

1 IN THE HOUSE

BY J. MILLER

2 ^{CS} HOUSE BILL NO. 12

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to liability for damage to under-
7 ground utilities; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 18.60 is amended by adding new sections to read:

10 ARTICLE 9. DAMAGE TO UNDERGROUND

11 FACILITIES OF A UTILITY.

12 Sec. 18.60.800. PURPOSE. The purpose of secs. 810 - 850 of this
13 chapter is to protect workmen and others from death or injury which
14 may result from damage to underground utility facilities, and to pro-
15 vide for the safety and well-being of the general public by deterring
16 the interruption of essential services resulting from damage to the
17 facilities.

18 Sec. 18.60.810. STRICT LIABILITY FOR DAMAGE TO UNDERGROUND
19 UTILITIES. (a) A person who, while excavating, damages an underground
20 utility facility is liable to the utility operator for three times the
21 actual damages unless the person has requested the utility operator to
22 locate its facilities in a designated area and the locate has not been
23 provided as required under secs. 810 - 850 of this chapter or the
24 locate provided is inaccurate and that inaccuracy is the proximate
25 cause of the damage. Damages provided by this section shall be awarded
26 without regard to negligence.

27 (b) A utility operator shall, within four regular business hours
28 after receipt of a request for locate service, commence to locate the
29 utilities in the designated area and shall complete the service within

1 a reasonable time. If the request for locate service encompasses
2 excavation work in an area which will require more than one day to
3 complete, the person requesting the locate shall provide the utility
4 with a schedule of the excavating work for which locate service is to
5 be provided.

6 Sec. 18.60.820. CIVIL PENALTY. A person who damages an under-
7 ground facility under conditions creating liability for treble damages
8 under sec. 810 of this chapter, in addition shall be liable to the
9 state for a civil penalty in the sum of \$500 for each incident. An
10 action for the civil penalty may be brought by the attorney general,
11 or the penalty may be awarded to the state in an action brought under
12 sec. 810, even though the state is unrepresented in the proceeding.

13 Sec. 18.60.830. ACTIONS TO BE BROUGHT IN TWO YEARS. No action
14 may be brought under secs. 810 or 820 of this chapter unless commenced
15 within two years after the date of damage to the utility facility.

16 Sec. 18.60.840. REMEDIES NOT EXCLUSIVE. The provisions of secs.
17 810 - 850 of this chapter do not abolish or diminish any other claim
18 or remedy otherwise available to a utility operator, except that an
19 award of treble damages under sec. 810 extinguishes a claim for damages
20 based on negligence.

21 Sec. 18.60.850. DEFINITIONS. In secs. 800 - 850 of this chapter

22 (1) "excavate" means the movement or removal of earth and
23 includes, but is not limited to, blasting, augering, backfilling,
24 digging, ditching, drilling, staking, grading, plowing-in, pulling-in,
25 ripping, scraping, trenching, and tunneling;

26 (2) "inaccurate" means a locate that is not within 24 inches
27 horizontally, or, when required, 12 inches vertically, of the center-
28 line of the facility provided by the utility;

29 (3) "locate" means a field marking on the surface by paint,

1 dye, stakes or any other marking clearly visible at the time of place-
2 ment which designates the horizontal course or location of a utility
3 facility; when pipes, cables or tiles are being located, the locate
4 shall signify the centerline of the pipe or tile and the utility shall
5 specify the dimensions of the facility; when the excavation is for the
6 purpose of street or highway improvement that requires a change in
7 grade in excess of 12 inches, the locate shall include a designation
8 of the vertical depth of the facility, which may be shown by plans,
9 exposure of facilities, or other suitable means;

10 (4) "utility operator" means a person who furnishes any of the
11 following services to a customer by means of a conduit, pipe, tile,
12 wire, cable or line:

- 13 (A) petroleum products,
- 14 (B) electricity,
- 15 (C) sewer,
- 16 (D) communications,
- 17 (E) water,
- 18 (F) natural gas.

19 * Sec. 2. This Act takes effect on the day after its passage and approval
20 or on the day it becomes law without approval.
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