

By: Senator(s) Carter

To: Energy

COMMITTEE SUBSTITUTE
FOR
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 ADVANCE WRITTEN, ELECTRONIC OR TELEPHONIC NOTICE
5 SHALL NOT BE REQUIRED WHERE A QUALIFIED OPERATOR USING REASONABLE
6 CARE USES A HAND-POWERED PROBE ROD TO LOCATE THAT OPERATOR'S
7 UNDERGROUND FACILITIES FOR THE PURPOSE OF UNDERGROUND FACILITY
8 MAPPING; TO PROVIDE THAT THE NOTICE REQUIRED FOR EXCAVATION SHALL
9 CONTAIN THE LOCATION OF THE PROPOSED EXCAVATION, WHICH IS LIMITED
10 TO AN AREA THE EXCAVATOR REASONABLY BELIEVES MAY BE COMPLETED
11 WITHIN FOURTEEN CALENDAR DAYS FROM THE DATE AND TIME THE LOCATE
12 REQUEST TICKET IS ENTERED INTO THE MISSISSIPPI 811, INC., SYSTEM
13 AND DOES NOT INCLUDE ANY AREA IN WHICH THE EXCAVATOR HAS ALREADY
14 COMPLETED THE EXCAVATION WORK; TO PROVIDE THAT PRIOR TO PROVIDING
15 THE ADVANCE NOTICE TO MISSISSIPPI 811, INC., THE EXCAVATOR SHALL
16 PRE-MARK THE APPROXIMATE BOUNDARY OF THE PROPOSED EXCAVATION AREA
17 WITH WHITE PAINT, FLAGS, OR STAKES; TO PROVIDE THAT PRE-MARKING OF
18 THE PROPOSED EXCAVATION AREA SHALL NOT BE REQUIRED IF THE AREA CAN
19 BE DEFINED IN THE ADVANCE WRITTEN, ELECTRONIC OR TELEPHONIC NOTICE
20 BY CERTAIN GEOGRAPHICAL DESCRIPTIONS; TO PROVIDE THAT THE PROPOSED
21 EXCAVATION LOCATION ON A RENEWAL LOCATE REQUEST TICKET SHALL NOT
22 INCLUDE ANY AREA IN WHICH THE EXCAVATOR HAS ALREADY COMPLETED THE
23 EXCAVATION WORK; TO PROVIDE THAT THE EXCAVATOR SHALL NOT USE
24 POWER-DRIVEN EQUIPMENT FOR TRENCHLESS EXCAVATION, INCLUDING
25 DIRECTIONAL BORING, ACROSS OR WITHIN THE MARKED APPROXIMATE
26 LOCATION OF UNDERGROUND UTILITY LINES OR UNDERGROUND FACILITIES,
27 WITH CERTAIN EXCEPTIONS; TO PROVIDE THAT FOR TRENCHLESS
28 EXCAVATIONS, INCLUDING DIRECTIONAL BORING, PARALLEL TO THE MARKED
29 APPROXIMATE LOCATION OF UNDERGROUND UTILITY LINES OR UNDERGROUND
30 FACILITIES, THE EXCAVATOR SHALL USE CERTAIN NONINVASIVE METHODS TO
31 IDENTIFY THE LOCATION OF THE UNDERGROUND UTILITY FACILITY AT
32 CAREFUL AND PRUDENT INTERVALS; AND FOR RELATED PURPOSES.

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



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

36 77-13-3. The words defined in this section shall have the
37 following meanings when found in this chapter:

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

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

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

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

54 (e) "Commission" means the Mississippi Public Service
55 Commission.

56 (f) "Damage" means the substantial weakening of
57 structural or lateral support of underground utility lines and
58 underground facilities, penetration or destruction of any



59 protective coating, housing or other protective devices of an
60 underground utility line or underground facility, and the partial
61 or complete severance of any underground utility line or
62 underground facility, but does not include any operator's
63 abandoned facility.

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

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

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



84 without the use of mechanical excavating equipment to a depth of
85 less than twelve (12) inches on private property by an excavator
86 who is not the property owner, except when such excavation is in a
87 clearly marked underground facility right-of-way; or (iv) routine
88 railroad maintenance activities conducted within the track
89 structure, drainage ditches, or within the railroad right-of-way a
90 distance not to exceed thirty (30) feet from the outside rail of
91 the outermost track or tracks, provided this work is performed by
92 railroad employees or railroad contractors and is carried out with
93 reasonable care so as to protect any underground facilities
94 properly installed in the railroad right-of-way by agreement with
95 the railroad; or (v) routine activities of a cemetery, provided
96 that for any cemetery that begins or expands after July 1, 2015,
97 such activities occur only after initial notice is provided to
98 Mississippi 811, Incorporated, and all affected operators have
99 advised that there are no underground facilities within the
100 boundaries of the subject cemetery; or (vi) routine maintenance
101 activities carried out by or for those responsible for publicly
102 maintained roadways and rights-of-way, provided that the
103 activities occur entirely within the public right-of-way and do
104 not penetrate the earth to a depth of more than twelve (12) inches
105 and are carried out with reasonable care so as to protect any
106 underground facilities placed in the right-of-way. Routine
107 maintenance activities shall be more specifically described in the
108 rules and regulations adopted by the board; or (vii) the driving



of wooden stakes by use of hand tools which do not penetrate the earth to a depth of not more than six (6) inches. The term "excavate" shall include, but not be limited to, the operations of demolition, blasting, grading, land leveling, trenching, digging, ditching, drilling, augering, directional boring, tunneling, scraping, cable or pipe plowing, driving, jacking, wrecking, razing, rending, dredging and anchoring, moving or removing any structure or other material or mass of material on or below the ground.

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

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

(l) "Mechanical excavating equipment" means all equipment powered by any motor, engine, or hydraulic or pneumatic device used for excavating and shall include, but not be limited to, trenchers, bulldozers, backhoes, power shovels, scrapers,



draglines, clam shells, augers, drills, cable and pipe plows and other plowing-in or pulling-in equipment.

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

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

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

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

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

(r) "Positive Response Information System" or "PRIS" means an automated information system operated and maintained by Mississippi 811, Incorporated, that allows excavators, locators,



157 facility owners or operators, and other affected parties to enter
158 and/or determine the status of a locate request.

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

165 (t) "Underground utility lines" means underground or
166 buried cable, conduit pipes and related facilities for
167 transportation and delivery of electricity, telecommunications
168 (including fiber optics), water, sewage, gas, mixtures of gases,
169 petroleum, petroleum products or hazardous, flammable, toxic or
170 corrosive liquids.

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

178 (v) "Working day" means a twenty-four-hour period
179 commencing from the time the locate request is processed or
180 entered into the system by Mississippi 811, Incorporated, in



181 accordance with this chapter, excluding Saturdays, Sundays and
182 legal holidays.

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

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

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

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

197 77-13-5. (1) In addition to complying with all other
198 applicable regulations and requirements of federal, state, county
199 and municipal authorities, no person shall engage in excavation of
200 any kind, before meeting the notification requirements of this
201 chapter. Under this chapter the excavator shall:

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



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

(c) Except as provided in Section 77-13-11, before beginning any excavation, other than an impending emergency as defined in Section 77-13-3, provide not less than three (3) and not more than ten (10) working days' advance written, electronic or telephonic notice of the commencement, extent, location and duration of the excavation work to Mississippi 811, Incorporated, so that Mississippi 811, Incorporated, operator(s) may locate and mark the location of underground utility lines and underground facilities in the excavation area. The advance written, electronic or telephonic notice required by this subsection shall not be required where a qualified operator using reasonable care so as to protect himself and any underground facility that may be in the area, uses a hand-powered probe rod to locate that



operator's underground facilities for the purpose of underground facility mapping.

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

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

Prior to providing the advance notice to Mississippi 811, Inc., as required by this subsection 1(c), the excavator shall pre-mark the approximate boundary of the proposed excavation area



255 with white paint, flags or stakes. Where an excavator pre-marks
256 the proposed excavation area with a single stake or other
257 single-point indicator, that excavator represents that the
258 proposed excavation area does not exceed fifty (50) feet in any
259 direction from the pre-mark. Pre-marking of the proposed
260 excavation area with white paint, flags or stakes shall not be
261 required if the area can be defined in the advance written,
262 electronic or telephonic notice by a street address, lot and block
263 number, distance from a driveway or street intersection, or by
264 other geographical descriptions more specifically described in the
265 rules and regulations adopted by the Board.

266 (d) Provide advance written, electronic or telephonic
267 notice of the commencement, extent, location and duration of the
268 excavation work to Mississippi 811, Incorporated, for excavations
269 required due to an impending emergency, that includes an
270 excavation start time that is not less than twelve (12) hours from
271 the time of notices provided between 8:00 p.m. and 11:59 a.m., and
272 not sooner than 8:00 a.m., on the next calendar day for notices
273 provided between 12:00 p.m. and 7:59 p.m., so that Mississippi
274 811, Incorporated, operators may locate and mark the location of
275 underground utility lines and underground facilities in the
276 excavation area.

277 In addition to the written, electronic or telephonic notice
278 information required in subsection (1)(c) of this section, the
279 excavator shall also provide contact information for a person



readily available to discuss the impending emergency excavation with operators.

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

(3) Compliance with the notice requirements of this section shall not be required of: (a) persons plowing less than twenty-four (24) inches in depth for agricultural purposes; (b) persons who are moving or otherwise displacing, by hand, earth,



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

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

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

(b) The excavator shall not use power-driven equipment for trenchless excavation, including directional boring, across or



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

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

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

