

SENATE BILL 464

C5

EMERGENCY BILL

2lr1396
CF HB 350

By: ~~Senators Feldman and Hershey~~, **Hershey, and Klausmeier**

Introduced and read first time: January 27, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2022

CHAPTER _____

1 AN ACT concerning

2 **Underground Facilities Damage Prevention – Enforcement**

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

7 BY repealing and reenacting, with amendments,
8 Article – Public Utilities
9 Section 12–135(a)
10 Annotated Code of Maryland
11 (2020 Replacement Volume and 2021 Supplement)

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

14 **Article – Public Utilities**

15 12–135.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

4 (3) The civil penalty may not exceed:

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

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

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

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

13 **(I) REQUIRE THAT A PERSON:**

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

17 **(II) IMPOSE OTHER SIMILAR MEASURES.**

18 **[(5)] (6)** (i) For purposes of paragraphs (3)(ii) and (4)(ii) of this
19 subsection, the Authority may not consider an offense to be a subsequent offense if the
20 offense occurred at least 3 years after the earlier offense unless:

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

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

1 **[(6)] (7)** A person that fails to appear before the Authority without cause,
2 after proper notification of a scheduled hearing, may be subject to a \$200 fine in addition
3 to any civil penalty assessed by the Authority.

4 **[(7)] (8)** A person that files an emergency ticket that does not meet the
5 definition of emergency under § 12–101 of this subtitle may be subject to the maximum
6 penalties available under this subsection.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.