

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.

