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Res. No. 170

Resolution calling on the New York State Legislature to increase the civil penalties to $2,500 for a first offense and $15,000 for each subsequent offense within a two year period for failure to comply with the utility notification requirements of Article 36 of the General Business Law.

By Council Member Van Bramer

Whereas, Article 36 of the New York State General Business Law requires participation by those performing excavation and those operating underground facilities, in the "One Call System," a system designed to ensure that excavators are aware of the utility infrastructure that is underground before they excavate; and

Whereas, This system requires notification of such excavation prior to commencing this excavation, and does not permit such excavation work until such time as all operators inform the excavator that the excavation will not come within fifteen feet of such utility; and

Whereas, This Article requires utility operators to notify excavators about which of its facilities will be affected by this excavation; and

Whereas, Section 765 of the General Business Law requires any excavator or operator who violates the provisions of Article 36 of the New York State General Business Law be subject to civil penalties of up to $2,500 for a first violation, and up to an additional $10,000 fine for subsequent violations for the same excavation activity within a twelve-month period; and

Whereas, If the same excavator or operator failed to abide by the provisions of Article 36 over a course of transactions, the maximum fine would be $1,000 for each transaction; and

Whereas, The notification provisions in Article 36 are crucial to protect public safety, as a lack of notification could lead to excavations coming into dangerous contact with underground utility facilities; now,

therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to increase the civil penalties to $2,500 for a first offense and $15,000 for each subsequent offense within a two year period for failure to comply with the utility notification requirements of Article 36 of the General Business Law.

596-2010
DAA