

HOUSE BILL No. 1258

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-26.

Synopsis: Underground utility facilities. Amends the Indiana Code chapter concerning damage to underground utility facilities as follows: (1) Defines the term "communications service provider". (2) Specifies that an "operator" for purposes of the chapter includes: (A) a communications service provider; or (B) any other person; who owns or operates an underground facility, regardless of whether the communications service provider or person is considered a public utility for purposes of the Indiana Code title concerning utilities or of any other law, and regardless of whether the communications service provider or person is subject to the jurisdiction of the Indiana utility regulatory commission. (3) Specifies that a communications service provider that violates a provision of the chapter is subject to: (A) liability in a civil action brought by another operator; and (B) the penalties set forth in the chapter for the violation, as applicable.

Effective: July 1, 2023.

DeVon

January 17, 2023, read first time and referred to Committee on Utilities, Energy and Telecommunications.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1258

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-26-3.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]: **Sec. 3.6. As used in this chapter, "communications service
4 provider" has the meaning set forth in IC 8-1-32.5-4.**

5 SECTION 2. IC 8-1-26-10, AS AMENDED BY P.L.62-2009,
6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2023]: Sec. 10. **(a)** As used in this chapter, "operator" means
8 a person who owns or operates an underground facility, other than an
9 underground facility that:

10 (1) is located on real property that the person owns or occupies;
11 and

12 (2) the person operates for the person's benefits.

13 **(b) The term includes:**

14 (1) **a communications service provider; or**

15 (2) **any other person;**

16 **who owns or operates an underground facility described in**
17 **subsection (a), regardless of whether the communications service**



1 provider or person is considered a public utility for purposes of
 2 this title or of any other law, and regardless of whether the
 3 communications service provider or person is subject to the
 4 jurisdiction of the commission.

5 SECTION 3. IC 8-1-26-25.1 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2023]: **Sec. 25.1. (a) This section applies to a communications
 8 service provider that violates a provision of this chapter, regardless
 9 of whether the violation occurs in the context of the
 10 communications service provider:**

11 (1) acting in response to a notice received under section 16 or
 12 16.5 of this chapter; or

13 (2) repairing, installing, or relocating the communications
 14 service provider's own underground facility.

15 (b) A communications service provider that violates a provision
 16 of this chapter is:

17 (1) subject to liability in a civil action brought by another
 18 operator under section 22 of this chapter; and

19 (2) subject to the penalties set forth in this chapter for the
 20 violation, including the penalties set forth in:

21 (A) section 15(d) of this chapter;

22 (B) section 16(h) or section 16(i) of this chapter;

23 (C) section 19(c) of this chapter;

24 (D) section 20(b) of this chapter; and

25 (E) section 23(h) of this chapter, as approved by the
 26 commission under section 23(k) of this chapter;

27 as applicable.

