

By: Representative Powell

To: Public Utilities

HOUSE BILL NO. 1063

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE TERMS "LOCATE REQUEST TICKET" AND "TRENCHLESS
3 EXCAVATION"; TO AMEND SECTION 77-13-5, MISSISSIPPI CODE OF 1972,
4 TO PROVIDE THAT THE NOTICE REQUIRED FOR EXCAVATION SHALL CONTAIN
5 THE LOCATION OF THE PROPOSED EXCAVATION, WHICH IS LIMITED TO AN
6 AREA THE EXCAVATOR REASONABLY BELIEVES MAY BE COMPLETED WITHIN
7 FOURTEEN CALENDAR DAYS FROM THE DATE AND TIME THE LOCATE REQUEST
8 TICKET IS ENTERED INTO THE MISSISSIPPI 811, INC. SYSTEM AND DOES
9 NOT INCLUDE ANY AREA IN WHICH THE EXCAVATOR HAS ALREADY COMPLETED
10 THE EXCAVATION WORK; TO PROVIDE THAT PRIOR TO PROVIDING THE
11 ADVANCE NOTICE TO MISSISSIPPI 811, INC., THE EXCAVATOR SHALL
12 PRE-MARK THE APPROXIMATE BOUNDARY OF THE PROPOSED EXCAVATION AREA
13 WITH WHITE PAINT, FLAGS, OR STAKES; TO PROVIDE THAT THE PROPOSED
14 EXCAVATION LOCATION ON A RENEWAL LOCATE REQUEST TICKET SHALL NOT
15 INCLUDE ANY AREA IN WHICH THE EXCAVATOR HAS ALREADY COMPLETED THE
16 EXCAVATION WORK; TO PROVIDE THAT THE EXCAVATOR SHALL NOT USE
17 POWER-DRIVEN EQUIPMENT FOR TRENCHLESS EXCAVATION, INCLUDING
18 DIRECTIONAL DRILLING, ACROSS OR WITHIN THE MARKED APPROXIMATE
19 LOCATION OF UNDERGROUND UTILITY LINES OR UNDERGROUND FACILITIES,
20 WITH CERTAIN EXCEPTIONS; TO PROVIDE THAT FOR TRENCHLESS
21 EXCAVATIONS, INCLUDING DIRECTIONAL DRILLING, PARALLEL TO THE
22 MARKED APPROXIMATE LOCATION OF UNDERGROUND UTILITY LINES OR
23 UNDERGROUND FACILITIES, THE EXCAVATOR SHALL USE CERTAIN
24 NONINVASIVE METHODS TO IDENTIFY THE LOCATION OF THE UNDERGROUND
25 UTILITY FACILITY AT CAREFUL AND PRUDENT INTERVALS; AND FOR RELATED
26 PURPOSES.

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

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



30 77-13-3. The words defined in this section shall have the
31 following meanings when found in this chapter:

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

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

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

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

48 (e) "Commission" means the Mississippi Public Service
49 Commission.

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



55 or complete severance of any underground utility line or
56 underground facility, but does not include any operator's
57 abandoned facility.

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

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

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



80 who is not the property owner, except when such excavation is in a
81 clearly marked underground facility right-of-way; or (iv) routine
82 railroad maintenance activities conducted within the track
83 structure, drainage ditches, or within the railroad right-of-way a
84 distance not to exceed thirty (30) feet from the outside rail of
85 the outermost track or tracks, provided this work is performed by
86 railroad employees or railroad contractors and is carried out with
87 reasonable care so as to protect any underground facilities
88 properly installed in the railroad right-of-way by agreement with
89 the railroad; or (v) routine activities of a cemetery, provided
90 that for any cemetery that begins or expands after July 1, 2015,
91 such activities occur only after initial notice is provided to
92 Mississippi 811, Incorporated, and all affected operators have
93 advised that there are no underground facilities within the
94 boundaries of the subject cemetery; or (vi) routine maintenance
95 activities carried out by or for those responsible for publicly
96 maintained roadways and rights-of-way, provided that the
97 activities occur entirely within the public right-of-way and do
98 not penetrate the earth to a depth of more than twelve (12) inches
99 and are carried out with reasonable care so as to protect any
100 underground facilities placed in the right-of-way. Routine
101 maintenance activities shall be more specifically described in the
102 rules and regulations adopted by the board; or (vii) the driving
103 of wooden stakes by use of hand tools which do not penetrate the
104 earth to a depth of not more than six (6) inches. The term



105 "excavate" shall include, but not be limited to, the operations of
106 demolition, blasting, grading, land leveling, trenching, digging,
107 ditching, drilling, augering, directional boring, tunneling,
108 scraping, cable or pipe plowing, driving, jacking, wrecking,
109 razing, rending, dredging and anchoring, moving or removing any
110 structure or other material or mass of material on or below the
111 ground.

112 (j) "Excavator" means any person who engages directly
113 in excavation.

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

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



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

134 (n) "Mississippi One-Call System, Incorporated," means
135 "Mississippi 811, Incorporated." Whenever the term "Mississippi
136 One-Call System, Incorporated," appears in this chapter, the term
137 shall mean "Mississippi 811, Incorporated."

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

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

146 (q) "Pipeline Safety Division" means the Pipeline
147 Safety Division of the Public Service Commission.

148 (r) "Positive Response Information System" or "PRIS"
149 means an automated information system operated and maintained by
150 Mississippi 811, Incorporated, that allows excavators, locators,
151 facility owners or operators, and other affected parties to enter
152 and/or determine the status of a locate request.



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

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

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

172 (v) "Working day" means a twenty-four-hour period
173 commencing from the time the locate request is processed or
174 entered into the system by Mississippi 811, Incorporated, in
175 accordance with this chapter, excluding Saturdays, Sundays and
176 legal holidays.



177 (w) "Impending Emergency" means circumstances
178 potentially dangerous to life, health, property, or loss of
179 customer services, which would likely develop into an emergency,
180 as defined in Section 77-13-11, if excavation is not initiated
181 sooner than the normal notification requirements allow.

182 (x) "Locate request ticket" means an electronic
183 document generated by Mississippi 811, Inc. which includes the
184 information described in Section 77-13-5(c).

185 (y) "Trenchless excavation" means horizontal excavation
186 parallel to the surface of the earth which does not use trenching
187 or vertical digging as the primary means of excavation, including
188 but not limited to directional boring, tunneling, or augering.

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

191 77-13-5. (1) In addition to complying with all other
192 applicable regulations and requirements of federal, state, county
193 and municipal authorities, no person shall engage in excavation of
194 any kind, before meeting the notification requirements of this
195 chapter. Under this chapter the excavator shall:

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

199 (b) Plan and conduct the excavation to avoid or
200 minimize interference with or damage to underground utility lines
201 and underground facilities in or near the excavation area;



202 maintain a clearance between any underground utility line or
203 underground facility and the cutting edge or point of any
204 mechanical excavating equipment, taking into account the known
205 limit of control of such cutting edge or point, as may be
206 reasonably necessary to avoid damage to such facility; and provide
207 such support for underground utility lines or underground
208 facilities in and near the excavation area, including during any
209 backfilling operations, as may be reasonably necessary for the
210 protection of such facilities.

211 (c) Except as provided in Section 77-13-11, before
212 beginning any excavation, other than an impending emergency as
213 defined in Section 77-13-3, provide not less than three (3) and
214 not more than ten (10) working days' advance written, electronic
215 or telephonic notice of the commencement, extent, location and
216 duration of the excavation work to Mississippi 811, Incorporated,
217 so that Mississippi 811, Incorporated, operator(s) may locate and
218 mark the location of underground utility lines and underground
219 facilities in the excavation area.

220 The written, electronic or telephonic notice required by this
221 paragraph (c) shall contain the name, address and telephone number
222 of the person filing the notice of intent, the person responsible
223 for the excavation, the starting date, anticipated duration, type
224 of excavation to be conducted, the location of the proposed
225 excavation, which is limited to an area the excavator reasonably
226 believes may be completed within fourteen (14) calendar days from



227 the date and time the locate request ticket is processed or
228 entered into the Mississippi 811, Inc. system and does not include
229 any area in which the excavator has already completed the
230 excavation work, and whether or not explosives are to be used.

231 In addition to all other violations of this chapter,
232 providing advanced written notification required by this paragraph
233 (c) where the proposed excavation location could not reasonably be
234 completed within fourteen (14) calendar days from the date and
235 time the locate request ticket is processed or entered into the
236 Mississippi 811, Inc., system, or where the proposed excavation
237 location includes any area in which the excavator has already
238 completed the excavation work shall constitute violations of this
239 chapter.

240 Prior to providing the advance notice to Mississippi 811,
241 Inc., as required by this subsection 1(c), the excavator shall
242 pre-mark the approximate boundary of the proposed excavation area
243 with white paint, flags, or stakes. Where an excavator pre-marks
244 the proposed excavation area with a single stake or other single
245 point indicator, that excavator represents that the proposed
246 excavation area does not exceed fifty (50) feet in any direction
247 from the pre-mark. In the event that the location of the proposed
248 excavation provided in the notice includes sufficient details to
249 enable the operator to locate same with reasonable certainty,
250 pre-marking shall not be required.



251 (d) Provide advance written, electronic or telephonic
252 notice of the commencement, extent, location and duration of the
253 excavation work to Mississippi 811, Incorporated, for excavations
254 required due to an impending emergency, that includes an
255 excavation start time that is not less than twelve (12) hours from
256 the time of notices provided between 8:00 p.m. and 11:59 a.m., and
257 not sooner than 8:00 a.m., on the next calendar day for notices
258 provided between 12:00 p.m. and 7:59 p.m., so that Mississippi
259 811, Incorporated, operators may locate and mark the location of
260 underground utility lines and underground facilities in the
261 excavation area.

262 In addition to the written, electronic or telephonic notice
263 information required in subsection (1)(c) of this section, the
264 excavator shall also provide contact information for a person
265 readily available to discuss the impending emergency excavation
266 with operators.

267 (2) The markings provided by operators and the locate
268 request number shall only be valid for a period of fourteen (14)
269 calendar days from the date and time the locate request ticket is
270 processed or entered into the system by Mississippi 811,
271 Incorporated. The person responsible for the excavation project
272 shall renew the notification with Mississippi 811, Incorporated,
273 at least three (3) and not more than four (4) working days prior
274 to this expiration date and shall continue to renew such
275 notification in the same manner throughout the duration of the



276 excavation. Such renewal notice shall be valid for a period of
277 fourteen (14) calendar days from the date and time the renewal
278 locate request is processed or entered into the system by
279 Mississippi 811, Incorporated. The proposed excavation location
280 on a renewal locate request ticket shall not include any area in
281 which the excavator has already completed the excavation work. In
282 addition to all other violations of this chapter, renewing a
283 locate request ticket that includes any area within the proposed
284 excavation location in which the excavator has already completed
285 the excavation work shall constitute a violation of this chapter.

286 (3) Compliance with the notice requirements of this section
287 shall not be required of: (a) persons plowing less than
288 twenty-four (24) inches in depth for agricultural purposes; (b)
289 persons who are moving or otherwise displacing, by hand, earth,
290 rock or other material or mass of material on or below the ground
291 at a depth of less than twelve (12) inches on property they own;
292 and (c) persons, other than the property owner, who are moving or
293 otherwise displacing, by hand, earth, rock or other material or
294 mass of material on or below the ground at a depth of less than
295 twelve (12) inches, except when such excavation is in a clearly
296 marked underground facility right-of-way.

297 (4) A person may make a written, electronic or telephonic
298 design information request to Mississippi 811, Incorporated, so
299 that owners and operators of utilities may locate underground
300 utility lines and underground facilities in the design information



301 area. The design information request shall contain the name,
302 address, and telephone number of the person making the request,
303 the type of project planned, and a description of the area to be
304 located with sufficient particularity to enable the utility owner
305 or operator to ascertain the precise tract or parcel of land
306 involved.

307 (5) (a) Notwithstanding any other provision of this chapter
308 to the contrary, the procedures and requirements set forth in this
309 subsection (5) shall apply on the site of any excavation involving
310 trenchless excavation, including directional drilling, where the
311 approximate location of underground utility lines or underground
312 facilities has been marked in compliance with Section 77-13-9.

313 (b) The excavator shall not use power-driven equipment
314 for trenchless excavation, including directional drilling, across
315 or within the marked approximate location of underground utility
316 lines or underground facilities unless, when reasonably practical,
317 the excavator exposes the planned trenchless excavation path by a
318 noninvasive method such as hand digging, pot holing when
319 practical, soft digging, vacuum methods, use of pressurized air or
320 water, or pneumatic hand tools and then carefully and prudently
321 monitors the horizontal and vertical location of the trenchless
322 excavation device in a manner calculated to enable the device to
323 be visually observed by the excavator as it crosses the entire
324 width of the marked approximate location of the underground
325 facilities.



326 (c) For trenchless excavations, including directional
327 drilling, parallel to the marked approximate location of
328 underground utility lines or underground facilities, the excavator
329 shall, when reasonably practical, use a noninvasive method such as
330 hand digging, pot holing when practical, soft digging, vacuum
331 methods, use of pressurized air or water, or pneumatic hand tools
332 such to identify the actual location of the underground utility
333 facility at careful and prudent intervals.

334 **SECTION 3.** This act shall take effect and be in force from
335 and after July 1, 2024.

