

HOUSE BILL 861

C5

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By: **Delegates Hornberger, Arikan, Griffith, Jacobs, and Krebs**

Introduced and read first time: February 3, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Underground Facilities – Time-Sensitive Ticket**

3 FOR the purpose of requiring an owner-member whose underground facility provides
4 broadband service to mark the location of the underground facility within a certain
5 number of hours after a time-sensitive ticket is transferred to the owner-member;
6 defining “time-sensitive ticket”; making conforming changes; and generally relating
7 to underground facilities.

8 BY repealing and reenacting, without amendments,

9 Article – Public Utilities

10 Section 12-101(a), (j), (k), (m), and (o)

11 Annotated Code of Maryland

12 (2010 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Public Utilities

15 Section 12-126

16 Annotated Code of Maryland

17 (2010 Replacement Volume and 2019 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Public Utilities**

21 12-101.

22 (a) In this subtitle the following words have the meanings indicated.

23 (j) (1) “Owner” means a person that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) owns or operates an underground facility; and

2 (ii) has the right to bury an underground facility.

3 (2) "Owner" includes:

4 (i) a public utility;

5 (ii) a telecommunications corporation;

6 (iii) a cable television corporation;

7 (iv) a political subdivision;

8 (v) a municipal corporation;

9 (vi) a steam heating company;

10 (vii) an authority; and

11 (viii) a unit of the State.

12 (k) "Owner-member" means an owner that participates as a member in a
13 one-call system.

14 (m) "Ticket" means a numbered document issued by a one-call system to notify
15 owner-members that:

16 (1) a person intends to perform an excavation or demolition; or

17 (2) a designer has requested information on the location of underground
18 facilities under § 12-131 of this subtitle.

19 (o) (1) "Underground facility" means personal property that is buried or
20 submerged for:

21 (i) use in connection with the storage or conveyance of water,
22 sewage, oil, gas, or other substances; or

23 (ii) transmission or conveyance of electronic, telephonic, or
24 telegraphic communications or electricity.

25 (2) "Underground facility" includes pipes, sewers, conduits, cables, valves,
26 lines, wires, manholes, attachments, and those portions of poles below ground.

27 (3) "Underground facility" does not include a stormwater drain.

1 12-126.

2 (a) IN THIS SECTION, “TIME-SENSITIVE TICKET” MEANS A TICKET THAT
3 THE PERSON INITIATING A TICKET REQUEST IDENTIFIES AS REQUIRING AN
4 OWNER-MEMBER TO MARK ITS UNDERGROUND FACILITY PROMPTLY IN ORDER TO
5 MINIMIZE DAMAGE TO PROPERTY, SUCH AS PROPERTY DAMAGE CAUSED BY A WATER
6 MAIN BREAK OR A SIMILAR UNANTICIPATED EVENT.

7 (B) An owner-member shall mark its underground facility if the owner-member
8 has determined that a proposed excavation or demolition:

9 (1) is within 5 feet of the horizontal plane of the underground facility; or

10 (2) because of planned blasting, is so near to the underground facility that
11 the underground facility may be damaged or disturbed.

12 [(b)] (C) (1) An owner-member shall mark the location of its underground
13 facility by marking on the ground within 18 inches on a horizontal plane on either side of
14 the underground facility.

15 (2) (i) When marking the location of an underground facility, an
16 owner-member shall use the current color codes established by the American Public Works
17 Association for marking underground facilities.

18 (ii) If two or more owner-members share the same color code, each
19 owner-member shall include information with the marking that indicates the
20 owner-member of the marked underground facility.

21 [(c)] (D) Except as provided in [subsection (d)] SUBSECTIONS (E) AND (F) of
22 this section, within 2 business days after the day on which a ticket is transferred to an
23 owner-member, the owner-member shall:

24 (1) mark the location of the owner-member’s underground facility and
25 report to the underground facilities information exchange system that the underground
26 facility has been marked; or

27 (2) report to the underground facilities information exchange system that
28 the owner-member has no underground facilities in the vicinity of the planned excavation
29 or demolition.

30 (E) AN OWNER-MEMBER WHOSE UNDERGROUND FACILITY PROVIDES
31 BROADBAND SERVICE SHALL MARK THE LOCATION OF THE UNDERGROUND
32 FACILITY WITHIN 4 HOURS AFTER A TIME-SENSITIVE TICKET IS TRANSFERRED TO
33 THE OWNER-MEMBER.

34 [(d)] (F) (1) If an owner-member is unable to mark the location of the

1 owner–member’s underground facility within the time period prescribed in [subsection (c)]
2 **SUBSECTION (D) OR (E)** of this section because of the scope of the proposed excavation or
3 demolition, the owner–member shall:

4 (i) promptly notify the underground facilities information exchange
5 system and the person that intends to perform the excavation or demolition; and

6 (ii) work with the person that intends to perform the excavation or
7 demolition to develop a mutually agreeable schedule for marking the underground facility.

8 (2) If the owner–member and person that intends to perform the
9 excavation or demolition cannot reach a mutually agreeable schedule for marking under
10 paragraph (1) of this subsection, the owner–member shall mark that portion of the site
11 where excavation or demolition will first occur, and the owner–member shall mark the
12 remainder of the site within a reasonable time.

13 (3) If, due to circumstances beyond an owner–member’s control and for
14 reasons other than those specified in paragraph (1) of this subsection, an owner–member
15 is unable to mark the location of the owner–member’s underground facility within the time
16 period prescribed in [subsection (c)] **SUBSECTION (D) OR (E)** of this section, the
17 owner–member shall report to the underground facilities information exchange system that
18 an extension is required.

19 (4) In connection with extensive or contiguous excavation or demolition
20 projects, the person performing the excavation or demolition and the owner–member may
21 establish a working agreement regarding the time periods for marking the underground
22 facility.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2020.