

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 2603

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 BORING, 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 BORING, PARALLEL TO THE MARKED
22 APPROXIMATE LOCATION OF UNDERGROUND UTILITY LINES OR UNDERGROUND
23 FACILITIES, THE EXCAVATOR SHALL USE CERTAIN NONINVASIVE METHODS TO
24 IDENTIFY THE LOCATION OF THE UNDERGROUND UTILITY FACILITY AT
25 CAREFUL AND PRUDENT INTERVALS; AND FOR RELATED PURPOSES.

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

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



29 77-13-3. The words defined in this section shall have the
30 following meanings when found in this chapter:

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

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

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

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

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

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



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

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

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

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



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



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

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

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

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



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

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

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

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

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

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



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

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

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

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



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

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

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

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

190 77-13-5. (1) In addition to complying with all other
191 applicable regulations and requirements of federal, state, county
192 and municipal authorities, no person shall engage in excavation of
193 any kind, before meeting the notification requirements of this
194 chapter. Under this chapter the excavator shall:

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

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



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

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

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



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

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

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



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

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

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



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

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

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



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

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

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



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

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

