

Original sponsor: J. Miller and Huber

Offered: 2/20/73  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR 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 underground  
7 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 one and one-half  
21 times the actual damages unless the person has requested the utility  
22 operator to locate its facilities in a designated area and the locate  
23 has not been provided as required under secs. 810 - 850 of this chapter  
24 or the locate provided is inaccurate and that inaccuracy is the proxi-  
25 mate cause of the damage. Damages provided by this section shall be  
26 awarded without regard to negligence.

27 (b) A utility operator shall, within 16 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 one and one-half  
8 times damages under sec. 810 of this chapter, in addition shall be  
9 liable to the state for a civil penalty not to exceed \$500 for each  
10 incident. An action for the civil penalty may be brought by the attor-  
11 ney general, or the penalty may be awarded to the state in an action  
12 brought under sec. 810, even though the state is unrepresented in the  
13 proceeding.

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

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

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

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

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

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(3) "locate" means a field marking on the surface by paint, dye, stakes or any other marking clearly visible at the time of placement which designates the horizontal course or location of a utility facility; when pipes, cables or tiles are being located, the locate shall signify the centerline of the pipe or tile and the utility shall specify the dimensions of the facility; when the excavation is for the purpose of street or highway improvement that requires a change in grade in excess of 12 inches, the locate shall include a designation of the vertical depth of the facility, which may be shown by plans, exposure of facilities, or other suitable means;

(4) "utility operator" means a person who furnishes services through or a person who operates or owns a conduit, pipe, tile, wire, cable or line for the following purposes:

- (A) petroleum and petroleum products,
- (B) electricity,
- (C) sewer,
- (D) communications,
- (E) water,
- (F) natural gas.

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