

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 2102

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO
 2 DEFINE IMPENDING EMERGENCY EXCAVATION; TO AMEND SECTION 77-13-5,
 3 MISSISSIPPI CODE OF 1972, TO ESTABLISH ADVANCE NOTICE REQUIREMENTS
 4 FOR IMPENDING EMERGENCY EXCAVATIONS; TO AMEND SECTION 77-13-9,
 5 MISSISSIPPI CODE OF 1972, TO REQUIRE PREMARKING FOR EMERGENCY
 6 EXCAVATIONS; TO AMEND SECTION 77-13-11, MISSISSIPPI CODE OF 1972,
 7 TO CONFORM; AND FOR RELATED PURPOSES.

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

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

11 77-13-3. The words defined in this section shall have the
 12 following meanings when found in this chapter:

13 (a) "Abandoned facility" means any underground utility
 14 line or underground utility facilities no longer used in the
 15 conduct of the owner/operator's business and are not intended to
 16 be used in the future.

17 (b) "Approximate location of underground utility lines
 18 or underground facilities" means information about an operator's
 19 underground utility lines or underground facilities which is
 20 provided to a person by an operator and must be accurate within



21 eighteen (18) inches measured horizontally from the outside edge
22 of each side of such operator's facility, or a strip of land
23 eighteen (18) inches either side of the operator's field mark, or
24 the marked width of the facility or line plus eighteen (18) inches
25 on each side of the marked width of the facility or line.

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

28 (d) "Calendar day" means a twenty-four-hour period.

29 (e) "Commission" means the Mississippi Public Service
30 Commission.

31 (f) "Damage" means the substantial weakening of
32 structural or lateral support of underground utility lines and
33 underground facilities, penetration or destruction of any
34 protective coating, housing or other protective devices of an
35 underground utility line or underground facility, and the partial
36 or complete severance of any underground utility line or
37 underground facility, but does not include any operator's
38 abandoned facility.

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



45 (h) "Emergency excavation" means excavation at times of
46 emergency involving imminent danger to life, health or property or
47 a customer service outage.

48 (i) "Excavate or excavation" means any operation in
49 which earth, rock or other material or mass of material on or
50 below the ground is moved or otherwise displaced by any means,
51 except: (i) the tilling of the soil less than twenty-four (24)
52 inches in depth for agricultural purposes; or (ii) an operation in
53 which earth, rock or other material or mass of material on or
54 below the ground is moved or otherwise displaced to a depth of
55 less than twelve (12) inches on private property by the property
56 owner without the use of mechanical excavating equipment; or (iii)
57 an operation in which earth, rock or other material or mass of
58 material on or below the ground is moved or otherwise displaced
59 without the use of mechanical excavating equipment to a depth of
60 less than twelve (12) inches on private property by an excavator
61 who is not the property owner, except when such excavation is in a
62 clearly marked underground facility right-of-way; or (iv) routine
63 railroad maintenance activities conducted within the track
64 structure, drainage ditches, or within the railroad right-of-way a
65 distance not to exceed thirty (30) feet from the outside rail of
66 the outermost track or tracks, provided this work is performed by
67 railroad employees or railroad contractors and is carried out with
68 reasonable care so as to protect any underground facilities
69 properly installed in the railroad right-of-way by agreement with



70 the railroad; or (v) routine activities of a cemetery, provided
71 that for any cemetery that begins or expands after July 1, 2015,
72 such activities occur only after initial notice is provided to
73 Mississippi 811, Inc., and all affected operators have advised
74 that there are no underground facilities within the boundaries of
75 the subject cemetery; or (vi) routine maintenance activities
76 carried out by or for those responsible for publicly maintained
77 roadways and rights-of-way, provided that the activities occur
78 entirely within the public right-of-way and do not penetrate the
79 earth to a depth of more than twelve (12) inches and are carried
80 out with reasonable care so as to protect any underground
81 facilities placed in the right-of-way. Routine maintenance
82 activities shall be more specifically described in the rules and
83 regulations adopted by the board; or (vii) the driving of wooden
84 stakes by use of hand tools which do not penetrate the earth to a
85 depth of not more than six (6) inches. The term "excavate" shall
86 include, but not be limited to, the operations of demolition,
87 blasting, grading, land leveling, trenching, digging, ditching,
88 drilling, augering, tunneling, scraping, cable or pipe plowing,
89 driving, jacking, wrecking, razing, rending, moving or removing
90 any structure or other material or mass of material on or below
91 the ground.

92 (j) "Excavator" means any person who engages directly
93 in excavation.



94 (k) "Mark" means the use of stakes, paint or other
95 clearly identifiable materials to show the field location of
96 underground facilities in accordance with the current color code
97 standard of the American Public Works Association, or the
98 uncovering or exposing of underground facilities so that the
99 excavator may readily see the location of same, or the pointing
100 out to the excavator of certain aboveground facilities such as,
101 but not limited to, manhole covers, valve boxes and pipe and cable
102 risers, which indicate the location of underground facilities.

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

109 (m) "Mississippi 811, Inc." means a nonprofit
110 corporation organized under the laws of the State of Mississippi
111 that provides a service through which a person shall notify the
112 operator(s) of underground facilities of plans to excavate and
113 request marking of facilities.

114 (n) "Mississippi One-Call System, Inc." means
115 "Mississippi 811, Inc." Whenever the term "Mississippi One-Call
116 System, Inc." appears in this chapter, the term shall mean
117 "Mississippi 811, Inc."



118 (o) "Operator" means any person who owns or operates a
119 utility. However, the term "operator" shall not include any
120 railroad or the Mississippi Department of Transportation.

121 (p) "Person" means any individual, firm, partnership,
122 association, trustee, receiver, assignee, corporation, entity,
123 limited liability company, utility, joint venture, municipality,
124 state governmental unit, subdivision or instrumentality of the
125 state, or any legal representative thereof.

126 (q) "Pipeline Safety Division" means the Pipeline
127 Safety Division of the Public Service Commission.

128 (r) "Positive response information system" or "PRIS"
129 means an automated information system operated and maintained by
130 Mississippi 811, Inc., that allows excavators, locators, facility
131 owners or operators, and other affected parties to enter and/or
132 determine the status of a locate request.

133 (s) "Underground facility" means any underground
134 utility lines and other items which shall be buried or placed
135 below ground or submerged for use in connection with underground
136 utility lines and including, but not be limited to, pipes, sewers,
137 conduits, cables, valves, lines, wires, manholes, vaults,
138 attachments and those portions of poles below the ground.

139 (t) "Underground utility lines" means underground or
140 buried cable, conduit pipes and related facilities for
141 transportation and delivery of electricity, telecommunications
142 (including fiber optics), water, sewage, gas, mixtures of gases,



143 petroleum, petroleum products or hazardous, flammable, toxic or
144 corrosive liquids.

145 (u) "Utility" means any person who supplies,
146 distributes or transports by means of underground utility lines or
147 underground facilities any of the following materials or services:
148 gas, mixture of gases, petroleum, petroleum products or hazardous,
149 toxic, flammable or corrosive liquids, electricity,
150 telecommunications (including fiber optics), sewage, drainage,
151 water, steam or other substances.

152 (v) "Working day" means a twenty-four-hour period
153 commencing from the time the locate request is processed or
154 entered into the system by Mississippi 811, Inc., in accordance
155 with this chapter, excluding Saturdays, Sundays and legal
156 holidays.

157 (w) "Impending emergency" means circumstances
158 potentially dangerous to life, health, property or the loss of
159 customer services, which would likely develop into an emergency,
160 as defined in Section 77-13-11, if excavation is not initiated
161 sooner than permitted under the standard notification
162 requirements.

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, before
186 beginning any excavation, other than an impending emergency
187 excavation, as defined in Section 77-13-3(w), provide not less
188 than * * * three (3) and not more than ten (10) working days'
189 advance written, electronic or telephonic notice of the
190 commencement, extent, location and duration of the excavation work
191 to Mississippi 811, Inc., so that Mississippi 811, Inc.,



192 operator(s) may locate and mark the location of underground
193 utility lines and underground facilities in the excavation area.

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

200 (d) For excavations required due to an impending
201 emergency, provide advance written, electronic or telephonic
202 notice of the commencement, extent, location and duration of the
203 excavation work to Mississippi 811, Inc. For notices provided
204 between 8:00 p.m. and 11:59 a.m., the excavation shall commence no
205 less than twelve (12) hours from the time notice is provided. For
206 notices provided between 12:00 p.m. and 7:59 p.m., the excavation
207 shall commence no sooner than 8:00 a.m. on the next calendar day,
208 to provide sufficient time for Mississippi 811, Inc., operators to
209 locate and mark the location of underground facilities in the
210 excavation area. In addition to the notice required by paragraph
211 (c) of this subsection, the excavator shall also provide contact
212 information for a person readily available to discuss the
213 impending emergency excavation with operators.

214 (e) With the exception of design information requests,
215 prior to providing the notice to Mississippi 811, Inc., required
216 by paragraph (c) of this subsection, the excavator shall premark



217 the approximate boundary of the proposed excavation area with
218 white paint, flags or stakes. An excavator may only premark the
219 proposed excavation area with a single stake or other single point
220 indicator when the proposed excavation area does not exceed fifty
221 (50) feet in any direction from the premark.

222 (2) The markings provided by operators and the locate
223 request number shall only be valid for a period of fourteen (14)
224 calendar days from the date and time the locate request ticket is
225 processed or entered into the system by Mississippi 811, Inc. The
226 person responsible for the excavation project shall renew the
227 notification with Mississippi 811, Inc., at least * * * three (3)
228 and not more than * * * four (4) working days prior to this
229 expiration date and shall continue to renew such notification in
230 the same manner throughout the duration of the excavation. Such
231 renewal notice shall be valid for a period of fourteen (14)
232 calendar days from the date and time the renewal locate request is
233 processed or entered into the system by Mississippi 811, Inc.

234 (3) Compliance with the notice requirements of this section
235 shall not be required of: (a) persons plowing less than
236 twenty-four (24) inches in depth for agricultural purposes; (b)
237 persons who are moving or otherwise displacing, by hand, earth,
238 rock or other material or mass of material on or below the ground
239 at a depth of less than twelve (12) inches on property they own;
240 and (c) persons, other than the property owner, who are moving or
241 otherwise displacing, by hand, earth, rock or other material or



242 mass of material on or below the ground at a depth of less than
243 twelve (12) inches, except when such excavation is in a clearly
244 marked underground facility right-of-way.

245 (4) A person may make a written, electronic or telephonic
246 design information request to Mississippi 811, Inc., so that
247 owners and operators of utilities may locate underground utility
248 lines and underground facilities in the design information area.
249 The design information request shall contain the name, address,
250 and telephone number of the person making the request, the type of
251 project planned, and a description of the area to be located with
252 sufficient particularity to enable the utility owner or operator
253 to ascertain the precise tract or parcel of land involved.

254 **SECTION 3.** Section 77-13-9, Mississippi Code of 1972, is
255 amended as follows:

256 77-13-9. (1) Every person owning or operating underground
257 utility lines or underground facilities shall, upon receiving
258 advance notice of the commencement of excavation, in accordance
259 with Section 77-13-5(1)(c), make an investigation, and shall
260 report through the use of the PRIS the status of the work
261 performed, within * * * three (3) working days from the time
262 notice is provided in accordance with this chapter to Mississippi
263 811, Inc., to determine the approximate location of its
264 underground utility lines or underground facilities in the area of
265 the proposed excavation, and shall either: (a) mark the
266 approximate location of underground utility lines and underground



267 facilities in or near the area of the excavation, so as to enable
268 the person engaged in excavation work to locate the lines and
269 facilities in advance of and during the excavation work and notify
270 the excavator through the PRIS that the facilities have been
271 marked; (b) advise through the PRIS that it has no underground
272 utility lines or underground facilities in the excavation area; or
273 (c) advise through the PRIS that it can locate its underground
274 utility lines or underground facilities in the excavation area
275 only by excavation. If an operator can locate its underground
276 utility lines or underground facilities in the excavation area
277 only by excavation and has given proper notice of such, that
278 operator shall be allowed a reasonable amount of additional time,
279 not to exceed four (4) working days from the day the original
280 notice was provided in accordance with this chapter, to mark the
281 approximate location of the underground utility lines or
282 underground facilities. Where the proposed excavation area
283 described in the notice to Mississippi 811, Inc., is not
284 consistent with or is in contradiction to, the area designated by
285 white line premarkings, the operator shall mark the area described
286 in the one-call service location ticket, or if deemed necessary,
287 contact the person responsible for the excavation to resolve such
288 conflict or contradiction.

289 (2) In lieu of such marking, the operator may request to be
290 present at the site upon commencement of the excavation, so long



291 as the operator complies within two (2) working days of the
292 receipt of the notice.

293 (3) When an excavator, upon arriving at an excavation site,
294 sees evidence of unmarked underground utility lines or underground
295 facilities or encounters an unmarked underground utility line or
296 underground facility on an excavation site after excavation has
297 commenced where notice of intent has been made in accordance with
298 the provisions of this chapter, that excavator must immediately
299 contact Mississippi 811, Inc. All operator(s) thus notified must
300 contact the excavator within * * * two (2) hours and inform the
301 excavator of any of their known underground facilities, active or
302 abandoned, at the site of the excavation.

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

307 UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
308 Electric	Safety Red
309 Petroleum Product/Hazardous/ 310 Flammable/Corrosive/Toxic 311 Materials, Product and Steam 312 Lines, Gas or Gaseous Material	High Visibility Safety Yellow
314 Telecommunications (including fiber 315 optics) and CATV	Safety Alert Orange



316	Potable Water	Safety Precaution Blue
317	Reclaimed Water, Irrigation,	
318	Slurry Lines	Purple
319	Sewer and Drain Lines	Safety Green
320	Temporary Survey Markings	High Visibility Pink
321	Proposed Excavation	White

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

326 (6) Except for emergency excavations, if, before the
327 expiration of the * * * three (3) working days' waiting period,
328 all identified facility owners or operators have responded to the
329 locate request and all have indicated that their facilities are
330 either not in conflict or have been marked as indicated through
331 the use of the PRIS, then the person planning to perform
332 excavation or blasting shall be authorized to commence work,
333 subject to the other requirements of this section, without waiting
334 the full * * * three (3) working days.

335 (7) Upon receiving a design information request, the utility
336 owner or operator shall within seven (7) working days from the
337 time notice is provided in accordance with this chapter to
338 Mississippi 811, Inc., respond by one (1) of the following
339 methods: (a) marking the approximate location of its underground
340 utility lines and underground facilities in the area in accordance



341 with subsection (1) of this section; (b) providing to the person
342 making the design information request the best available
343 description of its underground utility lines and underground
344 facilities in the area which may include drawings or other records
345 maintained by the utility owner or operator; or (c) allowing the
346 person making the design information request or any other
347 authorized person to inspect or copy the drawings or other records
348 for all underground utility lines and utility facilities in the
349 area.

350 (8) Every person owning or operating an underground utility
351 line or underground facility shall, upon receiving advance notice
352 of the commencement of impending emergency excavation in
353 accordance with Section 77-13-5(1)(d), make an investigation into
354 and report through the use of the PRIS the status of the work
355 performed, prior to the noticed time of excavation provided in
356 accordance with this chapter, to Mississippi 811, Inc., to
357 determine the approximate location of the underground utility line
358 or underground facility in the area of the proposed excavation,
359 and shall either:

360 (a) Mark the approximate location of any
361 underground utility lines or underground facilities in or near the
362 area of the excavation, so as to enable the person engaged in
363 excavation work to locate the lines and facilities in advance of
364 and during the excavation work and notify the excavator through
365 the PRIS that the facilities have been marked; or



366 (b) Advise through the PRIS that there are no
367 underground utility lines or underground facilities in the
368 excavation area.

369 **SECTION 4.** Section 77-13-11, Mississippi Code of 1972, is
370 amended as follows:

371 77-13-11. (1) The advance notice provisions of this chapter
372 shall not apply to any person making an emergency excavation at
373 times of emergency involving an imminent danger to life, health or
374 property or a customer service outage. However, every person who
375 shall engage in such emergency excavation shall take all necessary
376 and reasonable precautions to avoid or minimize interference with
377 or damage to existing underground utility lines and underground
378 facilities in and near the excavation area, and shall notify
379 Mississippi 811, Inc., of the specifically designated emergency
380 excavation as promptly as reasonably possible * * * so that
381 operators may locate and mark the location of underground utility
382 lines and underground facilities in the specifically designated
383 emergency excavation area. In the event of damage to or
384 dislocation of any underground utility lines or underground
385 facilities caused by any such emergency excavation work, the
386 person responsible for the excavation shall immediately notify the
387 operator of the damaged or dislocated underground facilities of
388 the damage or dislocation.

389 (2) An imminent danger to life, health, property or customer
390 service exists whenever there is a substantial likelihood that



391 injury, loss of life, health or customer services, or substantial
392 property loss could result before the person responsible for the
393 excavation or demolition can fully comply with the notification
394 and response procedures required in Sections 77-13-7 and 77-13-17.

395 (3) Any misrepresentation of an emergency excavation as
396 defined in Section 77-13-3(h) or of an impending emergency as
397 defined in Section 77-13-3(w) shall constitute a violation of this
398 chapter.

399 **SECTION 5.** This act shall take effect and be in force
400 from and after July 1, 2023.

