

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

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was not in accordance with the filed rate applicable to him or was based upon error. The customer shall attempt to settle any dispute concerning the alleged overcharge or billing error at an informal hearing with the utility company prior to filing a complaint with the commission. If the customer is dissatisfied with the utility company decision, the customer may appeal the decision to the commission. The commission shall not order a rebate for a billing error or excessive charge that antedates the order by more than 6 years.

Effective September 14, 1979

CHAPTER 362

H. P. 838 — L. D. 1036

AN ACT Relating to the Protection of Underground Facilities.

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

Sec. 1. 23 MRSA § 3360, as enacted by PL 1971, c. 284, is repealed.

Sec. 2. 23 MRSA § 3360-A is enacted to read:

§ 3360-A. Protection of underground facilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Business day" means any day other than Saturday, Sunday or a legal holiday.

B. "Emergency excavation" means immediate excavation necessary to prevent injury, death or loss of an existing vital service.

C. "Excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable or pipe driving, except tilling of soil and gardening or agricultural purposes.

D. "Person" means an individual, partnership, municipality, state, county, political subdivision, utility, joint venture or corporation and includes the employer of an individual.

E. "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes,

sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances and those parts of poles below ground. This definition shall not include highway drainage culverts or under drains.

2. **Responsibility of designers.** Architects, engineers or other persons designing or requiring excavation shall obtain recorded information from persons with underground facilities, as to the nature and location of underground facilities and then make the information and location a part of the plan by which the contractors operate.

3. **Notice to be given to utilities.** Except as hereafter provided, no person shall begin excavation without first notifying any person having underground facilities in the area of the proposed excavation, except an employee with respect to his employer's facility. This notice shall be in writing or in person, to be delivered to the utility at its area place of business, at least 3 working days prior to the commencement of excavation.

4. **Responsibility of utility.** A person shall, upon receipt of the notice provided for in subsection 3, advise the excavator of the location and size of underground facilities in the proposed excavation area by marking the location of the facilities with stakes, paint or by other identifiable marking within 36 inches horizontally from the exterior sides of the underground facilities and the depth of the underground facility, if known. The person providing information shall respond no later than 2 full business days after receipt of the notice. It shall be the responsibility of the excavator to maintain those location markings until the excavations are completed.

5. **Emergency excavations exempt.** Emergency excavations are exempt from the provisions of this section.

6. **Liability of excavator.** If information pursuant to subsections 3 and 4 is not provided within the time specified therein, or if the information provided fails to identify the location of the underground facilities in accordance with subsection 4, then any person damaging or injuring underground facilities shall not be liable for damage or injury, except on proof of negligence.

7. **Imprudent action.** Compliance with this section does not excuse a person from acting in a careful and prudent manner nor does compliance with this section excuse a person from liability for damage or injury for failure to so act.

8. **Effect on existing statutes or ordinances.** Nothing contained in this section shall be construed to effect or impair any statute or ordinance requiring permits for excavation in a street or public highway.

9. **Exceptions.**

A. Nothing in this section shall apply to a public utility, municipal public works department or sewer district, if written or verbal notice of the approximate location and time of that excavation is given by that utility,

department or district to a designated representative of those other utilities, districts, municipal sewer or public works departments prior to any excavation taking place.

B. Nothing in this section shall apply to state and state aid highway construction and maintenance activities performed by state maintenance forces.

Effective September 14, 1979

CHAPTER 363

H. P. 545 — L. D. 676

AN ACT to Clarify Certain Provisions Relating to the Statistical Reporting of Abortions.

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

Sec. 1. 22 MRSA § 1596, sub-§ 1, ¶A, as enacted by PL 1977, c. 696, § 186, is amended to read:

A. "Abortion" means the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical, or the ingestion of chemical agents with an intention other than to produce a live birth or to remove a dead fetus.

Sec. 2. 22 MRSA § 1596, sub-§ 1, ¶B, as enacted by PL 1977, c. 696, § 186, is amended to read:

B. "Miscarriage" means an interruption of a pregnancy other than as provided in paragraph A of a fetus of less than 20 weeks gestation.

Sec. 3. 22 MRSA § 1596, sub-§ 2, as enacted by PL 1977, c. 696, § 186, is repealed and the following enacted in its place:

2. Reports. A report of each abortion performed and a report of each miscarriage which occurs when a physician is in attendance shall be made to the Department of Human Services on forms prescribed by the department. These report forms shall not identify the patient by name or otherwise and shall contain only the information requested on the United States Standard Report of Induced Termination of Pregnancy, published by the National Center for Health Statistics, dated January 1978.

The form containing that information and data shall be prepared by the attending physician, signed by him and transmitted to the department not later than 10 days following the end of the month in which the abortion is performed or the miscarriage occurs.