

State Damage Prevention Law Summary

State: Massachusetts

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	MA General Laws (M.G.L.), Chapter 82, § 40. "Excavation", an operation for the purpose of movement or removal of earth, rock or the materials in the ground including, but not limited to, digging, blasting, augering, backfilling, test boring, drilling, pile driving, grading, plowing in, hammering, pulling in, jacking in, trenching, tunneling and demolition of structures, excluding excavation by tools manipulated only by human power for gardening purposes and use of blasting for quarrying purposes.
Excavator: Definition	M.G.L., Chapter 82, § 40. "Excavator", any entity including, but not limited to, a person, partnership, joint venture, trust, corporation, association, public utility, company or state or local government body which performs excavation operations.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	3
Excavator Notice (Specific Language)	M.G.L., Chapter 82, § 40A. No excavator installing a new facility or an addition to an existing facility or the relay or repair of an existing facility shall, except in an emergency, make an excavation, in any public or private way, any company right-of-way or easement or any public or privately owned land or way, unless at least 72 hours, exclusive of Saturdays, Sundays and legal holidays but not more than 30 days before the proposed excavation is to be made such excavator has premarked not more than 500 feet of the proposed excavation and given an initial notice to the system. Such initial notice shall set forth a description of the excavation location in the manner as herein defined. In addition, such initial notice shall indicate whether any such excavation will involve blasting and, if so, the date and the location at which such blasting is to occur.
Ticket Life (# of days)	Not addressed. Per Dig Safe, ticket does not expire as long as there is continuous, ongoing digging being performed on a ticket.
White-Line Required (Yes / No)	Yes (M.G.L., Chapter 82, § 40A)
Tolerance Zone	18" (M.G.L., Chapter 82, § 40, "Safety zone")
Special Digging Requirements Within Tolerance Zone (Specific Language)	M.G.L., Chapter 82, § 40C. ... When excavating in close proximity to the underground facilities of any company when such facilities are to be exposed, non-mechanical means shall be employed, as necessary, to avoid damage in locating such facility and any further excavation shall be performed employing reasonable precautions to avoid damage to any underground facilities including, but not limited to, any substantial weakening of structural or lateral support of such facilities, penetration or destruction of any pipe, main, wire or conduit or the protective coating thereof, or damage to any pipe, main, wire or conduit
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	No
Preserve / Maintain Marks Required (Yes / No)	Yes (M.G.L., Chapter 82, § 40C)
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	No
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	Yes (M.G.L., Chapter 82, § 40C)
Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes (M.G.L., Chapter 82, § 40A)
Notify Operator of Damage (Yes / No)	Yes (M.G.L., Chapter 82, § 40C)
Notify One Call Center of Damage (Yes / No)	No

Call 911 if Hazardous Materials Released (Yes / No)	No
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language)	M.G.L., Chapter 82, § 40. "Excavation" [is] an operation for the purpose of ..., excluding excavation by tools manipulated only by human power for gardening purposes and use of blasting for quarrying purposes.
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	3
Operator Requirements to Respond to Locate Notification (Specific Language)	M.G.L., Chapter 82, § 40B. Within 72 hours, exclusive of Saturdays, Sundays and legal holidays, from the time the initial notice is received by the system or at such time as the company and the excavator agree, such company shall respond to the initial notice or subsequent notice by designating the location of the underground facilities within 15 feet in any direction of the premarking so that the existing facilities are to be found within a safety zone.
Minimum Standards for Locator Qualifications (Yes / No)	No
Minimum Standards for Locator Qualifications (Specific Language)	Not addressed
Law Specifies Marking Standards Other Than Color (Yes / No)	Yes
Law Specifies Marking Standards Other Than Color (Specific Language)	MA Damage Prevention Rules 220 CMR 99.05: (2) All markings shall indicate, where practicable, the width, if it is greater than two inches, and material of the underground facility, as well as any change in direction and any terminus points of the facility.
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	No
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	No
Operator Must Locate Abandoned Facilities (Specific Language)	Not addressed
Positive Response Required - Operator Contact Excavator (Yes / No)	No
Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed
Positive Response Required - Operator Contact One Call Center (Yes / No)	No
Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed
Positive Response - One-Call Automated (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No

Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Not addressed
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed
Design Request (Yes / No)	No
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	M.G.L., Part I, Title XXII, Chapter 164, § 76D All natural gas pipeline companies, cable television companies, steam distribution companies and public utility companies, as defined in section three of chapter twenty-five, shall create, participate in and be responsible for the administration of a utility underground plant damage prevention system.... [Massachusetts Department of Public Utilities notes that municipalities (cities and towns who own water, sewer and drainage facilities) are not required to join the Dig Safe system].
One-Call Law Addresses Board Make-Up (Yes / No)	No
One-Call Law Addresses Board Make-Up (Specific Language)	Not addressed
Separate Body Designated to Advise Enforcement Authority (Yes / No)	No
Separate Body Designated to Advise Enforcement Authority (Specific Language)	Not addressed
Penalties / Fines Excavators (Yes / No)	Yes
Penalties / Fines Excavators (Specific Language)	M.G.L., Chapter 82, § 40E. Any person or company found by the department of telecommunications and energy, after a hearing, to have violated any provision of sections 40A to 40E, inclusive, shall be fined \$1,000 for the first offense and not less than \$5,000 nor more than \$10,000 for any subsequent offense within 12 consecutive months as set forth by the rules of said department; provided, however, that nothing herein shall be construed to require forfeiture of any penal sum by a state or local government body for violation of section 40A or 40C; and provided, further, that nothing herein shall be construed to require the forfeiture of any penal sum by a residential property owner for the failure to premark for an excavation on such person's residential property.
Penalties / Fines Operators (Yes / No)	Yes

Penalties / Fines Operators (Specific Language)	M.G.L., Chapter 82, § 40E. Any person or company found by the department of telecommunications and energy, after a hearing, to have violated any provision of sections 40A to 40E, inclusive, shall be fined \$1,000 for the first offense and not less than \$5,000 nor more than \$10,000 for any subsequent offense within 12 consecutive months as set forth by the rules of said department; provided, however, that nothing herein shall be construed to require forfeiture of any penal sum by a state or local government body for violation of section 40A or 40C; and provided, further, that nothing herein shall be construed to require the forfeiture of any penal sum by a residential property owner for the failure to premark for an excavation on such person's residential property.
Penalties / Fines Other (Yes / No)	No
Penalties / Fines Other (Specific Language)	Not addressed
Enforcement Authority Identified	Massachusetts Department of Public Utilities (previously known as Department of Telecommunications and Energy) (M.G.L. Chapter 82, § 40E identifies the "Massachusetts Department of Telecommunications and Energy" as the enforcement agency. MA Damage Prevention Rules 220 CMR §§ 99.01 through 99.12 identify the "Massachusetts Department of Public Utilities" as the enforcement agency.) (See also: http://www.mass.gov/eea/grants-and-tech-assistance/guidance-technical-assistance/agencies-and-divisions/dpu/dpu-divisions/pipeline-safety-division/dig-safe/ , as linked to by the Dig Safe website (www.digsafe.com/enforcement.php))
Damage Investigation Required by Enforcement Authority (Yes / No)	Yes (MA Damage Prevention Rules 220 CMR §§ 99.08)
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	Yes (MA Damage Prevention Rules 220 CMR §§ 99.01)
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	Massachusetts General Laws (M.G.L.), Part I, Title XIV, Chapter 82, §§ 40 to 40E (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter82/Section40) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	September 17, 2004
Administrative Rules / Regulations (Yes / No)	Yes
Administrative Rules / Regulations (Name & Link)	Massachusetts Damage Prevention Rules, 220 CMR 99.00 (http://www.mass.gov/ocabr/docs/dte/cmr/220cmr9900.pdf)
State One Call Center(s) (Name & Link)	Dig Safe(http://www.digsafe.com/)
Miscellaneous Notes	
Notes	0
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0