

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



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

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

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

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



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

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

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

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

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

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

154 (r) "Positive Response Information System" or "PRIS"  
155 means an automated information system operated and maintained by  
156 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;





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

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



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

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

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

252       Prior to providing the advance notice to Mississippi 811,  
253 Inc., as required by this subsection 1(c), the excavator shall  
254 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



280 readily available to discuss the impending emergency excavation  
281 with operators.

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

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



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

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

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

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



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

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

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

