



131st MAINE LEGISLATURE

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Legislative Document

No. 2245

S.P. 967

In Senate, March 5, 2024

An Act to Clarify the Definition of "Underground Facility" and Reduce Administrative Burdens Under the So-called Dig Safe Law

Reported by Senator LAWRENCE of York for the Joint Standing Committee on Energy, Utilities and Technology pursuant to Resolve 2023, chapter 47, section 3.

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed pursuant to Joint Rule 218.

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

DAREK M. GRANT
Secretary of the Senate

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 2019, c. 592, §1, is
3 further amended to read:

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

14 (1) Highway drainage culverts or under drains; or

15 (2) Liquefied propane gas distribution systems that have underground pipes
16 located on a residential lot if:

17 (a) The residential lot has no more than one structure connected by
18 underground pipes to a liquefied propane gas distribution system;

19 (b) The structure that is connected by underground pipes to a liquefied propane
20 gas distribution system contains no more than 2 dwelling units; and

21 (c) The liquefied propane gas tank is located 25 feet or less from that structure.

22 **Sec. 2. 23 MRSA §3360-A, sub-§1, ¶F**, as amended by PL 2001, c. 577, §3, is
23 further amended to read:

24 F. "Underground facility operator" means the owner or operator of any underground
25 facility, other than an underground oil storage facility as defined in Title 38, section
26 562-A, subsection 21 or an airport aviation fuel hydrant piping system, used in
27 furnishing electric, telephone, telegraph, gas, petroleum transportation, liquefied
28 propane gas or cable television service. "Underground facility operator" does not
29 include a municipality or a public utility with fewer than 5 full-time employees or fewer
30 than 300 customers or a person that owns underground facilities on its own property
31 for commercial or residential purposes.

32 **Sec. 3. Public Utilities Commission; rules.** The Public Utilities Commission
33 shall initiate rulemaking to amend its rule Chapter 895: Underground Facility Damage
34 Prevention Requirements to reduce the administrative burdens for underground facility
35 operators as defined in the Maine Revised Statutes, Title 23, section 3360-A, subsection 1,
36 paragraph F. Notwithstanding Title 23, section 3360-A, subsection 13, rules adopted
37 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
38 subchapter 2-A.

39 SUMMARY

40 This bill is reported out by the Joint Standing Committee on Energy, Utilities and
41 Technology pursuant to Resolve 2023, chapter 47, section 3. The bill does the following.

1 1. It provides that an underground facility includes any item of personal property buried
2 or placed below ground for use in connection with the storage or conveyance of liquefied
3 propane gas.

4 2. It exempts from the definition of "underground facility" liquefied propane gas
5 distribution systems that have underground pipes when that system is located on a
6 residential lot that has no more than one structure connected by underground pipes to the
7 liquefied propane gas distribution system, the structure has no more than 2 dwelling units
8 and the liquefied propane gas tank is located 25 feet or less from the structure.

9 3. It provides that the owner or operator of any underground facility furnishing
10 liquefied propane gas is considered an underground facility operator.

11 4. It directs the Public Utilities Commission to amend its rule Chapter 895:
12 Underground Facility Damage Prevention Requirements to reduce the administrative
13 burdens for underground facility operators under the so-called Dig Safe law and specifies
14 that rules adopted for these purposes are routine technical rules.

15 The committee has not taken a position on the substance of the bill. By reporting the
16 bill out the committee is not suggesting and does not intend to suggest that it agrees or
17 disagrees with any aspect of the bill. The committee is reporting the bill out for the sole
18 purpose of having a bill printed that can be referred to the committee for an appropriate
19 public hearing and subsequent processing in the normal course. The committee is taking
20 this action to ensure clarity and transparency in the legislative review of the proposals
21 contained in the bill.