STATE OF NEW YORK

3771--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. DINOWITZ, VANEL -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the one-call notification system; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 760 of the general business law, as amended by chapter 685 of the laws of 1994, is amended to read as follows:

9. "Local [~~governing body~~] **government**" means a **county,** town [~~or~~]**,** city [~~outside the city of New York or a county within the city of New York~~] **or village**.

§ 2. Paragraph d of subdivision 2 and subdivision 3 of section 761 of the general business law, paragraph d of subdivision 2 as amended by chapter 215 of the laws of 1996 and subdivision 3 as added by chapter 685 of the laws of 1994, are amended to read as follows:

d. Provide local [~~governing bodies~~] **governments** with the telephone number of the system and a sample or model notice informing operators and excavators of the system and their responsibilities relating to protection of underground facilities; cooperate with local [~~governing bodies~~] **governments** to encourage their participation in the system to assure that when permits involving excavation and demolition are issued, excavators and operators receive information about the system and about their obligations to protect underground facilities;

3. Costs. The costs of operating the system shall be apportioned equitably among the members of the system, with the exception of [~~muni-~~

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

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~~cipalities~~] local governments and public authorities that operate underground facilities and any operator of underground facilities that provides water service to less than four thousand customers. In apportioning such costs, the system shall take into account the number of customers, extent of underground facilities and frequency of use.

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

§ 762. Duties of local [~~governing bodies~~] governments. The local [~~governing bodies~~] governments 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. Any local government which contracts for excavation of underground facilities shall require the excavator to have completed the training and education program provided by the one-call notification system pursuant to this article or any other provider authorized by the public service commission to administer such training and education program. Such training and education program shall be made available in-person and online. The cost of such training and education program shall not exceed twenty-five dollars and shall not be required more than once per five year period.

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

§ 762. Duties of local [~~governing bodies~~] governments. The local [~~governing bodies~~] governments 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.

§ 5. Section 763 of the general business law is amended by adding a new subdivision 4 to read as follows:

4. Any operator which performs or contracts for the excavation of underground facilities shall require the excavator to have completed the training and education program provided by the one-call notification system pursuant to this article or any other provider authorized by the public service commission to administer such training and education program. Such training and education program shall be made available in-person and online. The cost of such training and education program shall not exceed twenty-five dollars and shall not be required more than once per five year period. In the case of an operator subject to the jurisdiction of the public service commission, a training and education program that is subject to audit by the department of public service shall also satisfy the requirement herein.

§ 6. Subdivision 5 of section 764 of the general business law, as amended by chapter 685 of the laws of 1994, is amended to read as follows:

5. 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 the fire department, and all persons who might be endangered and assist in the evacuation of such persons.

§ 7. The public service commission shall be authorized to promulgate rules and regulations necessary to implement the provisions of this act.

§ 8. Any one-call notification system or other approved provider that provides a training and education program pursuant to sections 762 and 763 of the general business law shall report annually to the governor, the temporary president of the senate, and the speaker of the assembly. Such report shall include but not be limited to the following information: the number of incidents involving contact with or damage to underground facilities for the five year period prior to the requirement established herein that certain excavators complete the training and education program, the number of incidents involving contact with or damage to underground facilities after such requirement was enacted, the number of training and education program certifications issued each month of the preceding year, a breakdown of the number of training and education programs provided in-person and online, an account of incurred expenses for the training and education program, the revenues received from the fees charged for such program, and any other information that the one-call notification system deems necessary. The department of public service shall cooperate in providing any data, which is not directly reported to the one-call notification system, that is required for such report.

§ 9. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that section three of this act shall expire and be deemed repealed October 1, 2020 when upon such date section four of this act shall take effect; provided, further, however, that sections five, seven and eight of this act shall expire and be deemed repealed October 1, 2020.