

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 1892

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H.P. 1358

House of Representatives, December 24, 2019

### **An Act To Make Changes to the So-called Dig Safe Law**

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Submitted by the Public Utilities Commission pursuant to Joint Rule 203.

Received by the Clerk of the House on December 20, 2019. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BERRY of Bowdoinham.  
Cosponsored by Senator LAWRENCE of York and  
Representative: LANDRY of Farmington, Senator: BLACK of Franklin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 23 MRSA §3360-A, sub-§1, ¶E**, as amended by PL 2011, c. 588, §2, is  
3 further amended to read:

4 E. "Underground facility" means any item of personal property buried or placed  
5 below ground for use in connection with the storage or conveyance of water, sewage,  
6 electronic, telephonic or telegraphic communications, electric energy, oil, gas or  
7 other substances and including, but not limited to, pipes, sewers, conduits, cables,  
8 valves, lines, wires, manholes, attachments, appurtenances and those parts of poles  
9 below ground. This definition Except for liquefied propane gas distribution systems  
10 that have underground pipes, "underground facility" does not include liquefied  
11 propane gas distribution systems that are not included within the scope of 49 Code of  
12 Federal Regulations, Part 192 and. "Underground facility" does not include highway  
13 drainage culverts or under drains.

14 **Sec. 2. 23 MRSA §3360-A, sub-§6-C**, as amended by PL 2011, c. 588, §9, is  
15 further amended to read:

16 **6-C. Penalties.** In an adjudicatory proceeding, the Public Utilities Commission may,  
17 in accordance with this subsection, impose an administrative penalty on any person who  
18 violates this subsection. The administrative penalty may not exceed ~~\$500~~ \$1,000, except  
19 that, if the person has been found in violation of this subsection within the prior 12  
20 months, the administrative penalty may not exceed ~~\$5,000~~ \$10,000. Administrative  
21 penalties imposed pursuant to this subsection are in addition to any other remedies or  
22 forfeitures provided by law and any liability that may result from the act or omission  
23 constituting the violation. Before imposing any penalties under this subsection, the  
24 commission shall consider evidence of the record of the violator, including, to the extent  
25 applicable, the number of successful excavations undertaken by the violator or the  
26 number of locations successfully marked by the violator during the prior 12 months. The  
27 commission may require a person who violates any provision of this section to  
28 participate, at the expense of the violator, in an educational program developed and  
29 conducted by the system.

30 The Public Utilities Commission may impose administrative penalties for any of the  
31 following violations:

32 A. Failure of an excavator to give notice of an excavation as required under  
33 subsection 3, except to the extent the excavator is exempt from the provisions of  
34 subsection 3 pursuant to other provisions of this section;

35 B. Excavation by an excavator in a reckless or negligent manner that poses a threat  
36 to an underground facility;

37 C. Excavation by an excavator that does not comply with the requirements of  
38 subsection 4-C, except to the extent the excavator is exempt from the provisions of  
39 subsection 4-C pursuant to subsection 5-C;

40 D. Failure of an underground facility operator to mark the location of the operator's  
41 underground facilities within the time limits required by subsection 4;

1 E. Marking by an underground facility operator of the location of an underground  
2 facility in a reckless or negligent manner; or

3 F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D,  
4 5-E, 5-I or 5-J.

5 The commission shall establish by rule standards for when and at what level penalties  
6 must be assessed under this subsection. Rules adopted under this subsection are major  
7 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

8 **SUMMARY**

9 This bill specifies that liquefied propane gas distribution systems that have  
10 underground pipes are subject to the so-called dig safe law.

11 It also increases the administrative penalties for violations of the so-called dig safe  
12 law from \$500 to \$1,000 for a violation and from \$5,000 to \$10,000 for a subsequent  
13 violation occurring within 12 months of an earlier violation.