

# 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:

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

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

7 § 2. Paragraph d of subdivision 2 and subdivision 3 of section 761 of  
8 the general business law, paragraph d of subdivision 2 as amended by  
9 chapter 215 of the laws of 1996 and subdivision 3 as added by chapter  
10 685 of the laws of 1994, are amended to read as follows:

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

19 3. Costs. The costs of operating the system shall be apportioned  
20 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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1 ~~municipalities~~ local governments and public authorities that operate under-  
2 ground facilities and any operator of underground facilities that  
3 provides water service to less than four thousand customers. In apportioning  
4 such costs, the system shall take into account the number of  
5 customers, extent of underground facilities and frequency of use.

6 § 3. Section 762 of the general business law, as amended by chapter  
7 685 of the laws of 1994, is amended to read as follows:

8 § 762. Duties of local ~~[governing bodies]~~ governments. The local  
9 ~~[governing bodies]~~ governments shall display in an appropriate location  
10 and provide a notice to each applicant for an excavation and demolition  
11 permit that informs them about their responsibilities under the law and  
12 regulations to protect underground facilities and the existence, operation  
13 and programs of the one-call notification system. Any local  
14 government which contracts for excavation of underground facilities  
15 shall require the excavator to have completed the training and education  
16 program provided by the one-call notification system pursuant to this  
17 article or any other provider authorized by the public service commis-  
18 sion to administer such training and education program. Such training  
19 and education program shall be made available in-person and online. The  
20 cost of such training and education program shall not exceed twenty-five  
21 dollars and shall not be required more than once per five year period.

22 § 4. Section 762 of the general business law, as amended by chapter  
23 685 of the laws of 1994, is amended to read as follows:

24 § 762. Duties of local ~~[governing bodies]~~ governments. The local  
25 ~~[governing bodies]~~ governments shall display in an appropriate location  
26 and provide a notice to each applicant for an excavation and demolition  
27 permit that informs them about their responsibilities under the law and  
28 regulations to protect underground facilities and the existence, operation  
29 and programs of the one-call notification system.

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

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

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

47 5. In the event of contact with and/or damage to an underground facility,  
48 the excavator shall immediately notify the operator of the facility  
49 and no backfilling shall be done by the excavator until inspection  
50 and/or repairs have been made by the operator and no repairs shall be  
51 undertaken by the excavator until authorized by the operator. In the  
52 event of an electrical short or the escape of gas or hazardous fluids  
53 endangering life, the excavator shall immediately notify the operator of  
54 the electric, gas or hazardous liquid underground facility and the fire  
55 department, and all persons who might be endangered and assist in the  
56 evacuation of such persons.

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

3     § 8. Any one-call notification system or other approved provider that  
4 provides a training and education program pursuant to sections 762 and  
5 763 of the general business law shall report annually to the governor,  
6 the temporary president of the senate, and the speaker of the assembly.  
7 Such report shall include but not be limited to the following informa-  
8 tion: the number of incidents involving contact with or damage to under-  
9 ground facilities for the five year period prior to the requirement  
10 established herein that certain excavators complete the training and  
11 education program, the number of incidents involving contact with or  
12 damage to underground facilities after such requirement was enacted, the  
13 number of training and education program certifications issued each  
14 month of the preceding year, a breakdown of the number of training and  
15 education programs provided in-person and online, an account of incurred  
16 expenses for the training and education program, the revenues received  
17 from the fees charged for such program, and any other information that  
18 the one-call notification system deems necessary. The department of  
19 public service shall cooperate in providing any data, which is not  
20 directly reported to the one-call notification system, that is required  
21 for such report.

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