



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1647

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S.P. 638

In Senate, December 23, 2013

### **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 204.

Received by the Secretary of the Senate on December 23, 2013. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin.  
Cosponsored by Representative HOBBS of Saco.

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 does not include liquefied propane gas distribution  
10 systems that provide service to single-family residences or to businesses with fewer  
11 than 5 employees or are not included within the scope of 49 Code of Federal  
12 Regulations, Part 192 and also does not include highway drainage culverts or under  
13 drains.

14 **Sec. 2. 23 MRSA §3360-A, sub-§3, ¶A**, as amended by PL 2003, c. 373, §1, is  
15 further amended to read:

16 A. In addition to any other notices required under this section, each excavator shall  
17 notify the system of the location of the intended excavation at least 3 business days  
18 but not more than ~~30~~ 60 calendar days prior to the commencement of excavation,  
19 except as provided in paragraph G.

20 **Sec. 3. 23 MRSA §3360-A, sub-§3, ¶E**, as amended by PL 2011, c. 72, §1, is  
21 further amended to read:

22 E. If the proposed excavation or blasting ~~does not commence within~~ commences or  
23 continues 60 calendar days ~~of~~ after notification under this subsection or the  
24 excavation or blasting will be expanded outside of the location originally specified in  
25 the notification, the excavator responsible for that excavation shall again notify the  
26 system as specified in paragraph A. The excavator shall notify the system once for  
27 each successive 60-day period.

28 **Sec. 4. 23 MRSA §3360-A, sub-§10-A, ¶B**, as enacted by PL 2011, c. 588, §11,  
29 is amended to read:

30 B. If the underground facilities are located on private property, provide service to a  
31 single-family residence and are owned and operated by the owner of that property:

32 (1) That landowner may mark the underground facilities in accordance with  
33 paragraph D;

34 (2) The excavator may wait 3 business days from the date of notification to  
35 commence the excavation or may commence the excavation upon notification;

36 (3) If the excavator waits 3 business days from the date of notification or until  
37 after the underground facilities are marked, if sooner, to commence excavation or  
38 if the markings made by the landowner pursuant to subparagraph (1) fail to  
39 identify the location of the underground facilities in accordance with paragraph

1 D, an excavator damaging or injuring underground facilities is not liable for any  
2 damage or injury caused by the excavation, except on proof of negligence; and

3 (4) If the excavator does not wait until the underground facilities are marked or 3  
4 business days from the date of notification to commence excavation, whichever  
5 occurs earlier, the excavator is liable for all damages to the underground facilities  
6 as a result of the excavation.

7 **SUMMARY**

8 This bill makes liquefied propane gas distribution systems that are not included  
9 within the scope of 49 Code of Federal Regulations, Part 192 subject to the so-called Dig  
10 Safe Law, with the exception of distribution systems that provide service to single-family  
11 residences or businesses with fewer than 5 employees. The bill also changes the  
12 requirement that an excavator notify the Dig Safe system of the location of the intended  
13 excavation from not more than 30 calendar days prior to commencement of the  
14 excavation to not more than 60 days, in order to make the requirement consistent with  
15 other sections of the statute, and clarifies that excavators must renew notification to the  
16 owners or operators of underground facilities for each successive 60-day period during  
17 which they will be excavating.

18 Finally, the bill clarifies that the provision that allows excavators to commence  
19 excavation on underground facilities located on private property that are owned and  
20 operated by the owner of that property before those facilities are marked or the passing of  
21 3 business days from the date of notification, whichever occurs earlier, only applies when  
22 the underground facilities provide service to a single-family residence.