

1 AMENDMENT TO HOUSE BILL 2839

2 AMENDMENT NO. _____. Amend House Bill 2839 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by changing Sections 4, 7,
6 and 10 as follows:

7 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

8 Sec. 4. Required activities. Every person who engages
9 in nonemergency excavation or demolition shall:

10 (a) take reasonable action to inform himself of the
11 location of any underground utility facilities or CATS
12 facilities in and near the area for which such operation is
13 to be conducted;

14 (b) plan the excavation or demolition to avoid or
15 minimize interference with underground utility facilities or
16 CATS facilities within the tolerance zone by utilizing such
17 precautions that include, but are not limited to, hand
18 excavation, vacuum excavation methods, and visually
19 inspecting the excavation while in progress until clear of
20 the existing marked facility;

21 (c) if practical, use white paint, flags, stakes, or
22 both, to outline the dig site;

1 (d) provide notice not ~~more than 14 days nor~~ less than
2 48 hours (exclusive of Saturdays, Sundays and holidays) but
3 no more than 14 calendar days in advance of the start of the
4 excavation or demolition to the owners or operators of the
5 underground utility facilities or CATS facilities in and near
6 the excavation or demolition area through the State-Wide
7 One-Call Notice System or, in the case of nonemergency
8 excavation or demolition within the boundaries of a
9 municipality of at least one million persons which operates
10 its own one-call notice system, through the one-call notice
11 system which operates in that municipality;

12 (e) provide, during and following excavation or
13 demolition, such support for existing underground utility
14 facilities or CATS facilities in and near the excavation or
15 demolition area as may be reasonably necessary for the
16 protection of such facilities unless otherwise agreed to by
17 the owner or operator of the underground facility or CATS
18 facility; and

19 (f) backfill all excavations in such manner and with
20 such materials as may be reasonably necessary for the
21 protection of existing underground utility facilities or CATS
22 facilities in and near the excavation or demolition area;
23 and-

24 (g) After February 29, 2004, when the excavation or
25 demolition project will extend past 28 calendar days from the
26 date of the original notice provided under clause (d), the
27 excavator shall provide a subsequent notice to the owners or
28 operators of the underground utility facilities or CATS
29 facilities in and near the excavation or demolition area
30 through the State-Wide One-Call Notice System, informing
31 utility owners and operators that additional time to complete
32 the excavation or demolition project will be required. The
33 notice will provide the excavator with an additional 28
34 calendar days from the date of the subsequent notification to

1 continue or complete the excavation or demolition project.

2 At a minimum, the notice required under clause (d) shall
3 provide:

4 (1) the person's name, address, and (i) phone
5 number at which a person can be reached and (ii) fax
6 number;

7 (2) the start date of the planned excavation or
8 demolition;

9 (3) the address at which the excavation or
10 demolition will take place;

11 (4) the type and extent of the work involved; and

12 (5) section/quarter sections when the above
13 information does not allow the State-Wide One-Call Notice
14 System to determine the appropriate geographic
15 section/quarter sections. This item (5) does not apply
16 to residential property owners.

17 Nothing in this Section prohibits the use of any method
18 of excavation if conducted in a manner that would avoid
19 interference with underground utility facilities or CATS
20 facilities.

21 (Source: P.A. 92-179, eff. 7-1-02.)

22 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

23 Sec. 7. Damage or dislocation. In the event of any
24 damage to or dislocation of any underground utility
25 facilities or CATS facilities in connection with any
26 excavation or demolition, emergency or nonemergency, the
27 person responsible for the excavation or demolition
28 operations shall immediately notify the affected utility and
29 the State-Wide One-Call Notice System. Owners and operators
30 of underground utility facilities that are damaged and the
31 excavator involved shall work in a cooperative and
32 expeditious manner to repair the affected utility.

33 (Source: P.A. 92-179, eff. 7-1-02.)

1 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

2 Sec. 10. Record of notice; marking of facilities. Upon
3 notice by the person engaged in excavation or demolition, the
4 person owning or operating underground utility facilities or
5 CATS facilities in or near the excavation or demolition area
6 shall cause a written record to be made of the notice and
7 shall mark, within 48 hours (excluding Saturdays, Sundays and
8 holidays) of receipt of notice, the approximate locations of
9 such facilities so as to enable the person excavating or
10 demolishing to establish the location of the underground
11 utility facilities or CATS facilities. Owners and operators
12 of underground sewer facilities shall be required to respond
13 and mark the approximate location of their sewer facilities
14 when the excavator indicates, in the notice required in
15 Section 4, that the excavation or demolition project will
16 exceed a depth of 7 feet. "Depth", in this case, is defined
17 as the distance measured vertically from the surface of the
18 ground to the top of the sewer facility. Owners and
19 operators of underground sewer facilities shall be required
20 at all times to locate the approximate location of their
21 sewer facilities when: (1) directional boring is the
22 indicated type of excavation work being performed within the
23 notice; (2) the underground sewer facilities owned are
24 non-gravity, pressurized force mains; or (3) the excavation
25 indicated will occur in the immediate proximity of known
26 underground sewer facilities that are less than 7 feet deep.
27 Owners or operators of underground sewer facilities shall not
28 hold an excavator liable for damages that occur to sewer
29 facilities that were not required to be marked under this
30 Section, provided that prompt notice of the damage is made to
31 the State-Wide One Call Notice System and the utility owner
32 as required in Section 7.

33 All persons subject to the requirements of this Act shall
34 plan and conduct their work consistent with reasonable

1 business practices. Conditions may exist making it
2 unreasonable to request that locations be marked within 48
3 hours. It is unreasonable to request owners and operators of
4 underground utility facilities and CATS facilities to locate
5 all of their facilities in an affected area upon short notice
6 in advance of a large or extensive nonemergency project, or
7 to request extensive locates in excess of a reasonable
8 excavation or demolition work schedule, or to request locates
9 under conditions where a repeat request is likely to be made
10 because of the passage of time or adverse job conditions.
11 Owners and operators of underground utility facilities and
12 CATS facilities must reasonably anticipate seasonal
13 fluctuations in the number of locate requests and staff
14 accordingly.

15 If a person owning or operating underground utility
16 facilities or CATS facilities receives a notice under this
17 Section but does not own or operate any underground utility
18 facilities or CATS facilities within the proposed excavation
19 or demolition area described in the notice, that person,
20 within 48 hours (excluding Saturdays, Sundays, and holidays)
21 after receipt of the notice, shall so notify the person
22 engaged in excavation or demolition who initiated the notice,
23 unless the person who initiated the notice expressly waives
24 the right to be notified that no facilities are located
25 within the excavation or demolition area. The notification
26 by the owner or operator of underground utility facilities or
27 CATS facilities to the person engaged in excavation or
28 demolition may be provided in any reasonable manner
29 including, but not limited to, notification in any one of the
30 following ways: by face-to-face communication; by phone or
31 phone message; by facsimile; by posting in the excavation or
32 demolition area; or by marking the excavation or demolition
33 area. The owner or operator of those facilities has
34 discharged the owner's or operator's obligation to provide

1 notice under this Section if the owner or operator attempts
 2 to provide notice by telephone or by facsimile, if the person
 3 has supplied a facsimile number, but is unable to do so
 4 because the person engaged in the excavation or demolition
 5 does not answer his or her telephone or does not have an
 6 answering machine or answering service to receive the
 7 telephone call or does not have a facsimile machine in
 8 operation to receive the facsimile transmission. If the
 9 owner or operator attempts to provide notice by telephone or
 10 by facsimile but receives a busy signal, that attempt shall
 11 not serve to discharge the owner or operator of the
 12 obligation to provide notice under this Section.

13 A person engaged in excavation or demolition may
 14 expressly waive the right to notification from the owner or
 15 operator of underground utility facilities or CATS facilities
 16 that the owner or operator has no facilities located in the
 17 proposed excavation or demolition area. Waiver of notice is
 18 only permissible in the case of regular or nonemergency
 19 locate requests. The waiver must be made at the time of the
 20 notice to the State-Wide One-Call Notice System. A waiver
 21 made under this Section is not admissible as evidence in any
 22 criminal or civil action that may arise out of, or is in any
 23 way related to, the excavation or demolition that is the
 24 subject of the waiver.

25 For the purposes of this Act, underground facility
 26 operators may utilize a combination of flags, stakes, and
 27 paint when possible on non-paved surfaces and when dig site
 28 and seasonal conditions warrant. If the approximate location
 29 of an underground utility facility or CATS facility is marked
 30 with stakes or other physical means, the following color
 31 coding shall be employed:

32	Utility or Community Antenna	Identification Color
33	Television Systems and Type	
34	of Product	

1	Electric Power, Distribution and	
2	Transmission.....	Safety Red
3	Municipal Electric Systems.....	Safety Red
4	Gas Distribution and Transmission.....	High Visibility
5		Safety Yellow
6	Oil Distribution and Transmission.....	High Visibility
7		Safety Yellow
8	Telephone and Telegraph Systems.....	Safety Alert Orange
9	Community Antenna Television Systems..	Safety Alert Orange
10	Water Systems.....	Safety
11		Precaution Blue
12	Sewer Systems.....	Safety Green
13	Non-potable Water and Slurry Lines....	Safety Purple
14	Temporary Survey.....	Safety Pink
15	Proposed Excavation.....	Safety White (<u>Black</u>
16		<u>when snow is</u>
17		<u>on the ground</u>)

18 (Source: P.A. 92-179, eff. 7-1-02.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."