

STATE OF NEW YORK

10178

IN SENATE

May 4, 2026

Introduced by Sen. C. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the public service law, in relation to protection of underground facilities, mandatory standards for newly installed underground facilities, excavator training and certification, and damage reporting

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

1 Section 1. Subdivisions 2, 4 and 5 of section 760 of the general business law, as amended by chapter 685 of the laws of 1994, are amended and
2 four new subdivisions 10, 11, 12 and 13 are added to read as follows:

3 2. "Excavation" means an operation for the purpose of movement or
4 removal of earth, rock or other materials in or on the ground or in,
5 under, or adjacent to the bed of a waterbody in the course of submerged
6 excavation by use of mechanized equipment or by blasting, and includes,
7 but is not limited to, anchoring, auguring, backfilling, dredging,
8 drilling, grading, pile driving, plowing in, pulling in, trenching and
9 tunneling; provided, however, that the movement of earth by tools manipulated only by human or animal power and the tilling of soil for agricultural purposes shall not be deemed excavation.

10 4. "Underground facilities" means pipelines, conduits, ducts, cables, wires, manholes, vaults or other such facilities or their attachments, which have been installed underground, including in the bed of a waterbody, or submersed by an operator to provide services or materials. Such term shall not include oil and gas production and gathering pipeline systems used primarily to collect oil or gas production from wells.

11 5. "Excavator" means a person who is engaged in a trade or business which includes the carrying out of excavation or demolition [~~, provided, however, that an individual employed by an excavator, and having no supervisory authority, other than the routine direction of employees, over an excavation or demolition, shall not be deemed an excavator for the purposes of this article~~]. In construing and enforcing the provisions of this article, the act of any employee or agent of any excavator or covered excavation worker acting within the scope of [~~his~~

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

LBD15707-01-6

1 ~~or her~~ their official duties or employment, or on behalf of an excavator, shall be deemed to be the act of such excavator.

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3 10. "Covered excavation worker" means any individual who, for compensation, performs excavation or demolition work, including by operating powered equipment, directing excavation activities, or performing excavation on behalf of an excavator.

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7 11. "Locatable" means capable of being detected, traced, or otherwise located in the field using generally accepted locating equipment and practices, as determined by standards established pursuant to section seven hundred sixty-three-a of this article and regulations adopted by the public service commission.

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10 12. "As-built location information" means records or data describing the location of newly installed underground facilities, in a format and with minimum data elements as determined by the public service commission by regulation.

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13 13. "Submerged excavation" means excavation or demolition activities occurring in, under, or adjacent to the bed of a waterbody, including dredging, anchoring, pile driving, and related activities, where underground facilities may be present.

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16 § 2. The general business law is amended by adding a new section 763-a to read as follows:

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18 § 763-a. Standards for newly installed underground facilities; locatability and mapping. 1. For any underground facility installed on or after the effective date of this section, each operator shall:

19 (a) install such facility in a manner that is locatable;

20 (b) create and retain as-built location information for such facility; and

21 (c) use as-built location data in executing its duties pursuant to section seven hundred sixty-three of this article.

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23 2. The public service commission shall, by regulation, establish minimum standards and implementation schedules for locatability and as-built location information under this section, which may include requirements applicable to laterals, service drops, service lines, sewer lines, and appurtenances, and which may provide for reasonable phase-in periods and waivers for demonstrated good cause.

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25 § 3. Subdivision 5 of section 764 of the general business law, as amended by chapter 505 of the laws of 2019, is amended to read as follows:

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27 5. [~~In the event of contact with and/or damage to an underground facility~~] Whenever any excavator or covered excavation worker acting on behalf of an excavator causes or discovers damage to an underground facility, the excavator shall immediately notify the operator of the facility and ~~[no]~~ the one-call notification system serving the area in which the damage occurred. 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 911, and all persons who might be endangered and assist in the evacuation of such persons.

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30 § 4. Paragraphs b, d and e of subdivision 1 of section 119-b of the public service law, as amended by chapter 445 of the laws of 1995, are amended and four new paragraphs i, j, k and l are added to read as follows:

1 b. "Excavation" means an operation for the purpose of movement or
2 removal of earth, rock or other materials in or on the ground or in,
3 under, or adjacent to the bed of a waterbody in the course of submerged
4 excavation by use of mechanized equipment or by blasting, and includes,
5 but is not limited to, anchoring, auguring, backfilling, dredging,
6 boring, drilling, grading, pile driving, plowing in, pulling in, trench-
7 ing and tunneling; provided, however, that the movement of earth by
8 tools manipulated only by human or animal power and the tilling of soil
9 for agricultural purposes shall not be deemed excavation.

10 d. "Underground facilities" means pipelines, conduits, ducts, cables,
11 wires, manholes, vaults or other such facilities or their attachments,
12 which have been installed underground, including in the bed of a water-
13 body, or submersed by an operator to provide services or materials. Such
14 term shall not include oil and gas production and gathering pipeline
15 systems used primarily to collect oil or gas production from wells.

16 e. "Excavator" means a person who is engaged in a trade or business
17 which includes the carrying out of excavation or demolition[~~, provided,~~
18 ~~however, that an individual employed by an excavator, and having no~~
19 ~~supervisory authority, other than the routine direction of employees,~~
20 ~~over an excavation or demolition, shall not himself or herself be deemed~~
21 ~~an excavator for the purposes of this article~~]. In construing and
22 enforcing the provisions of this article, the act of any employee or
23 agent of any excavator, or covered excavation worker acting within the
24 scope of [~~his or her~~] their official duties or employment, or on behalf
25 of an excavator, shall be deemed to be the act of such excavator.

26 i. "Covered excavation worker" means any individual who, for compen-
27 sation, performs excavation or demolition work, including by operating
28 powered equipment, directing excavation activities, or performing exca-
29 vation on behalf of an excavator.

30 j. "Locatable" means capable of being detected, traced, or otherwise
31 located in the field using generally accepted locating equipment and
32 practices, as determined by standards established pursuant to section
33 seven hundred sixty-three-a of the general business law and regulations
34 adopted by the public service commission.

35 k. "As-built location information" means records or data describing
36 the location of newly installed underground facilities, in a format and
37 with minimum data elements as determined by the public service commis-
38 sion by regulation.

39 l. "Submerged excavation" means excavation or demolition activities
40 occurring in, under, or adjacent to the bed of a waterbody, including
41 dredging, anchoring, pile driving, and related activities, where under-
42 ground facilities may be present.

43 § 5. Section 119-b of the public service law is amended by adding a
44 new subdivision 2-a to read as follows:

45 2-a. The commission shall adopt rules and regulations to implement
46 section seven hundred sixty-three-a and subdivision five of section
47 seven hundred sixty-four of the general business law, including but not
48 limited to: (a) minimum standards for locatability and as-built location
49 information for newly installed underground facilities; (b) training,
50 examination, certification, and renewal requirements for excavators and
51 covered excavation workers; and (c) uniform damage reporting require-
52 ments applicable to excavators and operators, including the content,
53 method, and timeliness of reporting to one-call notification systems.
54 Further, the commission shall adopt requirements governing notice,
55 designation and marking, and related procedures for submerged exca-
56 vation.

1 § 6. This act shall take effect on the one hundred eightieth day after
2 it shall have become a law; provided, however, that section two of this
3 act shall apply to underground facilities installed on or after such
4 effective date. Effective immediately, the public service commission is
5 authorized to promulgate, amend and/or repeal any rule or regulation
6 necessary for the implementation of this act on or before such effective
7 date.