



## **118th MAINE LEGISLATURE**

## **FIRST REGULAR SESSION-1997**

Legislative Document

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No. 1598

S.P. 514

In Senate, March 20, 1997

An Act to Provide for Enforcement of the Laws Regarding the Protection of Underground Utility Facilities.

Reference to the Committee on Utilities and Energy suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator PENDLETON of Cumberland. Cosponsored by Senators: CAREY of Kennebec, CASSIDY of Washington, LaFOUNTAIN of York, O'GARA of Cumberland, Representatives: DRISCOLL of Calais, GIERINGER of Portland, O'NEAL of Limestone, TAYLOR of Cumberland.

| <ul> <li>Sc. 1. 23 MRSA §3360-A, sub-§1, ¶A-1 is enacted to read:</li> <li>A.1. "Department" means the Department of Public Safety.</li> <li>Sc. 2. 23 MRSA §3360-A, sub-§§11 to 13 are enacted to read:</li> <li>11. Rulemaking. No later than January 1, 1998, the department shall adopt rules to establish:</li> <li>A. Minimum requirements for the enforcement of this chaptering to the operation of the system; and</li> <li>C. Bergency situations for which notice of excavation is not required.</li> <li>The Commissioner of Public Safety shall consult with the chair of transportation and the Commissioner of Environmental Protection to ensure that the views of those departments are considered in the development of the rules, Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, which subchapter II-A.</li> <li>A.1. Enforcement. The department of the section.</li> <li>An excavator or utility company that suffers damage resulting further section.</li> <li>An excavator or utility acompany that suffers damage resulting further an enforcement action.</li> <li>J. Injunctions. A company that one or maintains an inforground utility facility may commence an action for a further action.</li> <li>Butharty Tacility may commence an action for a further action in a subscience or injunction to prevent a person for a proposing to make an excavation in a negligent or unsafe manner that may result in damage to the underground utility facility may commence an action for a further activity.</li> </ul>  | Be it enacted by the Peop  | ole of the State of Maine as follows:         |
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| <text><list-item><list-item><list-item><text><text><text><text><text><text><text></text></text></text></text></text></text></text></list-item></list-item></list-item></text>   | Sec. 1. 23 MRSA §          | 3360-A, sub-§1, ¶A-1 is enacted to read:      |
| <ol> <li>Allemaking. No later than January 1, 1998, the department shall adopt rules to establish:</li> <li>A. Minimum requirements for the enforcement of this chapter:</li> <li>B. Procedures for the investigation of complaints relating to the operation of the system; and</li> <li>C. Emergency situations for which notice of excavation is not required.</li> <li>The Commissioner of Public Safety shall consult with the chair of the ensortation and the Commissioner of Environmental Protection of ensure that the views of those departments are considered in the evelopment of the rules. Rules adopted pursuant to this ubsection are routine technical rules as defined in Title 5, and the commissioner of this section.</li> <li>Safety may enforce the provisions of this section is subsect to a civil penalty determined by the department as authorized by this section.</li> <li>Is excavator or utility company that suffers damage resulting formation of this section.</li> <li>Is injunctions. A company that one or maintains are imported by this section.</li> <li>Is injunctions of company that one or maintains are imported by the department to intit at an enforcement action.</li> <li>Is injunctions of company that one or maintains are imported by this section.</li> <li>Is injunctions of company that one or maintains are imported or proposing to make an excavation in a negligent or a tribulity formation to prevent a person of making or proposing to make an excavation in a negligent or an endor or making or proposing to make an excavation in a negligent or a tribulity formation to prevent a person of making or proposing to make an excavation in a negligent or a tribulity formation to the the department or infinite to the underground utility formation, and the department of the section.</li> </ol> | <u>A-1. "Departmen</u>     | t" means the Department of Public Safety.     |
| <ul> <li>department shall adopt rules to establish:</li> <li>A. Minimum requirements for the enforcement of this chapter;</li> <li>B. Procedures for the investigation of complaints relating to the operation of the system; and</li> <li>C. Emergency situations for which notice of excavation is not required.</li> <li>The Commissioner of Public Safety shall consult with the chair of the Public. Utilities Commission, the Commissioner of Transportation and the Commissioner of Environmental Protection to ensure that the views of those departments are considered in the development of the rules. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.</li> <li>12. Enforcement. The department or any departmental employee or class of employees designated by the Commissioner of Public Safety may enforce the provisions of this section.</li> <li>An excavator or utility company that violates this section is subject to a civil penalty determined by the department to initiate an enforcement action.</li> <li>13. Injunctions. A company that suffers damage resulting from a violation of this section may petition the department to initiate an enforcement action.</li> <li>13. Injunctions. A company that owns or maintains an underground utility facility may commence an action for a temporary restraining order or injunction to prevent a person from making or proposing to make an excavation in a negligent or unsafe manner that may result in damage to the underground utility facility.</li> </ul>   | Sec. 2. 23 MRSA §          | 3360-A, sub-§§11 to 13 are enacted to read:   |
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