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HOUSE BILL NO. 1245

House Amendments in [] - February 3, 2006

A BILL to amend and reenact § 56-467 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-467.1, relating to the duty to restore the surface of property disturbed by the installation of certain facilities and notice prior to conducting ground-disturbing activities.

Patron Prior to Engrossment—Delegate Hugo

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-467 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-467.1, as follows:

§ 56-467. Restoring condition of ground.

The portions of the surface of the parks, roads, turnpikes, streets, avenues, or alleys, or of any pavements, lawns, fields, driveways, or other surface area, whether public or private, that are opened up or disturbed in erecting, repairing, laying or replacing poles, wires, conduits or cables; or in repairing conduits under the provisions of this chapter shall be immediately restored, as nearly as is practicable, to their condition as existed prior to their being opened up or disturbed, and thereafter be maintained in good condition, by the company doing or contracting to have done such work; and in. In case of the failure of such company to restore and maintain the same:

1. The surface of public property, the corporate authorities of the city or town, or the board of supervisors or other governing authority of the county, or the chairman of the Commonwealth Transportation Board, as the case may be, may properly restore and maintain the same, and the costs thereof may be recovered by the city or town, or county, or Commonwealth, from such company, in any court of competent jurisdiction; and

2. The surface of private property, the fee owner or owners of the affected property, after 30 days notice in writing to the company of the intent to do so, may properly restore and maintain the same, and the costs thereof, together with interest thereon at the legal rate, court costs, and reasonable attorney fees, may be recovered by the owner or owners from such company in any court of competent jurisdiction.

§ 56-467.1. Notice of land-disturbing activities.

A. A company authorized to open up or disturb the surface of private property in erecting, repairing, laying or replacing poles, wires, conduits or cables under the provisions of this chapter shall send to the property's owner written notice of the company's intention to open up or disturb the surface of the property. The notice shall be sent to the owner a reasonably time prior to the scheduled commencement of the surface-disturbing activity in the vicinity of the property, by certified mail [~~and~~ or] be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business or (ii) delivered to the owner in person with evidence of receipt. The notice shall include the scheduled date for the commencement of the surface-disturbing activity, a description of the purpose and extent of the surface-disturbing activity, and sufficient information, including but not limited to telephone numbers, that the owner may utilize to contact the company and any contractor regarding the activity. [However, notice pursuant to this section shall not be required for any surface-disturbing activity conducted by such company in making emergency repairs that are necessitated by an unplanned interruption in utility service.]

B. A company that fails to give the owner notice as required by subsection A shall be liable to the owner for any actual damages incurred by the owner resulting from such failure. In any action filed under this section, the court may award the owner his reasonable attorneys' fees and court costs.

ENGROSSED

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