

Chapter 114

(Senate Bill 464)

AN ACT concerning

Underground Facilities Damage Prevention – Enforcement

FOR the purpose of authorizing the Maryland Underground Facilities Damage Prevention Authority to impose certain enforcement measures on persons that perform excavation or demolition without providing required notice; and generally relating to underground facilities and damage prevention.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 12–135(a)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Utilities

12–135.

(a) (1) A person that performs an excavation or demolition without first providing the notice required under § 12–124(a) of this subtitle is deemed negligent and is subject to a civil penalty assessed by the Authority.

(2) The Authority shall calculate the civil penalty considering:

- (i) the severity of the violation;
- (ii) the intent and good faith of the violator; and
- (iii) the past history of violations.

(3) The civil penalty may not exceed:

- (i) \$2,000 for the first offense; and
- (ii) \$4,000 for each subsequent offense.

(4) A person that violates any other provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding:

- (i) \$2,000 for the first offense; and
- (ii) \$4,000 for each subsequent offense.

(5) INSTEAD OF OR IN ADDITION TO ASSESSING A CIVIL PENALTY UNDER THIS SUBSECTION, THE AUTHORITY MAY:

(I) REQUIRE THAT A PERSON:

- 1. PARTICIPATE IN DAMAGE PREVENTION TRAINING; OR**
- 2. IMPLEMENT PROCEDURES TO MITIGATE THE LIKELIHOOD OF DAMAGE TO UNDERGROUND FACILITIES; OR**

(II) IMPOSE OTHER SIMILAR MEASURES.

[(5)] (6) (i) For purposes of paragraphs (3)(ii) and (4)(ii) of this subsection, the Authority may not consider an offense to be a subsequent offense if the offense occurred at least 3 years after the earlier offense unless:

- 1. the earlier offense is unresolved, regardless of the age of the earlier offense; or
- 2. the person has not met the conditions of an assessed penalty within the time period prescribed.

(ii) In the case of an unresolved earlier offense or a failure to meet the conditions under subparagraph (i) of this paragraph, the Authority may assess up to double the maximum civil penalty for each violation.

[(6)] (7) A person that fails to appear before the Authority without cause, after proper notification of a scheduled hearing, may be subject to a \$200 fine in addition to any civil penalty assessed by the Authority.

[(7)] (8) A person that files an emergency ticket that does not meet the definition of emergency under § 12–101 of this subtitle may be subject to the maximum penalties available under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 12, 2022.