

Introduced: 3/10/75  
Referred: Judiciary

1 IN THE HOUSE

BY FISCHER

2 HOUSE BILL NO. 275

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH 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 FACILITIES

11 OF A UTILITY.

12 Sec. 18.60.800. PURPOSE. The purpose of secs. 810 - 870 of this  
13 chapter is to protect workmen and others from death or injury which may  
14 result from damage to underground utility facilities, and to provide for  
15 the safety and well-being of the general public by deterring the inter-  
16 ruption of essential services resulting from damage to the facilities.

17 Sec. 18.60.810. STRICT LIABILITY FOR DAMAGE TO UNDERGROUND  
18 UTILITIES. (a) A person who, while excavating, damages an underground  
19 utility facility is liable to the utility operator for three times the  
20 actual damages unless the person has requested the utility operator to  
21 locate its facilities in a designated area and the locate has not been  
22 provided as required under secs. 810 - 870 of this chapter or the locate  
23 provided is inaccurate and that inaccuracy is the proximate cause of the  
24 damage. Damages provided by this section shall be awarded without regard  
25 to negligence.

26 (b) A utility operator shall, within regular business hours after  
27 receipt of a request for locate service, begin to locate the utilities  
28 in the designated area and shall complete the service within a reasonable  
29 time. If the request for locate service encompasses excavation work in

1 an area which will require more than one day to complete, the person  
2 requesting the locate service shall provide the utility with a schedule  
3 of the excavating work for which locate service is to be provided.

4 Sec. 18.60.820. CIVIL PENALTY. A person who damages an underground  
5 facility under conditions creating liability for three times the damages  
6 under sec. 810 of this chapter, in addition is liable to the state for  
7 a civil penalty of not more than \$500 for each incident. The penalty  
8 may be awarded to the state in an action brought under sec. 810 of this  
9 chapter even though the state is not a party in the proceeding.

10 Sec. 18.60.830. CIVIL ACTIONS. An action brought under secs.  
11 800 - 870 of this chapter shall be brought by and in the name of the  
12 utility operator who has been damaged. The state may not be a party to  
13 the action and is not liable for the payment of costs of the suit.

14 Sec. 18.60.840. AGREEMENTS. A utility operator and any person,  
15 may by agreement provide for resolution of disputes arising from damage  
16 to underground utilities by excavation. The agreement may provide that  
17 the parties to it are exempt from the provisions of secs. 810 - 870 of  
18 this chapter.

19 Sec. 18.60.850. ACTIONS TO BE BROUGHT IN TWO YEARS. No action may  
20 be brought under secs. 810 or 820 of this chapter unless commenced with-  
21 in two years after the date of damage to the utility facility.

22 Sec. 18.60.860. REMEDIES NOT EXCLUSIVE. The provisions of secs.  
23 810 - 870 of this chapter do not abolish or diminish any other claim or  
24 remedy otherwise available to a utility operator, except that an award  
25 of three times the damages under sec. 810 of this chapter extinguishes  
26 a claim for damages based on negligence.

27 Sec. 18.60.870. DEFINITIONS. In secs. 800 - 870 of this chapter

28 (1) "excavate" means the movement or removal of earth and  
29 includes, but is not limited to, blasting, augering, backfilling,

1 digging, ditching, drilling, staking, grading, plowing-in, pulling-in,  
2 ripping, scraping, trenching, and tunneling;

3 (2) "inaccurate" means a locate that is not within 24 inches  
4 horizontally of the centerline of the facility provided by the utility;

5 (3) "locate" means a field marking on the surface by paint,  
6 dye, stakes or any other marking clearly visible at the time of placement  
7 which designates the horizontal course or location of a utility facility;  
8 when pipes, cables or tiles are being located, the locate shall signify  
9 the centerline of the pipe or tile and the utility shall specify the  
10 dimensions of the facility;

11 (4) "person" means a corporation, company, partnership, firm,  
12 association, organization, business trust, society, borough, other  
13 municipal corporation or natural person;

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

- 17 (A) petroleum and petroleum products,
- 18 (B) electricity,
- 19 (C) sewer,
- 20 (D) communications,
- 21 (E) water,
- 22 (F) natural gas,
- 23 (G) storm drain.

24 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
25 070(c).