



General Assembly

January Session, 2007

**Raised Bill No. 1209**

LCO No. 4300

\*04300\_\_\_\_\_ET\_\*

Referred to Committee on Energy and Technology

Introduced by:  
(ET)

**AN ACT CONCERNING UTILITY MARKOUT TRAINING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-345 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*)

3 As used in this chapter:

4 (a) "Person" means an individual, partnership, corporation, limited  
5 liability company or association, including a person engaged as a  
6 contractor by a public agency but excluding a public agency.

7 (b) "Public agency" means the state or any political subdivision  
8 thereof, including any governmental agency.

9 (c) "Public utility" means the owner or operator of underground  
10 facilities for furnishing electric, gas, telephone, telegraph, pipeline,  
11 sewage, water, community television antenna, steam or traffic signal  
12 service, including a municipal or other public owner or operator.

13 (d) "Central clearinghouse" means the group of public utilities  
14 formed pursuant to section 16-348 for the purposes of receiving and

15 giving notice of excavation activity within the state.

16 (e) "Excavation" means an operation for the purposes of movement  
17 or removal of earth, rock or other materials in or on the ground, or  
18 otherwise disturbing the subsurface of the earth, by the use of  
19 powered or mechanized equipment, including but not limited to  
20 digging, blasting, auguring, back filling, test boring, drilling, pile  
21 driving, grading, plowing-in, hammering, pulling-in, trenching and  
22 tunneling; excluding the movement of earth by tools manipulated only  
23 by human or animal power and the tilling of soil for agricultural  
24 purposes.

25 (f) "Demolition" means the wrecking, razing, rending, moving or  
26 removing of any structure.

27 (g) "Damage" includes but is not limited to the substantial  
28 weakening of structural or lateral support of a utility line, penetration  
29 or destruction of any utility line protective coating, housing or other  
30 protective device or the severance, partial or complete, of any utility  
31 line.

32 (h) "Approximate location of underground facilities" means a strip  
33 of land not more than three feet wide or a strip of land extending not  
34 more than one and one-half feet on either side of the underground  
35 facilities.

36 (i) "Chairperson" means the chairperson of the Department of Public  
37 Utility Control.

38 (j) "Utility markout technician" means a person who is trained and  
39 experienced to mark the approximate location of underground utilities  
40 and who possess a valid certificate of registration to perform utility  
41 markouts.

42 (k) "Utility markout" means a marking made on the surface of the  
43 ground to identify the location of underground utilities.

44     (l) "Company" means a partnership, limited partnership, limited  
45 liability company, joint venture, sole proprietorship, trust or  
46 association having as one of its purposes the marking of the  
47 approximate location of underground utilities.

48     (m) "Department" means the Department of Public Utility Control.

49     Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding any  
50 provision of the general statutes, the Department of Public Utility  
51 Control shall issue a certificate of registration, in lieu of any otherwise  
52 required license, to a utility markout technician. The holder of said  
53 certificate shall perform utility markouts pursuant to this section,  
54 provided the firm that employs the utility markout technician certifies  
55 to the department that the employee has obtained such training and  
56 experience deemed necessary by the company to perform utility  
57 markouts included in such employee's job functions. The department  
58 shall issue a certificate of registration to any utility markout  
59 technicians employed by a company before October 1, 2007, who have  
60 completed a company's training program or who are participating in  
61 such a program on said date upon payment of the fee required by  
62 subsection (f) of this section.

63     (b) The content and duration of the training and experience  
64 programs provided by the company shall be relevant to the duties of  
65 the employee and shall be approved biennially by the department. In  
66 reviewing the programs and training provided by the company, the  
67 department shall consider the specialization of the employees of the  
68 company, the employee's previous company training, the service  
69 record of the company, the company's experience in training  
70 employees to perform utility markouts and the company's quality  
71 assurance measured.

72     (c) Any company shall issue a trainee's certificate to any employee  
73 enrolled in its training programs. Such trainee certificate shall be valid  
74 for the duration of the training program. An employee who holds a  
75 trainee certificate may perform utility markouts only under the

76 supervision of an employee of the company who is a registered utility  
77 markout technician.

78 (d) A company employing a utility markout technician shall inform  
79 the department upon the change in job description or termination of  
80 any registered utility markout technician previously certified pursuant  
81 to subsection (b) of this section and upon the issuance or termination  
82 of a trainee's certificate provided to an employee pursuant to  
83 subsection (c) of this section.

84 (e) A registered utility markout technician or employee of a  
85 company issued a trainee's certificate by such company may only  
86 perform such work on behalf of such company and only while in the  
87 direct employment of such company. Such registration or trainee's  
88 certificate shall be immediately relinquished upon termination of  
89 employment from such company.

90 (f) The registered utility markout technician's registration shall  
91 expire annually. Upon application for a license, the applicant shall pay  
92 to the department a nonrefundable application fee of forty-five dollars.  
93 The fee for registration as a registered utility markout technician shall  
94 be the same as the fee charged for a journeyman's license under section  
95 20-335 of the general statutes.

96 (g) The department may suspend or revoke a certificate granted or  
97 issued by it pursuant to this section if it determines that the holder of  
98 such certificate is convicted of a felony, is grossly incompetent,  
99 engages in malpractice or unethical conduct or knowingly makes false,  
100 misleading or deceptive representations regarding the holder's work.  
101 Before such suspension or revocation, the department shall give notice  
102 and an opportunity for a hearing to such holder as provided in  
103 regulations adopted by the chairperson. Any person whose certificate  
104 has been suspended may, after ninety days, apply to the department to  
105 have such certificate reinstated.

106 (h) The department may, after notice and hearing, impose a civil

107 penalty on any person who (1) engages in or practices utility markouts  
108 without having first obtained a trainee's certificate or registration for  
109 such work, (2) wilfully employs a person who does not have a  
110 certificate for such work, (3) wilfully and falsely pretends to qualify to  
111 engage in or practice such work, or (4) engages in or practices such  
112 work after the expiration of the certificate. Such penalty shall be in an  
113 amount not more than five hundred dollars for a first violation of this  
114 subsection, not more than seven hundred fifty dollars for a second  
115 violation and not more than one thousand five hundred dollars for  
116 each violation of this subsection occurring less than three years after a  
117 second or subsequent violation of this subsection.

118 (i) The department may act in accordance with the provisions of  
119 chapter 227 of the general statutes in the case of a person who (1)  
120 knowingly engages in fraud or material deception to obtain a  
121 certificate to perform utility markouts or doing so to aid another in  
122 obtaining such a certificate; (2) performs work beyond the scope of  
123 such a certificate; (3) illegally uses or transfers such a certificate; (4)  
124 performs incompetent or negligent utility markouts; (5) knowingly  
125 makes false, misleading or deceptive representations to the public  
126 regarding utility markouts to be performed; or (6) violates any  
127 provision of the general statutes or any regulation adopted thereunder,  
128 relating to the person's profession or occupation.

129 (j) In lieu of displaying a contractor's license number, each company  
130 authorized pursuant to this section to employ registered utility  
131 markout technicians shall display its name, logo or other trademark,  
132 which clearly identifies the company on all commercial vehicles used  
133 in its business and in a conspicuous manner on all printed  
134 advertisements, bid proposals, contracts, invoices and on all stationery  
135 used in its business.

136 Sec. 3. (NEW) (*Effective from passage*) The Department of Public  
137 Utility Control shall ensure that a company, as defined in section 1 of  
138 this act, fully recovers the costs of any damage resulting from utility

139 markouts not performed in accordance with section 2 of this act. The  
140 department shall receive complaints concerning potential violations of  
141 this section and, for those complaints that the department determines  
142 warrant an investigation, conduct an investigation into the facts and  
143 circumstances surrounding the complaint and make a finding of  
144 liability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	16-345
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section

**Statement of Purpose:**

To ensure safe and professional utility markouts.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*