

By: Senator(s) Burton

To: Energy; Appropriations

SENATE BILL NO. 2755  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO  
 2 EXEMPT CERTAIN ROUTINE MAINTENANCE ACTIVITIES ON PUBLICLY  
 3 MAINTAINED ROADWAYS AND RIGHTS-OF-WAY FROM THE LAWS REGULATING THE  
 4 EXCAVATION OF UNDERGROUND UTILITY LINES; TO CREATE SECTION  
 5 77-13-27, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ENFORCEMENT  
 6 OF DAMAGE PREVENTION AND CIVIL PENALTIES THEREFOR; TO CREATE  
 7 SECTION 77-13-29, MISSISSIPPI CODE OF 1972, TO CREATE THE  
 8 UNDERGROUND FACILITIES DAMAGE PREVENTION BOARD AND TO PROVIDE FOR  
 9 ITS MEMBERS; TO CREATE SECTION 77-13-31, MISSISSIPPI CODE OF 1972,  
 10 TO PRESCRIBE THE POWERS OF THE BOARD; TO CREATE SECTION 77-13-33,  
 11 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR INVESTIGATIONS OF  
 12 COMPLAINTS OF VIOLATIONS OF THE CHAPTER; TO CREATE SECTION  
 13 77-13-35 TO CREATE THE UNDERGROUND DAMAGE PREVENTION FUND WHEREIN  
 14 ALL CIVIL PENALTIES SHALL BE DEPOSITED; TO CREATE SECTION  
 15 77-13-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THE SCOPE OF  
 16 AUTHORITY IN THIS CHAPTER; TO AMEND SECTION 77-13-7, MISSISSIPPI  
 17 CODE OF 1972, TO CLARIFY THE NAME OF MISSISSIPPI 811, INC.; TO  
 18 AMEND SECTIONS 77-13-5 AND 77-13-9, MISSISSIPPI CODE OF 1972, TO  
 19 PROVIDE FOR DESIGN INFORMATION REQUESTS AND THE TIME PERIOD BY  
 20 WHICH AN OPERATOR MUST RESPOND TO THE REQUEST; AND FOR RELATED  
 21 PURPOSES.

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

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

25 77-13-3. The words defined in this section shall have the  
 26 following meanings when found in this chapter:



27 ( \* \* \*a) "Abandoned facility" \* \* \* means any  
28 underground utility line or underground utility facilities no  
29 longer used in the conduct of the owner/operator's business and  
30 are not intended to be used in the future.

31 ( \* \* \*b) "Approximate location \* \* \* of underground  
32 utility lines or underground facilities" \* \* \* means information  
33 about an operator's underground utility lines or underground  
34 facilities which is provided to a person by an operator and must  
35 be accurate within eighteen (18) inches measured horizontally from  
36 the outside edge of each side of such operator's facility, or a  
37 strip of land eighteen (18) inches either side of the operator's  
38 field mark, or the marked width of the facility or line plus  
39 eighteen (18) inches on each side of the marked width of the  
40 facility or line.

41 (c) "Board" means the Underground Facilities Damage  
42 Prevention Board, created by Section 77-13-29.

43 ( \* \* \*d) "Calendar day" \* \* \* means a twenty-four-hour  
44 period.

45 (e) "Commission" means the Mississippi Public Service  
46 Commission.

47 (f) "Damage" \* \* \* means the substantial weakening of  
48 structural or lateral support of underground utility lines and  
49 underground facilities, penetration or destruction of any  
50 protective coating, housing or other protective devices of an  
51 underground utility line or underground facility, and the partial



52 or complete severance of any underground utility line or  
53 underground facility, but does not include any operator's  
54 abandoned facility.

55 (g) "Design Information Request" means a notification  
56 made to Mississippi 811, Inc., by a person providing professional  
57 services and making a request in preparation for bidding,  
58 preconstruction engineering, or other advance planning efforts  
59 that do not involve excavation. A design information services  
60 request may not be used for excavation purposes.

61 ( \* \* \*h) "Emergency excavation" \* \* \* means excavation  
62 at times of emergency involving danger to life, health or property  
63 or a customer service outage.

64 ( \* \* \*i) "Excavate or excavation" \* \* \* means any  
65 operation in which earth, rock or other material or mass of  
66 material on or below the ground is moved or otherwise displaced by  
67 any means, except: (i) the tilling of the soil less than  
68 twenty-four (24) inches in depth for agricultural purposes; or  
69 (ii) an operation in which earth, rock or other material or mass  
70 of material on or below the ground is moved or otherwise displaced  
71 to a depth of less than twelve (12) inches on private property by  
72 the property owner without the use of mechanical excavating  
73 equipment; or (iii) an operation in which earth, rock or other  
74 material or mass of material on or below the ground is moved or  
75 otherwise displaced without the use of mechanical excavating  
76 equipment to a depth of less than twelve (12) inches on private



77 property by an excavator who is not the property owner, except  
78 when such excavation is in a clearly marked underground facility  
79 right-of-way; or (iv) routine railroad maintenance activities  
80 conducted within the track structure, drainage ditches, or within  
81 the railroad right-of-way a distance not to exceed thirty (30)  
82 feet from the outside rail of the outermost track or tracks,  
83 provided this work is performed by railroad employees or railroad  
84 contractors and is carried out with reasonable care so as to  
85 protect any underground facilities properly installed in the  
86 railroad right-of-way by agreement with the railroad; or (v)  
87 routine activities of a cemetery, provided that for any cemetery  
88 that begins or expands after July 1, 2015, such activities occur  
89 only after initial notice is provided to Mississippi 811, Inc.,  
90 and all affected operators have advised that there are no  
91 underground facilities within the boundaries of the subject  
92 cemetery; or (vi) routine maintenance activities carried out by or  
93 for those responsible for publicly maintained roadways and  
94 rights-of-way, provided that the activities occur entirely within  
95 the public right-of-way and do not penetrate the earth to a depth  
96 of more than twelve (12) inches and are carried out with  
97 reasonable care so as to protect any underground facilities placed  
98 in the right-of-way. Routine maintenance activities shall be more  
99 specifically described in the rules and regulations adopted by the  
100 board; or (vii) the driving of wooden stakes by use of hand tools  
101 which do not penetrate the earth to a depth of not more than six



102 (6) inches. The term "excavate" shall include, but not be limited  
103 to, the operations of demolition, blasting, grading, land  
104 leveling, trenching, digging, ditching, drilling, augering,  
105 tunneling, scraping, cable or pipe plowing, driving, jacking,  
106 wrecking, razing, rending, moving or removing any structure or  
107 other material or mass of material on or below the ground.

108 (j) "Excavator" \* \* \* means any person who engages  
109 directly in excavation.

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

119 ( \* \* \* 1) "Mechanical excavating equipment" \* \* \* means   
120 all equipment powered by any motor, engine, or hydraulic or  
121 pneumatic device used for excavating and shall include, but not be  
122 limited to, trenchers, bulldozers, backhoes, power shovels,  
123 scrapers, draglines, clam shells, augers, drills, cable and pipe  
124 plows and other plowing-in or pulling-in equipment.

125 (m) "Mississippi 811, Inc." \* \* \* means a nonprofit  
126 corporation organized under the laws of the State of Mississippi



127 that provides a service through which a person shall notify the  
128 operator(s) of underground facilities of plans to excavate and  
129 request marking of facilities.

130 ( \* \* \*n) "Mississippi One-Call System, Inc." \* \* \*  
131 means "Mississippi 811, Inc." Whenever the term "Mississippi  
132 One-Call System, Inc." appears in this chapter, the term shall  
133 mean "Mississippi 811, Inc."

134 ( \* \* \*o) "Operator" \* \* \* means any person who owns or  
135 operates a utility. However, the term "operator" shall not  
136 include any railroad or the Mississippi Department of  
137 Transportation.

138 ( \* \* \*p) "Person" \* \* \* means any individual, firm,  
139 partnership, association, trustee, receiver, assignee,  
140 corporation, entity, limited liability company, utility, joint  
141 venture, municipality, state governmental unit, subdivision or  
142 instrumentality of the state, or any legal representative thereof.

143 (q) "Pipeline Safety Division" means the Pipeline  
144 Safety Division of the Public Service Commission.

145 ( \* \* \*r) "Positive response information system" or  
146 "PRIS" means an automated information system operated and  
147 maintained by Mississippi 811, Inc., that allows excavators,  
148 locators, facility owners or operators, and other affected parties  
149 to enter and/or determine the status of a locate request.

150 ( \* \* \*s) "Underground facility" \* \* \* means any  
151 underground utility lines and other items which shall be buried or



152 placed below ground or submerged for use in connection with  
153 underground utility lines and including, but not be limited to,  
154 pipes, sewers, conduits, cables, valves, lines, wires, manholes,  
155 vaults, attachments and those portions of poles below the ground.

156 ( \* \* \* t) "Underground utility lines" \* \* \* means  
157 underground or buried cable, conduit pipes and related facilities  
158 for transportation and delivery of electricity, telecommunications  
159 (including fiber optics), water, sewage, gas, mixtures of gases,  
160 petroleum, petroleum products or hazardous, flammable, toxic or  
161 corrosive liquids.

162 ( \* \* \* u) "Utility" \* \* \* means any person who  
163 supplies, distributes or transports by means of underground  
164 utility lines or underground facilities any of the following  
165 materials or services: gas, mixture of gases, petroleum,  
166 petroleum products or hazardous, toxic, flammable or corrosive  
167 liquids, electricity, telecommunications (including fiber optics),  
168 sewage, drainage, water, steam or other substances.

169 ( \* \* \* y) "Working day" \* \* \* means a twenty-four-hour  
170 period commencing from the time the locate request is processed or  
171 entered into the system by Mississippi 811, Inc., in accordance  
172 with this chapter, excluding Saturdays, Sundays and legal  
173 holidays.

174 **SECTION 2.** The following shall be codified as Section  
175 77-13-27, Mississippi Code of 1972:



176           77-13-27.   **Enforcement of damage prevention.**   (1) Any  
177 person, whether excavator or operator, who violates this chapter,  
178 or the rules or regulations promulgated under this chapter, shall  
179 be subject to a civil penalty as follows:

180           (a) For a first violation, the violator shall complete  
181 a course of training concerning compliance with this chapter as  
182 determined by the executive committee;

183           (b) For a second violation occurring within a five-year  
184 period, the violator shall complete a course of training  
185 concerning compliance with this chapter as determined by the  
186 executive committee or pay a civil penalty in an amount set by the  
187 executive committee, not to exceed Five Hundred Dollars (\$500.00)  
188 per incident, or both;

189           (c) For a third or subsequent violation occurring  
190 within a five-year period, the violator shall pay a civil penalty  
191 in an amount set by the executive committee, not to exceed Two  
192 Thousand Five Hundred Dollars (\$2,500.00) per incident; and

193           (d) Notwithstanding this subsection and subsection (2)  
194 of this section, if any violation was the result of gross  
195 negligence or willful or wanton misconduct as determined by the  
196 executive committee, the executive committee shall require the  
197 violator to complete a course of training concerning compliance  
198 with this chapter as determined by the executive committee and pay  
199 a civil penalty in an amount set by the executive committee, not  
200 to exceed Five Thousand Dollars (\$5,000.00) per incident.



201           (2) Any person who is required to complete a course of  
202 training under subsection (1) of this section shall be responsible  
203 for paying for the cost of the training. For those instances in  
204 which training is ordered, if the person is a firm, partnership,  
205 association, corporation, limited liability company, joint  
206 venture, department or subdivision of the state or other  
207 governmental entity or any other body or organization, the  
208 executive committee may require that at least one (1) manager or  
209 supervisor thereof attend any such training.

210           (3) Any excavator who violates this chapter may be required  
211 to cease work on any excavation, or not start a proposed  
212 excavation, until the excavator complies with this chapter.

213           **SECTION 3.** The following shall be codified as Section  
214 77-13-29, Mississippi Code of 1972:

215           77-13-29.   **Underground Facilities Damage Prevention Board.**

216           (1) There is created an Underground Facilities Damage Prevention  
217 Board for the purpose of enforcing this chapter.

218           (2) It is the intent of the Legislature that the board and  
219 its enforcement activities not be funded by appropriations from  
220 the state budget.

221           (3) The Pipeline Safety Division will provide  
222 administrative, investigative and legal support for the board as  
223 deemed necessary and approved by the board. The Pipeline Safety  
224 Division shall charge to the board the expenses associated with



225 the administration, investigative and legal duties requested by  
226 the board.

227 (4) The board shall be composed of sixteen (16) members and  
228 all board appointments shall be made on or before July 31, 2016,  
229 as follows:

230 (a) The President of Mississippi 811, Inc., or his  
231 designee;

232 (b) One (1) representative of the telecommunications  
233 industry, appointed by the Governor;

234 (c) One (1) representative of the excavation, utility  
235 and/or site construction industry, appointed by the Lieutenant  
236 Governor;

237 (d) One (1) representative of the electric power  
238 industry investor-owned utilities, appointed by the Governor;

239 (e) One (1) representative of the Electric Power  
240 Associations of Mississippi, appointed by the Lieutenant Governor;

241 (f) The Executive Director of the Mississippi  
242 Department of Transportation, or his designee;

243 (g) One (1) representative of the cable industry  
244 appointed by the Governor;

245 (h) One (1) representative of the Pipeline Safety  
246 Division, serving as an ex officio, nonvoting member;

247 (i) One (1) representative of the natural gas or liquid  
248 transmission industry, appointed by the Lieutenant Governor;



249 (j) One (1) representative of the natural gas or liquid  
250 distribution industry, appointed by the Lieutenant Governor;

251 (k) The Executive Director of the Mississippi  
252 Association of Professional Surveyors, Inc., or his designee;

253 (l) The Executive Director of the Mississippi  
254 Association of Supervisors, or his designee;

255 (m) The Executive Director of the Mississippi Municipal  
256 League, or his designee;

257 (n) The Executive Director of the Mississippi  
258 Homebuilders Association, or his designee;

259 (o) The Chief Executive Officer of the Mississippi  
260 Rural Water Association, or his designee; and

261 (p) The Executive Director of the American Council of  
262 Engineering Companies of Mississippi, or his designee.

263 (5) The initial term of the appointed members provided in  
264 paragraphs (b) and (c) of subsection (4) shall end December 31,  
265 2017; the initial term of the appointed members provided in  
266 paragraphs (d) and (e) of subsection (4) shall end December 31,  
267 2019; and the initial term of the representatives provided in  
268 paragraphs (g), (i) and (j) of subsection (4) shall end December  
269 31, 2021. After the expiration of the initial terms, all  
270 appointed members shall serve a term of five (5) years.

271 (6) The Governor shall appoint the initial chairman of the  
272 board, and the initial board shall elect other officers as the  
273 board deems necessary. The board shall meet and elect a chairman



274 and other officers every two (2) years thereafter. The staff of  
275 Mississippi 811, Inc., shall serve as staff support for the board.

276 (7) The board shall meet no less than three (3) times each  
277 year, with a date and time to be set by its chairman upon at least  
278 five (5) business days' notice provided by United States mail,  
279 electronic mail or personal delivery to every board member.

280 (8) Eight (8) members of the board shall constitute a quorum  
281 and a majority vote of those present and voting at any meeting  
282 shall be necessary to transact business.

283 (9) The members of the board shall be immune, individually  
284 and jointly, from civil liability for any act or omission done or  
285 made in the performance of their duties while serving as members  
286 of the board, but only in the absence of willful misconduct.

287 (10) The members of the board shall serve without  
288 compensation.

289 (11) The board shall elect from its membership an executive  
290 committee, which shall have the exclusive authority for levying  
291 civil penalties and taking action as described in Section  
292 77-13-27. The executive committee shall be composed of the  
293 following five (5) members of the board:

294 (a) One (1) member appointed from subsection (4) (c) of  
295 this section;

296 (b) One (1) member from a state agency or local  
297 government;



298 (c) One (1) member appointed from subsection (4) (b),  
299 (d), (e), (g) or (o) of this section;

300 (d) One (1) member appointed from subsection (4) (i) or  
301 (j) of this section; and

302 (e) One (1) member chosen at large from the board from  
303 any paragraph of subsection (4) of this section.

304 (12) A member serving on the executive committee shall be  
305 limited to two (2) consecutive one-year terms. No executive  
306 committee member may participate in a vote on any matter in which  
307 his employer is the alleged violator or has incurred damage to its  
308 facilities as a result of the alleged violation.

309 (13) The board and the executive committee may hold meetings  
310 and vote by telephone, television, or other electronic means.

311 **SECTION 4.** The following shall be codified as Section  
312 77-13-31, Mississippi Code of 1972:

313 77-13-31. **Powers of the board.** (1) The board has the power  
314 and authority to:

315 (a) Adopt a budget and promulgate rules and regulations  
316 to carry out the responsibilities of the board and the executive  
317 committee under this chapter. The board shall adopt its initial  
318 budget and promulgate its initial rules and regulations no later  
319 than December 31, 2016.

320 (b) Make and enter into contracts.

321 (2) The board shall:



322 (a) Through its executive committee, initiate  
323 investigations and conduct hearings as required by this section;

324 (b) Manage the Underground Damage Prevention Fund  
325 created by Section 77-13-35;

326 (c) Assess its annual operating cost to operators in an  
327 amount equal to the amount necessary to offset the cost of  
328 investigative, administrative and legal services and other costs  
329 reasonably necessary to carry out its responsibilities under this  
330 chapter. The annual operating costs shall be determined after  
331 deducting funds available from other sources, including, but not  
332 limited to, federal grants, and such annual operating costs shall  
333 be apportioned in a proportional manner based on volume of locate  
334 requests, and shall be collected by Mississippi 811, Inc., from  
335 the operators; and

336 (d) Subject to the availability of funding in the  
337 Underground Damage Prevention Fund created by Section 77-13-35,  
338 contract with appropriate individuals, entities or agencies to  
339 conduct training and public awareness for damage prevention.

340 **SECTION 5.** The following shall be codified as Section  
341 77-13-33, Mississippi Code of 1972:

342 77-13-33. (1) The board shall develop and implement a  
343 process whereby upon receipt of a complaint of a violation of this  
344 chapter, the executive committee shall initiate an investigation  
345 of the complaint which may include a request that the Pipeline  
346 Safety Division designate an employee of the division who will



347 investigate the complaint in accordance with this chapter and the  
348 rules adopted by the board.

349 (2) Any investigator acting upon request by the executive  
350 committee may issue citations for violations of this chapter in a  
351 form and manner established by the board. Any citation shall  
352 include a recommendation for the penalty to be assessed and  
353 training to be completed under Section 77-13-27.

354 (3) If the person to whom the citation is issued under  
355 subsection (2) of this section does not pay the citation or submit  
356 to ordered training, or both as applicable, within thirty (30)  
357 days, then the executive committee shall conduct a hearing and  
358 issue an order which includes its findings and ordered penalties.  
359 The hearing shall be held at the time and place set forth in the  
360 citation or in a separate notice of hearing.

361 (4) A person aggrieved by the executive committee's order  
362 may, within sixty (60) days, seek judicial review in the form of  
363 an appeal "de novo" in the Chancery Court of the county in which  
364 the excavation occurred. If the excavation occurred in more than  
365 one (1) county, then the appeal shall be conducted in the chancery  
366 court of the county where the greatest amount of excavation  
367 referenced in the citation occurred.

368 (5) The person initiating a complaint of violation under  
369 this chapter shall submit to the board all information and  
370 documents in its possession related specifically to the alleged  
371 violation.



372 (6) Evidence of findings of fact, civil penalties, or any of  
373 the actions or proceedings pursuant to this chapter shall not be  
374 admissible in any other civil causes of action. This chapter  
375 shall not limit any person's right to pursue any additional civil  
376 remedy otherwise allowed by law.

377 (7) Nothing in this chapter shall grant the executive  
378 committee or the board jurisdiction over damage to utilities  
379 located above the ground.

380 **SECTION 6.** The following shall be codified as Section  
381 77-13-35, Mississippi Code of 1972:

382 77-13-35. **Underground Damage Prevention Fund.** (1) There is  
383 created an Underground Damage Prevention Fund to be administered  
384 and used by the board for the purpose of carrying out its duties  
385 under this chapter. All sources of funds collected by the board  
386 under this chapter, including, but not limited to, grants,  
387 assessments, and civil penalties collected pursuant to this  
388 chapter shall be deposited into the Underground Damage Prevention  
389 Fund. Any monies remaining in the Underground Damage Prevention  
390 Fund at the end of the fiscal year shall not revert to the General  
391 Fund, but shall remain in the Underground Damage Prevention Fund  
392 for the exclusive use of the board. The expenditure of monies in  
393 the Underground Damage Prevention Fund shall be at the discretion  
394 of the board to carry out its duties under this chapter. Excess  
395 funds shall be used for purposes related to buried utility damage  
396 prevention, including, but not limited to, public awareness



397 programs, training and education programs for excavators,  
398 operators, line locators, and other persons to reduce the number  
399 and severity of violations of this chapter.

400 (2) The Pipeline Safety Division, with assistance from the  
401 board, shall apply for all grants, including those awarded by the  
402 U.S. Department of Transportation's Pipeline and Hazardous  
403 Materials Safety Administration, which may be used to fund the  
404 cost of services associated with Section 77-13-29(3), and any such  
405 grants received shall be used to pay for such services.

406 **SECTION 7.** The following shall be codified as Section  
407 77-13-37, Mississippi Code of 1972:

408 77-13-37. **Scope of authority.** Nothing in this chapter shall  
409 expand the jurisdiction of the Pipeline Safety Division or the  
410 commission in any way.

411 **SECTION 8.** Section 77-13-7, Mississippi Code of 1972, is  
412 amended as follows:

413 77-13-7. (1) Each person responsible for any excavation  
414 that results in damage to an underground utility line or  
415 underground facility, immediately upon discovery of such damage,  
416 shall notify Mississippi \* \* \* 811, Inc., and notify all operators  
417 of such damaged line or facility of the location of the damage and  
418 shall allow the operator reasonable time to accomplish any  
419 necessary repairs before completing the excavation in the  
420 immediate area of the damage to such line or facility.



421           (2) Each person responsible for any excavation that results  
422 in damage to an underground pipeline or underground facility  
423 permitting the escape of any hazardous, flammable, toxic or  
424 corrosive gas or liquid shall, immediately upon discovery of such  
425 damage, call 911 and then notify Mississippi \* \* \* 811, Inc., and  
426 the operator and take other action as may reasonably be necessary  
427 to protect persons and property and to minimize the hazards, until  
428 arrival of the operator's personnel and the police or fire  
429 departments.

430           (3) Except where the excavator has fully complied with the  
431 provisions of Section 77-13-5 and subsections (1) and (2) of this  
432 section, each person responsible for excavation that results in  
433 damage to an underground line or underground facility, except the  
434 property owner, unless the property owner is the excavator, shall  
435 be responsible for any and all costs and expenses incurred by the  
436 operator in restoring, correcting, repairing or replacing the  
437 damaged line or facility.

438           **SECTION 9.** Section 77-13-5, Mississippi Code of 1972, is  
439 amended as follows:

440           77-13-5. (1) In addition to complying with all other  
441 applicable regulations and requirements of federal, state, county  
442 and municipal authorities, no person shall engage in excavation of  
443 any kind, before meeting the notification requirements of this  
444 chapter. Under this chapter the excavator shall:



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

448 (b) Plan and conduct the excavation to avoid or  
449 minimize interference with or damage to underground utility lines  
450 and underground facilities in or near the excavation area;  
451 maintain a clearance between any underground utility line or  
452 underground facility and the cutting edge or point of any  
453 mechanical excavating equipment, taking into account the known  
454 limit of control of such cutting edge or point, as may be  
455 reasonably necessary to avoid damage to such facility; and provide  
456 such support for underground utility lines or underground  
457 facilities in and near the excavation area, including during any  
458 backfilling operations, as may be reasonably necessary for the  
459 protection of such facilities.

460 (c) Except as provided in Section 77-13-11, provide not  
461 less than two (2) and not more than ten (10) working days' advance  
462 written, electronic or telephonic notice of the commencement,  
463 extent, location and duration of the excavation work to  
464 Mississippi 811, Inc., so that Mississippi 811, Inc., operator(s)  
465 may locate and mark the location of underground utility lines and  
466 underground facilities in the excavation area.

467 The written, electronic or telephonic notice required by this  
468 paragraph (c) shall contain the name, address and telephone number  
469 of the person filing the notice of intent, the person responsible



470 for the excavation, the starting date, anticipated duration, type  
471 of excavation to be conducted, the location of the proposed  
472 excavation and whether or not explosives are to be used.

473 (2) The markings provided by operators and the locate  
474 request number shall only be valid for a period of fourteen (14)  
475 calendar days from the date and time the locate request ticket is  
476 processed or entered into the system by Mississippi 811, Inc. The  
477 person responsible for the excavation project shall renew the  
478 notification with Mississippi 811, Inc., at least two (2) and not  
479 more than three (3) working days prior to this expiration date and  
480 shall continue to renew such notification in the same manner  
481 throughout the duration of the excavation. Such renewal notice  
482 shall be valid for a period of fourteen (14) calendar days from  
483 the date and time the renewal locate request is processed or  
484 entered into the system by Mississippi 811, Inc.

485 (3) Compliance with the notice requirements of this section  
486 shall not be required of: (a) persons plowing less than  
487 twenty-four (24) inches in depth for agricultural purposes; (b)  
488 persons who are moving or otherwise displacing, by hand, earth,  
489 rock or other material or mass of material on or below the ground  
490 at a depth of less than twelve (12) inches on property they own;  
491 and (c) persons, other than the property owner, who are moving or  
492 otherwise displacing, by hand, earth, rock or other material or  
493 mass of material on or below the ground at a depth of less than



494 twelve (12) inches, except when such excavation is in a clearly  
495 marked underground facility right-of-way.

496 (4) A person may make a written, electronic or telephonic  
497 design information request to Mississippi 811, Inc., so that  
498 owners and operators of utilities may locate underground utility  
499 lines and underground facilities in the design information area.  
500 The design information request shall contain the name, address,  
501 and telephone number of the person making the request, the type of  
502 project planned, and a description of the area to be located with  
503 sufficient particularity to enable the utility owner or operator  
504 to ascertain the precise tract or parcel of land involved.

505 **SECTION 10.** Section 77-13-9, Mississippi Code of 1972, is  
506 amended as follows:

507 77-13-9. (1) Every person owning or operating underground  
508 utility lines or underground facilities shall, upon receiving  
509 advance notice of the commencement of excavation, in accordance  
510 with Section 77-13-7, make an investigation, and may report  
511 through the use of the PRIS the status of the work performed,  
512 within two (2) working days from the time notice is provided in  
513 accordance with this chapter to \* \* \* Mississippi 811, Inc., to  
514 determine the approximate location of its underground utility  
515 lines or underground facilities in the area of the proposed  
516 excavation, and shall either: (a) mark the approximate location  
517 of underground utility lines and underground facilities in or near  
518 the area of the excavation, so as to enable the person engaged in



519 excavation work to locate the lines and facilities in advance of  
520 and during the excavation work; (b) advise in writing or by  
521 telephone or electronic means that it has no underground utility  
522 lines or underground facilities in the excavation area; or (c)  
523 advise in writing or by telephone or electronic means that it can  
524 locate its underground utility lines or underground facilities in  
525 the excavation area only by excavation. If an operator can locate  
526 its underground utility lines or underground facilities in the  
527 excavation area only by excavation and has given proper notice of  
528 such, that operator shall be allowed a reasonable amount of  
529 additional time, not to exceed four (4) working days from the day  
530 the original notice was provided in accordance with this chapter,  
531 to mark the approximate location of the underground utility lines  
532 or underground facilities.

533 (2) In lieu of such marking, the operator may request to be  
534 present at the site upon commencement of the excavation, so long  
535 as the operator complies within two (2) working days of the  
536 receipt of the notice.

537 (3) When an excavator, upon arriving at an excavation site,  
538 sees evidence of unmarked underground utility lines or underground  
539 facilities or encounters an unmarked underground utility line or  
540 underground facility on an excavation site after excavation has  
541 commenced where notice of intent has been made in accordance with  
542 the provisions of this chapter, that excavator must immediately  
543 contact Mississippi 811, Inc. All operator(s) thus notified must



544 contact the excavator within four (4) hours and inform the  
545 excavator of any of their known underground facilities, active or  
546 abandoned, at the site of the excavation.

547 (4) When marking the approximate location of the facilities,  
548 the operator shall follow the color code designated and described  
549 herein, unless otherwise provided for by specific administrative  
550 rule or regulation promulgated pursuant to this chapter, namely:

551 UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
552 Electric	Safety Red
553 Petroleum Product/Hazardous/ 554 Flammable/Corrosive/Toxic 555 Materials, Product and Steam 556 Lines, Gas or Gaseous Material	High Visibility Safety 557 Yellow
558 Telecommunications (including fiber 559 optics) and CATV	Safety Alert Orange
560 Potable Water	Safety Precaution Blue
561 Reclaimed Water, Irrigation, 562 Slurry Lines	Purple
563 Sewer and Drain Lines	Safety Green
564 Temporary Survey Markings	High Visibility Pink
565 Proposed Excavation	White

566 (5) All utility facilities installed by owners or operators  
567 of utilities on or after January 1, 2010, shall be installed in



568 such manner that the utility facility may be located by using a  
569 generally accepted electronic locating method.

570 (6) Except for emergency excavations, if, before the  
571 expiration of the two (2) working days' waiting period, all  
572 identified facility owners or operators have responded to the  
573 locate request and all have indicated that their facilities are  
574 either not in conflict or have been marked as indicated through  
575 the use of the PRIS, then the person planning to perform  
576 excavation or blasting shall be authorized to commence work,  
577 subject to the other requirements of this section, without waiting  
578 the full two (2) working days.

579 (7) Upon receiving a design information request, the utility  
580 owner or operator shall within seven (7) working days from the  
581 time notice is provided in accordance with this chapter to  
582 Mississippi 811, Inc., respond by one (1) of the following  
583 methods: (a) marking the approximate location of its underground  
584 utility lines and underground facilities in the area in accordance  
585 with subsection (1) of this section; (b) providing to the person  
586 making the design information request the best available  
587 description of its underground utility lines and underground  
588 facilities in the area which may include drawings or other records  
589 maintained by the utility owner or operator; or (c) allowing the  
590 person making the design information request or any other  
591 authorized person to inspect or copy the drawings or other records



592 for all underground utility lines and utility facilities in the  
593 area.

594       **SECTION 11.** This act shall take effect and be in force from  
595 and after July 1, 2016, except for Section 2 of this act which  
596 shall take effect and be in force from and after January 1, 2017.

