

***** Act 53 of 1974 THIS ACT IS REPEALED BY ACT 174 of 2013 EFFECTIVE APRIL 1, 2014 *****

PROTECTION OF UNDERGROUND FACILITIES

Act 53 of 1974

AN ACT to protect the public safety by providing for notices to public utilities by persons or public agencies engaged in certain construction related activities near underground facilities or demolishing buildings containing utility facilities; to provide for notices to affected parties when underground facilities are damaged; and to prescribe penalties.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1975, Act 204, Imd. Eff. Aug. 20, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

The People of the State of Michigan enact:

***** 460.701 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.701 Definitions.

Sec. 1. As used in this act:

(a) "Association" means the MISS-DIG utilities communications programs.

(b) "Person" includes an individual, partnership, corporation, association, or any other legal entity. Person does not mean a public agency.

(c) "Public agency" means the state, a city, village, township, county, or any other governmental entity or municipality.

(d) "Public utility" means a natural gas company subject to the jurisdiction of the federal energy regulatory commission or an electric, steam, gas, telephone, power, water, or pipeline company subject to the jurisdiction of the public service commission pursuant to Act No. 3 of the Public Acts of 1939, as amended, being sections 460.1 to 460.8 of the Michigan Compiled Laws, Act No. 9 of the Public Acts of 1929, being sections 483.101 to 483.120 of the Michigan Compiled Laws, Act No. 16 of the Public Acts of 1929, being sections 483.1 to 483.11 of the Michigan Compiled Laws, Act No. 19 of the Public Acts of 1967, as amended, being sections 486.551 to 486.571 of the Michigan Compiled Laws, Act No. 165 of the Public Acts of 1969, being sections 483.151 to 483.162 of the Michigan Compiled Laws, or the Michigan telecommunications act, Act No. 179 of the Public Acts of 1991, being sections 484.2101 to 484.2605 of the Michigan Compiled Laws, a person or public agency owning or operating cable television facilities, and a public agency, other than the state transportation department, owning public service facilities for supplying water, light, heat, gas, power, telecommunications, sewage disposal, storm drains, or storm water drainage facilities.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1975, Act 204, Imd. Eff. Aug. 20, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989;—Am. 1992, Act 38, Imd. Eff. Apr. 21, 1992.

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460.702 Exemptions.

Sec. 2. This act does not apply to a person or public agency using only nonpowered hand tools in performing excavating or tunneling operations described herein.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.703 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.703 Prerequisite to discharge of explosives, excavation, tunneling, or demolition.

Sec. 3. A person or public agency shall not discharge explosives, excavate, or tunnel in a street, highway, public place, a private easement of a public utility, or near the location of a public utility facility owned, maintained, or installed on a customer's premises, or demolish a building containing a public utility facility without having first ascertained in the manner prescribed in sections 5 or 7 the location of all underground facilities of a public utility in the proposed area of excavation, discharging of explosives, tunneling, or demolition.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.704 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.704 List required; filing; contents.

Sec. 4. A public utility having underground facilities in a county shall file with the clerk of the county a list containing the name of every city, village, township, and section within the township in the county in which it has underground facilities, the name of the public utility and the title and address of its representative designated to receive the written notice of intent required by section 5.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.705 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.705 Written or telephone notice of intent; time; contents.

Sec. 5. (1) Except as provided in sections 7 and 9, a person or public agency responsible for excavating or tunneling operations, drilling or boring procedures, or discharge of explosives in a street, highway, other public place, a private easement for a public utility, or near the location of utility facilities on a customer's property, or demolition of a building containing a utility facility, shall give written or telephone notice to the association as required in section 7 of intent to excavate, tunnel, discharge explosives, or demolish at least 2 full working days, excluding Saturdays, Sundays, and holidays, but not more than 21 calendar days, before commencing the excavating, demolishing, discharging of explosives, tunneling operations, or drilling or boring procedures. Beginning on October 1, 1990, the notice required in this subsection shall be given at least 3 full working days, excluding Saturdays, Sundays, and holidays, but not more than 21 calendar days, before commencing the excavating, demolishing, discharging of explosives, tunneling operations, or drilling or boring procedures.

(2) The written or telephone notice of intent shall contain the name, address, and telephone number of the person or public agency filing the notice of intent, the name of the person or public agency performing the excavation, discharging of explosives, tunneling, or demolition, the date and type of excavating, discharging of explosives, demolishing, drilling or boring procedure, or tunneling operation to be conducted, and the location of the excavation, tunneling, discharging of explosives, drilling, boring, or demolition.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1982, Act 228, Imd. Eff. Sept. 16, 1982;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.706 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.706 Compliance as condition for permit.

Sec. 6. A public agency that pursuant to law requires a person to obtain a permit, shall require as a condition of the permit that the person shall comply with the requirement of this act.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.707 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.707 Association of public utilities having underground facilities; formation and operation; purpose; notification; services; costs; description of area served; list of members; record.

Sec. 7. (1) Public utilities having underground facilities shall form and operate an association providing for mutual receipt of notification of construction activities in those areas served by public utilities having underground facilities. Notification to the association formed and operated by the public utilities shall be considered to be notice to each public utility having underground facilities within the proposed areas of excavation, discharging of explosives, tunneling, demolition, drilling, or boring. Notification to the association shall be effected in writing as set forth in section 5 or by telephone call, providing the same information required by section 5, made by the person or public agency responsible for the excavating, demolishing, discharging of explosives, drilling or boring procedures, or tunneling operations. A public utility owned by a public agency shall participate in and receive the services furnished by the association and shall pay their share of the costs and services furnished, but shall not be required to become a member of the association. The association, whose members or participants have underground facilities within a county, shall file with the clerk of the county a description of the geographical area served by the association and list the name and address of every member and participating public utility.

(2) If notification is made by telephone an adequate record shall be maintained by the association to document compliance with the requirements of this act.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.708 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.708 Information as to approximate location of underground facilities; color coding; additional assistance; removal or protection of facilities.

Sec. 8. Not less than 1 working day in advance of proposed construction, unless otherwise agreed between the person or public agency performing the excavation, discharging of explosives, drilling, boring, tunneling, or demolition and the public utility, a public utility served with notice pursuant to section 5 or 7 shall inform the person or public agency of the approximate location of the underground facilities owned or operated by the public utility in the proposed area of excavation, discharging of explosives, drilling, boring, tunneling, or demolition, in a manner that enables the person or public agency to employ hand dug test holes or other similar means of establishing the precise location of the underground facilities using reasonable care to establish the precise location of the underground facilities in advance of construction. For the purposes of this act, the approximate location of underground facilities is defined as a strip of land at least 36 inches wide but not wider than the width of the facility plus 18 inches on either side of the facility. If the approximate location of an underground facility is marked with stakes or other physical means, the public utility shall follow the color coding prescribed in this section.

Utility and Type of Product	Specific Group Identifying Color
Electric power distribution and transmission	Safety red
Municipal electric systems	Safety red
Gas distribution and transmission	High visibility safety yellow
Oil distribution and transmission	High visibility safety yellow
Dangerous materials, product lines	High visibility safety yellow
Telephone and telegraph systems	Safety alert orange
Cable television	Safety alert orange
Police and fire communications	Safety alert orange
Water systems	Safety precaution blue
Sewer systems	Safety brown
Storm drains	Safety green
Land survey monumentation	High visibility safety pink

All safety alert orange markings shall include the name or type of the company who owns the underground facility to be marked. If the precise location of the underground facilities cannot be established, the person or public agency shall then notify the public utility, which shall no later than 1 working day after the notice provide such further assistance as may be needed to determine the precise location of the underground facilities in advance of the proposed excavating, tunneling, discharging of explosives, drilling or boring procedures, or demolition operations. Where demolition of a building is proposed and the public utility is notified, it shall be given reasonable time to remove or protect its facilities before demolition of the building.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1975, Act 204, Imd. Eff. Aug. 20, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989;—Am. 1994, Act 115, Imd. Eff. May 11, 1994.

***** 460.709 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.709 Emergencies.

Sec. 9. (1) In case of emergency involving danger to life, health, or property or which requires immediate correction in order to continue the operation of a major industrial plant, or to assure the continuity of public utility service, excavation, maintenance, or repairs may be made without using explosives if notice and advice thereof, in writing or otherwise, are given to the public utility or association as soon as reasonably possible.

(2) In case of an emergency involving an immediate and substantial danger of death or serious personal injury, explosives may be discharged if notice and advice thereof, in writing or otherwise, are given to a public utility or an association at any time before the discharge is undertaken.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.710 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.710 Effect of permits; working agreements not precluded.

Sec. 10. This act shall not be construed to authorize, affect, or impair local ordinances, charters or other provisions of law requiring permits to be obtained before excavating or tunneling in a public street or highway or to construct or demolish buildings or other structures on private property nor construed to grant to any person or public agency any rights not specifically provided by this act. A permit issued by a public agency shall not be deemed to relieve a person from the responsibility for complying with the provisions of this act. The failure of any person, who has been granted a permit, to comply with the provision of this act shall not be

deemed to impose any liability upon the public agency issuing the permit. This act shall not preclude establishment of working agreements between public utilities and contractor associations to accomplish the intent and purpose of this act.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.711 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.711 Reasonable care required; hand-digging.

Sec. 11. Upon receiving the information provided for in sections 5 or 7, a person or public agency excavating, tunneling, or discharging explosives shall exercise reasonable care when working in close proximity to the underground facilities of any public utility. If the facilities are to be exposed, or are likely to be exposed, only hand-digging shall be employed in such circumstances and such support, as may be reasonably necessary for protection of the facilities, shall be provided in and near the construction area.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.712 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.712 Damage to underground facilities; notice; evacuation.

Sec. 12. When any contact with or damage to any pipe, cable, or its protective coating or any other underground facility of a public utility occurs, the public utility shall be notified immediately by the person or public agency responsible for the operations causing the damage. Upon receiving the notice, the public utility shall dispatch personnel to the location as soon as possible to effect temporary or permanent repair of the damage. If a serious electrical short is occurring or if dangerous fluids or gases are escaping from a broken line, the person or public agency responsible for the operations causing the damage shall evacuate the immediate area while awaiting the arrival of the public utility personnel.

History: 1974, Act 53, Eff. Apr. 1, 1975.

***** 460.713 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.713 Civil remedies.

Sec. 13. This act does not affect any civil remedies for damage to public utility facilities and does not affect any civil remedies a person may have for actual damage to the person's property caused by a public utility's negligence in staking its facilities, except as otherwise specifically provided for in this act.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.714 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.714 Civil action; damage to underground facilities; liability.

Sec. 14. In a civil action in a court of this state, when it is shown by competent evidence that damage to the underground facilities of a public utility resulted from excavating, tunneling, drilling or boring procedures, or demolishing operations, or the discharge of explosives, as described in section 3, and that the person responsible for giving the notice of intent to excavate, tunnel, demolish, or discharge explosives failed to give the notice, or the person did not employ hand-digging or failed to provide support, the person shall be liable for the resulting damage to the underground facilities, but the liability for damages shall be reduced in proportion to the negligence of the public utility if it fails to comply with section 8.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.715 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.715 Injunction; penalties.

Sec. 15. A person who damages the facilities of a public utility on more than 3 occasions on any 1 construction contract location because of his or her failure to comply with any of the provisions of this act may be enjoined from engaging in any further excavating, demolition, discharging of explosives, drilling or boring procedures, or tunneling work within the state, except under such terms and conditions as the court may prescribe to insure the safety of the public. A court may prescribe such penalties as it considers necessary or appropriate for violation of the injunctive order up to a maximum of \$5,000.00 per violation.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.716 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.716 Removal or destruction of stakes or other physical markings as misdemeanor; penalty.

Sec. 16. A person who willfully removes or otherwise destroys the stakes or other physical markings used by a public utility to mark the approximate location of underground facilities is guilty of a misdemeanor, and shall be fined not more than \$5,000.00, for each offense or imprisoned for not more than 1 year, or both.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1989, Act 248, Imd. Eff. Dec. 21, 1989.

***** 460.717 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.717 Severability.

Sec. 17. If any provision of this act or the application thereof to any person or public agency or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or public agencies or circumstances shall not be affected thereby.

History: 1974, Act 53, Eff. Apr. 1, 1975;—Am. 1975, Act 204, Imd. Eff. Aug. 20, 1975.

***** 460.718 THIS SECTION IS REPEALED BY ACT 174 OF 2013 EFFECTIVE APRIL 1, 2014 *****

460.718 Effective date.

Sec. 18. This act shall become effective August 1, 1974.

History: 1974, Act 53, Eff. Apr. 1, 1975.

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