

By: Representative Powell

To: Public Utilities

COMMITTEE SUBSTITUTE  
FOR  
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. The advance written,  
220 electronic or telephonic notice required by this paragraph (c)  
221 shall not be required when a qualified operator using reasonable  
222 care so as to protect himself or herself and any underground  
223 facility that may be in the area, uses a hand-powered probe rod to  
224 locate that operator's underground facilities for the purpose of  
225 underground facility mapping.



226           The written, electronic or telephonic notice required by this  
227 paragraph (c) shall contain the name, address and telephone number  
228 of the person filing the notice of intent, the person responsible  
229 for the excavation, the starting date, anticipated duration, type  
230 of excavation to be conducted, the location of the proposed  
231 excavation, which is limited to an area the excavator reasonably  
232 believes may be completed within fourteen (14) calendar days from  
233 the date and time the locate request ticket is processed or  
234 entered into the Mississippi 811, Inc. system and does not include  
235 any area in which the excavator has already completed the  
236 excavation work, and whether or not explosives are to be used.

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

246           Prior to providing the advance notice to Mississippi 811,  
247 Inc., as required by this paragraph (c), the excavator shall  
248 pre-mark the approximate boundary of the proposed excavation area  
249 with white paint, flags, or stakes. Where an excavator pre-marks  
250 the proposed excavation area with a single stake or other single



251 point indicator, that excavator represents that the proposed  
252 excavation area does not exceed fifty (50) feet in any direction  
253 from the pre-mark. Premarking of the proposed excavation area  
254 with white paint, flags or stakes shall not be required if the  
255 area can be defined in the advance written, electronic or  
256 telephonic notice by a street address, lot and block number,  
257 distance from a driveway or street intersection, or by other  
258 geographical descriptions more specifically described in the rules  
259 and regulations adopted by the board.

260 (d) Provide advance written, electronic or telephonic  
261 notice of the commencement, extent, location and duration of the  
262 excavation work to Mississippi 811, Incorporated, for excavations  
263 required due to an impending emergency, that includes an  
264 excavation start time that is not less than twelve (12) hours from  
265 the time of notices provided between 8:00 p.m. and 11:59 a.m., and  
266 not sooner than 8:00 a.m., on the next calendar day for notices  
267 provided between 12:00 p.m. and 7:59 p.m., so that Mississippi  
268 811, Incorporated, operators may locate and mark the location of  
269 underground utility lines and underground facilities in the  
270 excavation area.

271 In addition to the written, electronic or telephonic notice  
272 information required in subsection (1)(c) of this section, the  
273 excavator shall also provide contact information for a person  
274 readily available to discuss the impending emergency excavation  
275 with operators.



276 (2) The markings provided by operators and the locate  
277 request number shall only be valid for a period of fourteen (14)  
278 calendar days from the date and time the locate request ticket is  
279 processed or entered into the system by Mississippi 811,  
280 Incorporated. The person responsible for the excavation project  
281 shall renew the notification with Mississippi 811, Incorporated,  
282 at least three (3) and not more than four (4) working days prior  
283 to this expiration date and shall continue to renew such  
284 notification in the same manner throughout the duration of the  
285 excavation. Such renewal notice shall be valid for a period of  
286 fourteen (14) calendar days from the date and time the renewal  
287 locate request is processed or entered into the system by  
288 Mississippi 811, Incorporated. The proposed excavation location  
289 on a renewal locate request ticket shall not include any area in  
290 which the excavator has already completed the excavation work. In  
291 addition to all other violations of this chapter, renewing a  
292 locate request ticket that includes any area within the proposed  
293 excavation location in which the excavator has already completed  
294 the excavation work shall constitute a violation of this chapter.

295 (3) Compliance with the notice requirements of this section  
296 shall not be required of: (a) persons plowing less than  
297 twenty-four (24) inches in depth for agricultural purposes; (b)  
298 persons who are moving or otherwise displacing, by hand, earth,  
299 rock or other material or mass of material on or below the ground  
300 at a depth of less than twelve (12) inches on property they own;



301 and (c) persons, other than the property owner, who are moving or  
302 otherwise displacing, by hand, earth, rock or other material or  
303 mass of material on or below the ground at a depth of less than  
304 twelve (12) inches, except when such excavation is in a clearly  
305 marked underground facility right-of-way.

306 (4) A person may make a written, electronic or telephonic  
307 design information request to Mississippi 811, Incorporated, so  
308 that owners and operators of utilities may locate underground  
309 utility lines and underground facilities in the design information  
310 area. The design information request shall contain the name,  
311 address, and telephone number of the person making the request,  
312 the type of project planned, and a description of the area to be  
313 located with sufficient particularity to enable the utility owner  
314 or operator to ascertain the precise tract or parcel of land  
315 involved.

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

322 (b) The excavator shall not use power-driven equipment  
323 for trenchless excavation, including directional drilling, across  
324 or within the marked approximate location of underground utility  
325 lines or underground facilities unless, when reasonably practical,



326 the excavator exposes the planned trenchless excavation path by a  
327 noninvasive method such as hand digging, pot holing when  
328 practical, soft digging, vacuum methods, use of pressurized air or  
329 water, or pneumatic hand tools and then carefully and prudently  
330 monitors the horizontal and vertical location of the trenchless  
331 excavation device in a manner calculated to enable the device to  
332 be visually observed by the excavator as it crosses the entire  
333 width of the marked approximate location of the underground  
334 facilities.

335 (c) For trenchless excavations, including directional  
336 drilling, parallel to the marked approximate location of  
337 underground utility lines or underground facilities, the excavator  
338 shall, when reasonably practical, use a noninvasive method such as  
339 hand digging, pot holing when practical, soft digging, vacuum  
340 methods, use of pressurized air or water, or pneumatic hand tools  
341 such to identify the actual location of the underground utility  
342 facility at careful and prudent intervals.

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

