOWLEDGEABLE ABOUT THE HEARING AND CONTACT INFORMATION FOR SUCH PERSON,
22 INCLUDING OFFICE ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER, FROM
23 WHOM INFORMATION ABOUT THE HEARING MAY BE OBTAINED AND TO WHOM WRITTEN
24 COMMENTS MAY BE SUBMITTED. THE NOTICE AND AGENDA SHALL BE CONSIDERED A
25 PUBLIC RECORD.

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

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

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

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

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

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

44 S 4. Section 764 of the general business law, as amended by chapter
45 685 of the laws of 1994, subdivisions 1, 2 and 4 as amended by chapter
46 445 of the laws of 1995, is amended to read as follows:

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

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

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

7 3. PRIOR TO ANY EXCAVATION OR DEMOLITION, THE EXCAVATOR SHALL NOTIFY
8 THE FIRE DEPARTMENT WHICH SERVES THE LOCATION OF THE EXCAVATION OR DEMO-
9 LITION AND THE OWNER AND RESIDENTS OF COMMERCIAL AND RESIDENTIAL PROPER-
10 TY IN OR WITHIN ONE HUNDRED FEET OF THE SITE OF THE EXCAVATION OR DEMO-
11 LITION ABOUT THE EXCAVATION OR DEMOLITION INCLUDING THE PRECISE LOCATION
12 OF THE EXCAVATION OR DEMOLITION, THE DATES AND TIMES FOR THE EXCAVATION
13 OR DEMOLITION AND THE NAME OF A PERSON KNOWLEDGEABLE ABOUT THE EXCA-
14 VATION OR DEMOLITION AND CONTACT INFORMATION FOR SUCH PERSON, INCLUDING
15 THE OFFICE ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER, FROM WHOM
16 INFORMATION ABOUT THE EXCAVATION OR DEMOLITION CAN BE OBTAINED. SUCH
17 NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE RULES AND REGULATIONS
18 ADOPTED BY THE PUBLIC SERVICE COMMISSION.

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

28 [4.] 5. An excavator engaged in excavation or demolition shall be
29 responsible for protecting and preserving the staking, marking or other
30 designation by the operator until no longer required for proper and safe
31 excavation or demolition work at or near the underground facility, main-
32 tain clearance between the underground facility, and the cutting edge or
33 point of any equipment to avoid damage to the underground facility and
34 provide support to and prevent damage to any underground facility or its
35 protective coating, in the means and according to the methods set forth
36 in the rules and regulations adopted by the public service commission
37 pursuant to section one hundred nineteen-b of the public service law.

38 [5.] 6. In the event of contact with and/or damage to an underground
39 facility, the excavator shall immediately notify the operator of the
40 facility and no backfilling shall be done by the excavator until
41 inspection and/or repairs have been made by the operator and no repairs
42 shall be undertaken by the excavator until authorized by the operator.
43 In the event of an electrical short or the escape of gas or hazardous
44 fluids endangering life, the excavator shall immediately notify the
45 operator of the electric, gas or hazardous liquid underground facility
46 and all persons who might be endangered and assist in the evacuation of
47 such persons.

48 S 5. Paragraph a of subdivision 1 of section 765 of the general busi-
49 ness law, as amended by chapter 685 of the laws of 1994, is amended to
50 read as follows:

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

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