
Accompanying the first recommendation of the Department of Public Utilities
(House, No. 41). Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Nine.

AN ACT TO REQUIRE NOTICE TO BE GIVEN BEFORE MAKING AN
EXCAVATION IN A PUBLIC WAY.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 Chapter 82 of the General Laws is hereby amended by insert-
2 ing after section 39 the following section: —

3 *Section 40.* No person, other than a direct employee of a
4 utility, except in an emergency, shall make an excavation in
5 a public way unless he has first given at least forty-eight hours'
6 notice in writing of the proposed excavation to natural gas pipe
7 line companies and such public utilities as supply gas, electricity,
8 water and telephone service in the city or town in which the
9 land is located. Such notice shall set forth the name of the street,
10 or route number of the way, and a reasonably accurate state-
11 ment of the location in which the excavation is to be made. In
12 an emergency a written notice shall be filed as soon as practicable
13 thereafter.

14 Where an excavation is to be made by a contractor as part
15 of the work required by a contract with the commonwealth or
16 with any county, city or town or other public agency, for the
17 construction, reconstruction, relocation or improvement of a
18 public way or for the installation of a sewer or water main, such
19 contractor shall be deemed to have complied with the require-
20 ments of this section by giving one such notice setting forth the
21 location and approximate length of the project to each of said
22 affected companies at least forty-eight hours before beginning
23 work on said contract. Proper return notice shall be made by

24 said affected utilities designating the location, if any, of pipes
25 or conduits in the public way. Any such excavation shall be
26 performed in such manner, and the necessary precautions taken,
27 to avoid damage to the pipes or conduits of the utilities in use
28 under the surface of said way. Any person failing to give the
29 notification required by this section shall be punished by a fine
30 of not more than fifty dollars. Nothing contained in this section
31 shall be construed to affect or impair local ordinances by cities
32 or towns to require permits before excavating in the public way.