

By: Representative Bounds

To: Public Utilities

HOUSE BILL NO. 1044

1 AN ACT TO AMEND SECTION 77-13-5, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE EXCAVATORS TO MARK THE PROPOSED EXCAVATION AREA WITH WHITE
 3 PAINT, FLAGS OR STAKES PRIOR TO PROVIDING ADVANCE NOTIFICATION OF
 4 THE PROPOSED EXCAVATION TO MISSISSIPPI 811; TO PROVIDE THAT
 5 PROPOSED EXCAVATION AREAS MARKED WITH A SINGLE WHITE STAKE OR
 6 MARKER WILL BE CONSIDERED TO EXTEND NO FURTHER THAN FIFTY FEET IN
 7 ANY DIRECTION FROM THE WHITE STAKE OR MARKER; TO AMEND SECTION
 8 77-13-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHERE THE
 9 PROPOSED EXCAVATION AREA DESCRIBED IN THE NOTIFICATION TO
 10 MISSISSIPPI 811, INCORPORATED IS NOT CONSISTENT WITH THE AREA
 11 DESIGNATED BY WHITE LINE PRE-MARKINGS, THE OPERATOR SHALL MARK THE
 12 AREA DESCRIBED IN THE ONE-CALL SERVICE LOCATION TICKET, OR IF
 13 DEEMED NECESSARY, CONTACT THE PERSON RESPONSIBLE FOR THE
 14 EXCAVATION TO RESOLVE SUCH INCONSISTENCY; AND FOR RELATED
 15 PURPOSES.

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

17 **SECTION 1.** Section 77-13-5, Mississippi Code of 1972, is
 18 amended as follows:

19 77-13-5. (1) In addition to complying with all other
 20 applicable regulations and requirements of federal, state, county
 21 and municipal authorities, no person shall engage in excavation of
 22 any kind, before meeting the notification requirements of this
 23 chapter. Under this chapter the excavator shall:



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

27 (b) Plan and conduct the excavation to avoid or
28 minimize interference with or damage to underground utility lines
29 and underground facilities in or near the excavation area;
30 maintain a clearance between any underground utility line or
31 underground facility and the cutting edge or point of any
32 mechanical excavating equipment, taking into account the known
33 limit of control of such cutting edge or point, as may be
34 reasonably necessary to avoid damage to such facility; and provide
35 such support for underground utility lines or underground
36 facilities in and near the excavation area, including during any
37 backfilling operations, as may be reasonably necessary for the
38 protection of such facilities.

39 (c) Except as provided in Section 77-13-11, provide not
40 less than two (2) and not more than ten (10) working days' advance
41 written, electronic or telephonic notice of the commencement,
42 extent, location and duration of the excavation work to
43 Mississippi 811, Incorporated, so that Mississippi 811,
44 Incorporated, operator(s) may locate and mark the location of
45 underground utility lines and underground facilities in the
46 excavation area.

47 The written, electronic or telephonic notice required by this
48 paragraph (c) shall contain the name, address and telephone number



49 of the person filing the notice of intent, the person responsible
50 for the excavation, the starting date, anticipated duration, type
51 of excavation to be conducted, the location of the proposed
52 excavation and whether or not explosives are to be used.

53 (d) With the exception of design information requests,
54 prior to providing advance notice to Mississippi 811, Incorporated
55 as required by subsection 1(c), the excavator shall pre-mark the
56 approximate boundary of the proposed excavation area with white
57 paint, flags, or stakes. Where an excavator pre-marks the
58 proposed excavation area with a single stake or other single point
59 indicator, that excavator represents that the proposed excavation
60 area does not exceed fifty (50) feet in any direction from the
61 pre-mark.

62 (2) The markings provided by operators and the locate
63 request number shall only be valid for a period of fourteen (14)
64 calendar days from the date and time the locate request ticket is
65 processed or entered into the system by Mississippi 811,
66 Incorporated The person responsible for the excavation project
67 shall renew the notification with Mississippi 811, Incorporated,
68 at least two (2) and not more than three (3) working days prior to
69 this expiration date and shall continue to renew such notification
70 in the same manner throughout the duration of the excavation.
71 Such renewal notice shall be valid for a period of fourteen (14)
72 calendar days from the date and time the renewal locate request is



73 processed or entered into the system by Mississippi 811,
74 Incorporated

75 (3) Compliance with the notice requirements of this section
76 shall not be required of: (a) persons plowing less than
77 twenty-four (24) inches in depth for agricultural purposes; (b)
78 persons who are moving or otherwise displacing, by hand, earth,
79 rock or other material or mass of material on or below the ground
80 at a depth of less than twelve (12) inches on property they own;
81 and (c) persons, other than the property owner, who are moving or
82 otherwise displacing, by hand, earth, rock or other material or
83 mass of material on or below the ground at a depth of less than
84 twelve (12) inches, except when such excavation is in a clearly
85 marked underground facility right-of-way.

86 (4) A person may make a written, electronic or telephonic
87 design information request to Mississippi 811, Incorporated, so
88 that owners and operators of utilities may locate underground
89 utility lines and underground facilities in the design information
90 area. The design information request shall contain the name,
91 address, and telephone number of the person making the request,
92 the type of project planned, and a description of the area to be
93 located with sufficient particularity to enable the utility owner
94 or operator to ascertain the precise tract or parcel of land
95 involved.

96 **SECTION 2.** Section 77-13-9, Mississippi Code of 1972, is
97 amended as follows:



98 77-13-9. (1) Every person owning or operating underground
99 utility lines or underground facilities shall, upon receiving
100 advance notice of the commencement of excavation, in accordance
101 with Section 77-13-5, make an investigation, and shall report
102 through the use of the PRIS the status of the work performed,
103 within two (2) working days from the time notice is provided in
104 accordance with this chapter to Mississippi 811, Incorporated, to
105 determine the approximate location of its underground utility
106 lines or underground facilities in the area of the proposed
107 excavation, and shall either: (a) mark the approximate location
108 of underground utility lines and underground facilities in or near
109 the area of the excavation, so as to enable the person engaged in
110 excavation work to locate the lines and facilities in advance of
111 and during the excavation work and notify the excavator through
112 the PRIS that the facilities have been marked; (b) advise through
113 the PRIS that it has no underground utility lines or underground
114 facilities in the excavation area; or (c) advise through the PRIS
115 that it can locate its underground utility lines or underground
116 facilities in the excavation area only by excavation. If an
117 operator can locate its underground utility lines or underground
118 facilities in the excavation area only by excavation and has given
119 proper notice of such, that operator shall be allowed a reasonable
120 amount of additional time, not to exceed four (4) working days
121 from the day the original notice was provided in accordance with
122 this chapter, to mark the approximate location of the underground



123 utility lines or underground facilities. Where the proposed
124 excavation area described in the notification to Mississippi 811,
125 Incorporated is not consistent with the area designated by white
126 line pre-markings, the operator shall mark the area described in
127 the one-call service location ticket, or if deemed necessary,
128 contact the person responsible for the excavation to resolve such
129 inconsistency.

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

134 (3) When an excavator, upon arriving at an excavation site,
135 sees evidence of unmarked underground utility lines or underground
136 facilities or encounters an unmarked underground utility line or
137 underground facility on an excavation site after excavation has
138 commenced where notice of intent has been made in accordance with
139 the provisions of this chapter, that excavator must immediately
140 contact Mississippi 811, Incorporated All operator(s) thus
141 notified must contact the excavator within four (4) hours and
142 inform the excavator of any of their known underground facilities,
143 active or abandoned, at the site of the excavation.

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



148	UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
149	Electric	Safety Red
150	Petroleum Product/Hazardous/ 151 Flammable/Corrosive/Toxic 152 Materials, Product and Steam 153 Lines, Gas or Gaseous Material	High Visibility Safety 154 Yellow
155	Telecommunications (including fiber 156 optics) and CATV	Safety Alert Orange
157	Potable Water	Safety Precaution Blue
158	Reclaimed Water, Irrigation, 159 Slurry Lines	Purple
160	Sewer and Drain Lines	Safety Green
161	Temporary Survey Markings	High Visibility Pink
162	Proposed Excavation	White

163 (5) All utility facilities installed by owners or operators
164 of utilities on or after January 1, 2010, shall be installed in
165 such manner that the utility facility may be located by using a
166 generally accepted electronic locating method.

167 (6) Except for emergency excavations, if, before the
168 expiration of the two (2) working days' waiting period, all
169 identified facility owners or operators have responded to the
170 locate request and all have indicated that their facilities are
171 either not in conflict or have been marked as indicated through
172 the use of the PRIS, then the person planning to perform



173 excavation or blasting shall be authorized to commence work,
174 subject to the other requirements of this section, without waiting
175 the full two (2) working days.

176 (7) Upon receiving a design information request, the utility
177 owner or operator shall within seven (7) working days from the
178 time notice is provided in accordance with this chapter to
179 Mississippi 811, Incorporated, respond by one (1) of the following
180 methods: (a) marking the approximate location of its underground
181 utility lines and underground facilities in the area in accordance
182 with subsection (1) of this section; (b) providing to the person
183 making the design information request the best available
184 description of its underground utility lines and underground
185 facilities in the area which may include drawings or other records
186 maintained by the utility owner or operator; or (c) allowing the
187 person making the design information request or any other
188 authorized person to inspect or copy the drawings or other records
189 for all underground utility lines and utility facilities in the
190 area.

191 **SECTION 3.** This act shall take effect and be in force from
192 and after July 1, 2023.

