

By: Representative Beckett

To: Public Utilities

HOUSE BILL NO. 576

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE TERM "EXCAVATE OR EXCAVATION" TO EXCLUDE ROUTINE ROAD
 3 OR RAILROAD MAINTENANCE ACTIVITIES UNDER THE LAW WHICH REGULATES
 4 EXCAVATIONS NEAR UNDERGROUND UTILITY FACILITIES; TO DEFINE CERTAIN
 5 OTHER TERMS; TO AMEND SECTION 77-13-5, MISSISSIPPI CODE OF 1972,
 6 TO INCREASE FROM 10 TO 14 THE NUMBER OF DAYS THE MARKINGS PROVIDED
 7 BY OPERATORS ARE VALID; TO AMEND SECTION 77-13-19, MISSISSIPPI
 8 CODE OF 1972, TO REQUIRE THE STATE FIRE MARSHAL TO ENFORCE SUCH
 9 LAW; TO REQUIRE THE STATE FIRE MARSHAL TO APPOINT AN ADVISORY
 10 COMMITTEE ON 811 ENFORCEMENT; TO AUTHORIZE THE FIRE MARSHAL TO
 11 IMPOSE CERTAIN PENALTIES UNDER CERTAIN CIRCUMSTANCES; TO ESTABLISH
 12 A PROCEDURE TO REVIEW FINDINGS OF FACTS AND RECOMMENDED CIVIL
 13 PENALTIES FROM STATE FIRE MARSHAL INVESTIGATORS; TO CREATE NEW
 14 CODE SECTION 77-13-19.1, MISSISSIPPI CODE OF 1972, TO ESTABLISH
 15 THE UNDERGROUND UTILITY DAMAGE PREVENTION SPECIAL FUND; TO AMEND
 16 SECTION 45-11-1, MISSISSIPPI CODE OF 1972, INCONFORMITY THERETO;
 17 AND FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** Section 77-13-3, Mississippi Code of 1972, is
 20 amended as follows:

21 77-13-3. The words defined in this section shall have the
 22 following meanings when found in this chapter:

23 (a) "Excavate or excavation" shall mean any operation
 24 in which earth, rock or other material or mass of material on or
 25 below the ground is moved or otherwise displaced by any means,



26 except: (i) the tilling of the soil less than twenty-four (24)
27 inches in depth for agricultural purposes; or (ii) an operation in
28 which earth, rock or other material or mass of material on or
29 below the ground is moved or otherwise displaced to a depth of
30 less than twelve (12) inches on private property by the property
31 owner without the use of mechanical excavating equipment; or (iii)
32 an operation in which earth, rock or other material or mass of
33 material on or below the ground is moved or otherwise displaced
34 without the use of mechanical excavating equipment to a depth of
35 less than twelve (12) inches on private property by an excavator
36 who is not the property owner, except when such excavation is in a
37 clearly marked underground facility right-of-way * * *; or (iv)
38 routine road maintenance activities that occur entirely within the
39 right-of-way of an interstate system, full control access highway
40 built to interstate standards and are carried out with reasonable
41 care so as to protect any underground facilities placed in the
42 right-of-way; and are carried out within the limits of any
43 original excavation on the interstate system or full control
44 access highway; or (v) routine railroad maintenance within the
45 railroad track structure and its adjacent right-of-way, provided
46 this work is performed by railroad employees or railroad
47 contractors and is carried out with reasonable care so as to
48 protect any underground facilities properly installed in the
49 railroad right-of-way by agreement with the railroad, and are
50 carried out within the limits of any original excavation on the



51 railroad; or (vi) routine road maintenance on the road bed of any
52 of any public road, street or highway that does not disturb the
53 ground more than twelve (12) inches below the top surface of the
54 paved or graveled road; or (vii) routine activites of a cemetery
55 or mining operation, provided that for any cemetery or mining
56 operation that begins or expands after July 1, 2014, such
57 activities occur only after initial notice is provided to
58 Mississippi 811, Inc., and all affected operators have been
59 advised that there are no underground facilities within the
60 boundaries of the subject cemetery or mining operation. The term
61 "excavate" shall include, but not be limited to, the operations of
62 demolition, blasting, grading, land leveling, trenching, digging,
63 ditching, drilling, augering, tunneling, scraping, cable or pipe
64 plowing, driving, jacking, wrecking, razing, rending, moving or
65 removing any structure or other material or mass of material on or
66 below the ground.

67 (b) "Utility" shall mean any person who supplies,
68 distributes or transports by means of underground utility lines or
69 underground facilities any of the following materials or services:
70 gas, mixture of gases, petroleum, petroleum products or hazardous,
71 toxic, flammable or corrosive liquids, electricity,
72 telecommunications (including fiber optics), sewage, drainage,
73 water, steam or other substances.

74 (c) "Underground utility lines" shall mean underground
75 or buried cable, conduit pipes and related facilities for



76 transportation and delivery of electricity, telecommunications
77 (including fiber optics), water, sewage, gas, mixtures of gases,
78 petroleum, petroleum products or hazardous, flammable, toxic or
79 corrosive liquids.

80 (d) "Underground facility" shall mean any underground
81 utility lines and other items which shall be buried or placed
82 below ground or submerged for use in connection with underground
83 utility lines and including, but not be limited to, pipes, sewers,
84 conduits, cables, valves, lines, wires, manholes, vaults,
85 attachments and those portions of poles below the ground.

86 (e) "Person" shall mean any individual, firm,
87 partnership, association, trustee, receiver, assignee,
88 corporation, entity, limited liability company, utility, joint
89 venture, municipality, state governmental unit, subdivision or
90 instrumentality of the state, or any legal representative thereof.

91 (f) "Damage" shall mean the substantial weakening of
92 structural or lateral support of underground utility lines and
93 underground facilities, penetration or destruction of any
94 protective coating, housing or other protective devices of an
95 underground utility line or underground facility, and the partial
96 or complete severance of any underground utility line or
97 underground facility, but does not include any operator's
98 abandoned facility.

99 (g) "Operator" shall mean any person who owns or
100 operates a utility. However, the term "operator" shall not



101 include any railroad or the Mississippi Department of
102 Transportation.

103 (h) "Working day" shall mean a twenty-four-hour period
104 commencing from the time of receipt by Mississippi 811, Inc., of
105 the notification in accordance with this chapter, excluding
106 Saturdays, Sundays and legal holidays.

107 (i) "Mechanical excavating equipment" shall mean all
108 equipment powered by any motor, engine, or hydraulic or pneumatic
109 device used for excavating and shall include, but not be limited
110 to, trenchers, bulldozers, backhoes, power shovels, scrapers,
111 draglines, clam shells, augers, drills, cable and pipe plows and
112 other plowing-in or pulling-in equipment.

113 (j) "Excavator" shall mean any person who engages
114 directly in excavation.

115 (k) "Mark" shall mean the use of stakes, paint or other
116 clearly identifiable materials to show the field location of
117 underground facilities in accordance with the current color code
118 standard of the American Public Works Association, or the
119 uncovering or exposing of underground facilities so that the
120 excavator may readily see the location of same, or the pointing
121 out to the excavator of certain aboveground facilities such as,
122 but not limited to, manhole covers, valve boxes and pipe and cable
123 risers, which indicate the location of underground facilities.

124 (l) "Mississippi One-Call System, Inc.," shall mean
125 "Mississippi 811, Inc." Whenever the term "Mississippi One-Call



126 System, Inc.," appears in this chapter, the term shall mean
127 "Mississippi 811, Inc."

128 (m) Mississippi 811, Inc.," shall mean a nonprofit
129 corporation organized under the laws of the State of Mississippi
130 that provides a service through which a person can notify the
131 operator(s) of underground facilities of plans to excavate and
132 request marking of facilities.

133 (n) "Abandoned facility" shall mean any underground
134 utility line or underground utility facilities no longer used in
135 the conduct of the owner/operator's business and are not intended
136 to be used in the future.

137 (o) "Emergency excavation" shall mean excavation at
138 times of emergency involving danger to life, health or property or
139 a customer service outage.

140 (p) "Approximate location" of underground utility lines
141 or underground facilities shall mean information about an
142 operator's underground utility lines or underground facilities
143 which is provided to a person by an operator and must be accurate
144 within eighteen (18) inches measured horizontally from the outside
145 edge of each side of such operator's facility, or a strip of land
146 eighteen (18) inches either side of the operator's field mark, or
147 the marked width of the facility or line plus eighteen (18) inches
148 on each side of the marked width of the facility or line.

149 (q) "Positive response information system" or "PRIS"
150 means an automated information system operated and maintained by



151 Mississippi 811, Inc., that allows excavators, locators, facility
152 owners or operators, and other affected parties to enter and/or
153 determine the status of a locate request.

154 (r) "State Fire Marshal" means the Office of the
155 Mississippi State Fire Marshal.

156 (s) "Willful" means an act done intentionally,
157 knowingly and purposely, without justifiable excuse, as
158 distinguished from an act done carelessly, thoughtlessly,
159 heedlessly or inadvertently.

160 (t) "Calendar days" means a twenty-four-hour period
161 commencing from the time of receipt by Mississippi 811, Inc., of
162 the notification in accordance with this chapter.

163 **SECTION 2.** Section 77-13-5, Mississippi Code of 1972, is
164 amended as follows:

165 77-13-5. (1) In addition to complying with all other
166 applicable regulations and requirements of federal, state, county
167 and municipal authorities, no person shall engage in excavation of
168 any kind, before meeting the notification requirements of this
169 chapter. Under this chapter the excavator shall:

170 (a) Inform himself/herself of the presence and location
171 of any underground utility lines and underground facilities in or
172 near the area where excavation is to be conducted;

173 (b) Plan and conduct the excavation to avoid or
174 minimize interference with or damage to underground utility lines
175 and underground facilities in or near the excavation area;



176 maintain a clearance between any underground utility line or
177 underground facility and the cutting edge or point of any
178 mechanical excavating equipment, taking into account the known
179 limit of control of such cutting edge or point, as may be
180 reasonably necessary to avoid damage to such facility; and provide
181 such support for underground utility lines or underground
182 facilities in and near the excavation area, including during any
183 backfilling operations, as may be reasonably necessary for the
184 protection of such facilities.

185 (c) Except as provided in Section 77-13-11, provide not
186 less than two (2) and not more than ten (10) working days' advance
187 written, electronic or telephonic notice of the commencement,
188 extent, location and duration of the excavation work to
189 Mississippi * * * 811, Inc., so that Mississippi * * * 811, Inc.,
190 operator(s) may locate and mark the location of underground
191 utility lines and underground facilities in the excavation area.

192 The written, electronic or telephonic notice required by
193 this * * * paragraph (c) shall contain the name, address and
194 telephone number of the person filing the notice of intent, the
195 person responsible for the excavation, the starting date,
196 anticipated duration, type of excavation to be conducted, the
197 location of the proposed excavation and whether or not explosives
198 are to be used.

199 (2) The markings provided by operators shall only be valid
200 for a period of * * * fourteen (14) calendar days from the * * *



201 date the locate ticket is issued by Mississippi * * * 811, Inc.
202 The person responsible for the excavation project shall renew the
203 notification with Mississippi One-Call System, Inc., at least two
204 (2) working days prior to this expiration date and shall continue
205 to renew such notification in the same manner throughout the
206 duration of the excavation. Such renewal notice shall be valid
207 for a period of * * * fourteen (14) calendar days from the date of
208 the expiration of the prior notification.

209 (3) Compliance with the notice requirements of this section
210 shall not be required of: (a) persons plowing less than
211 twenty-four (24) inches in depth for agricultural purposes; (b)
212 persons who are moving or otherwise displacing, by hand, earth,
213 rock or other material or mass of material on or below the ground
214 at a depth of less than twelve (12) inches on property they own;
215 and (c) persons, other than the property owner, who are moving or
216 otherwise displacing, by hand, earth, rock or other material or
217 mass of material on or below the ground at a depth of less than
218 twelve (12) inches, except when such excavation is in a clearly
219 marked underground facility right-of-way.

220 (4) Nothing in this chapter shall modify or abrogate any
221 contractual provision entered into between the Mississippi
222 Department of Transportation, or the Mississippi Transportation
223 Commission and any other party.

224 (5) Nothing in this chapter shall modify or abrogate any
225 contractual provision entered into between any railroad and any



226 other party owning or operating an underground facility or
227 underground utility lines within the railroad's right-of-way.

228 **SECTION 3.** Section 77-13-19, Mississippi Code of 1972,
229 is amended as follows:

230 77-13-19. (1) The State Fire Marshal shall enforce the
231 provisions of this act.

232 (2) In addition to any other rights and remedies which a
233 person may have, any person shall have the right to resort to and
234 apply for injunctive relief, both temporary and permanent, in any
235 court of competent jurisdiction to enforce compliance with the
236 provisions of this chapter and to restrain and prevent violations
237 and threatened violations thereof.

238 (3) The rights, remedies, duties, prohibitions and penalties
239 provided in this chapter shall not be exclusive and shall be in
240 addition to all other causes of action, remedies and penalties
241 provided by law. Nothing in this chapter shall restrict or limit
242 causes of action by any person. The activities described in
243 Section 77-13-3(a)(iv)-(vi) shall not be excepted from the
244 definition of "excavation" for purposes of civil actions to
245 collect damages caused to underground facilities.

246 (4) The State Fire Marshal shall within sixty (60) days of
247 July 1, 2014, appoint an advisory committee on 811 Enforcement
248 which shall be subordinate to the State Fire Marshal. The
249 advisory committee shall serve without compensation and consist of
250 one (1) representative of each of the following interested



251 parties, each of whom shall have expertise with the subject matter
252 encompassed by the provisions of this chapter:

253 (a) Mississippi 811, Inc.;

254 (b) Four (4) representatives of the telecommunications
255 industry, including one (1) representative each of an Incumbent
256 Local Exchange Carrier (ILEC), a Competitive Local Exchange
257 Carrier (CLEC), an Interexchange Carrier (IEC) and a Data
258 Transport Provider;

259 (c) Excavation contractors;

260 (d) Electric power industry investor-owned utilities;

261 (e) Electric Power Associations of Mississippi;

262 (f) Mississippi county government appointee, who is
263 appointed by the Executive Director of the Mississippi Association
264 of Supervisors;

265 (g) Mississippi Department of Transportation;

266 (h) Cable television industry;

267 (i) Rural water;

268 (j) Mississippi municipalities appointee, appointed by
269 the Executive Director of the Mississippi Municipal League;

270 (k) The Mississippi Public Service Commission Pipeline
271 Safety Division;

272 (l) Utility locators;

273 (m) Natural gas distribution;

274 (n) Liquid transmission;

275 (o) Natural gas transmission;



276 (p) Railroad industry;
277 (q) Insurance industry;
278 (r) Mississippi surveyors appointed by the Executive
279 Director of the Mississippi Association of Professional Surveyors,
280 Inc.; and

281 (s) Mississippi design engineers, appointed by the
282 Executive Director of the Mississippi Society of Professional
283 Engineers.

284 (5) The initial term of the representatives provided in
285 paragraphs (a) through (e) of subsection (4) shall be one (1)
286 year; the initial term of the representatives provided in
287 paragraphs (f) through(k) of subsection (4) shall be three (3)
288 years; and the initial term of the representatives provided in
289 paragraphs (l) through (s) of subsection (4) shall be five (5)
290 years. Upon the expiration of the initial term of any member of
291 the advisory committee, his or her successor shall be appointed
292 for a term of five (5) years.

293 (6) The State Fire Marshal shall appoint the initial
294 chairman of the advisory committee, and the advisory committee
295 shall meet and elect a chairman annually thereafter. The staff of
296 the State Fire Marshal shall serve as a staff support for the
297 committee.

298 (7) The advisory committee shall meet no less than once per
299 quarter of each year, with a date and time to be set by its
300 chairman upon at least five (5) business days' notice provided by



301 United States mail, electronic mail or personal delivery to every
302 committee member.

303 (8) Twelve (12) members of the advisory committee shall
304 constitute a quorum and a majority vote of those present and
305 voting at any meeting shall be necessary to transact business.

306 (9) The members of the advisory committee shall be immune,
307 individually and jointly, from civil liability for any act or
308 omission done or made in the performance of their duties while
309 serving as members of the advisory committee, but only in the
310 absence of willful misconduct.

311 (10) The advisory committee shall assist the State Fire
312 Marshal in the enforcement of this chapter as described in this
313 section.

314 (11) The State Fire Marshal shall follow the procedures
315 described in this section. Nothing in this section shall
316 otherwise limit or expand the authority of the State Fire Marshal.

317 (12) The State Fire Marshal is authorized to impose civil
318 penalties as provided in this section. Civil penalties may be
319 imposed on any person for violation of any of the provisions of
320 this chapter regardless of whether or not such violation results
321 in injury to people, damage to property, or the interruption of
322 utility service.

323 (13) In lieu of civil penalties, the State Fire Marshal
324 shall issue a warning letter for any first offense and order
325 training for any second offense. The State Fire Marshal shall



326 impose a civil penalty of Five Hundred Dollars (\$500.00) for
327 failure to attend or participate in any training ordered.

328 (14) Civil penalties authorized in this section shall be
329 imposed in accordance with a tiered penalty structure. The
330 penalty for any third offense within the same calendar year as the
331 first offense shall be Eight Hundred Eleven Dollars and Eleven
332 Cents (\$811.11). The penalty for any fourth or greater offense
333 within the same calendar year as the first offense shall be Eight
334 Thousand Eight Hundred Eleven Dollars and Eleven Cents
335 (\$8,811.11).

336 (15) In the event the State Fire Marshal determines that a
337 person has made a good faith effort to comply with this chapter,
338 the State Fire Marshal may find that no civil penalty is
339 necessary. However, if any violation of this chapter does not
340 result in a civil penalty, the State Fire Marshal shall issue a
341 warning letter to the person that describes such violation and may
342 also recommend or require training.

343 (16) In the event that any person has demonstrated a pattern
344 of willful noncompliance or in the event that the gravity of a
345 violation warrants, the State Fire Marshal is authorized to double
346 the civil penalty that would otherwise apply to a particular
347 violation.

348 (17) For those instances in which training is ordered, if
349 the person is a firm, partnership, association, corporation,
350 limited liability company, joint venture, department or



351 subdivision of the state or other governmental entity or any other
352 body or organization, the State Fire Marshal may require that at
353 least one (1) manager or supervisor thereof attend any such
354 training.

355 (18) An operator of an underground facility shall not be
356 subject to a civil penalty where a delay in marking, failure to
357 mark, or failure to properly mark the location of an underground
358 facility is caused by conditions beyond the reasonable control of
359 the operator.

360 (19) State Fire Marshal investigators shall issue findings
361 of fact and recommend civil penalties to any person accused of a
362 violation under this chapter. That person may accept or reject
363 the findings of fact and recommended civil penalties. If the
364 person rejects the findings of fact and recommended civil
365 penalties, the advisory committee shall review the alleged
366 violation and may consider written or oral statements from any
367 person concerning the alleged violation. The advisory committee
368 shall then render a recommendation either in support of the
369 finding of fact and recommended civil penalties of the
370 investigator or shall substitute their findings of fact and
371 recommended civil penalties.

372 (20) If any person rejects the findings of fact and
373 recommend civil penalties of the advisory committee, the advisory
374 committee shall make recommendations to the State Fire Marshal
375 regarding enforcement, including civil penalties, and taking into



376 account the gravity of the violation or violations, the degree of
377 the person's culpability, the person's history of prior offenses,
378 and such other mitigating factors as may be appropriate. The
379 State Fire Marshal is then authorized to adopt the recommendation
380 of the advisory committee or to substitute his own findings of
381 fact and civil penalties.

382 (21) When the person accepts the State Fire Marshal's
383 investigators findings of fact and recommended civil penalties,
384 the investigators shall present such accepted findings of fact and
385 recommended civil penalties to the State Fire Marshal. The State
386 Fire Marshal is then authorized to adopt the findings of fact and
387 recommended civil penalties of the investigators or to submit the
388 matter for review by the advisory committee, which will then make
389 its recommendations to be presented to the State Fire Marshal by
390 the investigators.

391 (22) When the person accepts the advisory committee's
392 finding of facts and recommended civil penalties, the
393 investigators shall present such accepted findings of fact and
394 recommended civil penalties to the State Fire Marshal. The State
395 Fire Marshal is then authorized to adopt the findings of fact and
396 recommended civil penalties of the advisory committee or to
397 substitute his own findings of fact and civil penalties.

398 (23) The State Fire Marshal is not authorized to impose a
399 civil penalty greater than the civil penalty recommended by the



400 advisory committee or to impose any civil penalty if the advisory
401 committee does not recommend a civil penalty.

402 (24) Evidence of findings of fact, civil penalties, or any
403 of the actions or proceedings pursuant to this section shall not
404 be admissible in any other civil causes of action.

405 **SECTION 4.** The following shall be codified as Section
406 77-13-19.1, Mississippi Code of 1972:

407 77-13-19.1. The Underground Utility Damage Prevention
408 Special Fund is hereby established as a revolving fund to be used
409 by the State Fire Marshal for administering the enforcement of
410 this chapter. All civil penalties ordered by the State Fire
411 Marshal and collected pursuant to Section 77-13-19 shall be
412 deposited in the special fund. Excess funds shall be used to
413 support public awareness programs, training and education programs
414 for excavators, operators, line locators, and other persons to
415 reduce the number and severity of violations of this chapter. The
416 State Fire Marshal shall determine the appropriate allocation of
417 any excess funds among such programs. At the end of each fiscal
418 year, earned interest and unexpended monies remaining in the fund
419 may not revert to any other fund of the state but shall remain
420 available for appropriations pursuant to this chapter.

421 **SECTION 5.** Section 45-11-1, Mississippi Code of 1972, is
422 amended as follows:

423 45-11-1. (1) The Commissioner of Insurance is by virtue of
424 his office the State Fire Marshal and shall appoint the State



425 Chief Deputy Fire Marshal who, along with his employees, shall be
426 designated as a division of the Insurance Department. The State
427 Chief Deputy Fire Marshal shall be a person qualified by
428 experience and training and thoroughly knowledgeable in the areas
429 of arson investigation and prevention, fire prevention, fire
430 fighting and the training of firemen. The State Chief Deputy Fire
431 Marshal shall serve at the will and pleasure of the Commissioner
432 of Insurance.

433 (2) The State Chief Deputy Fire Marshal shall employ such
434 deputy state fire marshals as are necessary and in accordance with
435 availability of funds. Deputy fire marshals shall be deployed
436 across the state in order to provide effective service to fire
437 scenes.

438 (3) It shall be the duty of the State Chief Deputy Fire
439 Marshal to investigate, by himself or his deputy, the origin of
440 every fire occurring within the state to which his attention is
441 called by the chief of the fire department or other law
442 enforcement authority of any county or municipality. It shall
443 also be his duty to investigate any case requested by any party in
444 interest, whenever, in his judgment, there be sufficient evidence
445 or circumstances indicating that such fire may be of incendiary
446 origin. All county and municipal law enforcement authorities
447 shall cooperate with the State Chief Deputy Fire Marshal in such
448 investigation. This section shall not be construed to impair the
449 duty and power of county and municipal law enforcement authorities



450 to investigate any fire occurring within his or their
451 jurisdiction.

452 (4) (a) The State Chief Deputy Fire Marshal and deputy
453 state fire marshals shall have the following powers:

454 (i) To arrest without warrant any person or
455 persons committing or attempting to commit any misdemeanor or
456 felony within their presence or view but only such violations of
457 law or violations of regulations adopted pursuant to this chapter
458 or Chapter 49, Title 75, Mississippi Code of 1972;

459 (ii) To pursue and so arrest any person committing
460 an offense as described under subparagraph (i) of this paragraph
461 to and at any place in the State of Mississippi where he may go or
462 be;

463 (iii) To execute all warrants and search warrants
464 related to, and investigate any violation of the laws and
465 regulations related to this chapter and Chapter 49, Title 75,
466 Mississippi Code of 1972, and prevent, arrest and apprehend such
467 violators; and

468 (iv) To aid and assist any peace officer of this
469 state or any other state if requested, or in manhunts or natural
470 disasters within the state, and upon the consent of the State Fire
471 Marshal, within the jurisdiction of the called event.

472 (b) Nothing herein shall be construed as granting the
473 State Chief Deputy Fire Marshal or deputy state fire marshals
474 general police powers.



475 (c) All deputy state fire marshals hired on or after
476 July 1, 2013, shall be required to complete or have completed the
477 Law Enforcement Officers Training Program and shall meet the
478 standards of the program.

479 (5) The State Chief Deputy Fire Marshal shall maintain in
480 his office a record of all fires investigated by him or his
481 deputy, including evidence obtained as to the origin of each such
482 fire.

483 (6) Such record shall at all times be subject to inspection
484 by any party of interest in the fire loss; provided, however, that
485 no record or report of an investigation shall be subject to
486 inspection pending such investigation or while same is in
487 progress, and if a report of an investigation contains any
488 evidence of arson or other felony, same shall not be subject to
489 inspection by any person other than the district attorney and
490 county attorney of the county in which such evidence indicates
491 that arson or other felony may have been committed, except upon
492 the written approval of such district attorney or the order of a
493 court of competent jurisdiction. Provided that in cases where a
494 person has been arrested for the crimes of arson, attempted arson,
495 or any other felony, the defendant or his attorney shall have
496 access to these records. Any physical evidence of arson or other
497 felony shall be delivered to the custody of the sheriff of the
498 county wherein such fire occurred.



499 (7) The State Chief Deputy Fire Marshal may appoint, with
500 the consent of the Commissioner of Insurance, a State Chief
501 Assistant Deputy Fire Marshal, who shall have power, during the
502 chief deputy's absence or inability to act due to any cause, to
503 perform any and all of the duties of the chief deputy. The chief
504 assistant deputy shall serve at the will and pleasure of the
505 Commissioner of Insurance.

506 (8) In addition to the powers and duties prescribed under
507 this section, the State Fire Marshal shall carry out the duties
508 prescribed under Section 77-13-19 and Section 77-13-19.1 of this
509 act.

510 **SECTION 6.** This act shall take effect and be in force from
511 and after July 1, 2014.

