

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3441

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DATE
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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying provisions governing the excavation notice
1.3 system; amending Minnesota Statutes 2016, sections 216D.03, by adding a
1.4 subdivision; 216D.05; 216D.06, subdivisions 1, 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 216D.03, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 5. **Contact information database.** The notification center must create a database
1.9 to collect, maintain, and annually update the contact information for each operator in
1.10 Minnesota. At a minimum, the contact information stored in the database must include the
1.11 name, telephone number, mailing address, and other relevant contact information for the
1.12 operator or the person responsible for damage prevention for each underground facility.
1.13 The information contained in the database must be made available upon request.

1.14 Sec. 2. Minnesota Statutes 2016, section 216D.05, is amended to read:

1.15 **216D.05 PRECAUTIONS TO AVOID DAMAGE.**

1.16 (a) An excavator ~~shall~~ must:

1.17 (1) plan the excavation to avoid damage to and minimize interference with underground
1.18 facilities in and near the construction area;

1.19 (2) use white markings for proposed excavations except where it can be shown that it
1.20 is not practical;

2.1 (3) maintain a clearance between an underground facility and the cutting edge or point
2.2 of any mechanized equipment, considering the known limit of control of the cutting edge
2.3 or point to avoid damage to the facility;

2.4 (4) provide support for underground facilities in and near the construction area, including
2.5 during backfill operations, to protect the facilities; and

2.6 (5) conduct the excavation in a careful and prudent manner.

2.7 (b) An operator must install underground facilities, including but not limited to gas,
2.8 electric, cable, fiber optic, and telephone facilities, at least two feet but no more than four
2.9 feet below the surface of the earth.

2.10 Sec. 3. Minnesota Statutes 2016, section 216D.06, subdivision 1, is amended to read:

2.11 Subdivision 1. **Notice; repair.** (a) If any damage occurs to an underground facility or
2.12 its protective covering, the excavator shall notify the operator promptly. When the operator
2.13 receives a damage notice, the operator shall promptly dispatch personnel to the damage
2.14 area to investigate. If the damage results in the escape of any flammable, toxic, or corrosive
2.15 gas or liquid or endangers life, health, or property, the excavator responsible shall
2.16 immediately notify the operator and the 911 public safety answering point, as defined in
2.17 section 403.02, subdivision 19, and take immediate action to protect the public and property.
2.18 The excavator shall also attempt to minimize the hazard until arrival of the operator's
2.19 personnel or until emergency responders have arrived and completed their assessment. The
2.20 911 public safety answering point shall maintain a response plan for notifications generated
2.21 by this section.

2.22 (b) An excavator shall delay backfilling in the immediate area of the damaged
2.23 underground facilities until the damage has been investigated by the operator, unless the
2.24 operator authorizes otherwise. The repair of damage must be performed by the operator or
2.25 by qualified personnel authorized by the operator.

2.26 (c) An excavator who knowingly damages an underground facility, and who does not
2.27 notify the operator as soon as reasonably possible or who backfills in violation of paragraph
2.28 (b), is guilty of a misdemeanor.

2.29 (d) If an operator discovers damage to an underground facility, the operator must notify
2.30 the excavator immediately, but no later than 60 days after excavation and repair is completed.
2.31 An excavator is not liable for costs, claims, or other damages under subdivision 2 if the
2.32 operator does not provide timely notice under this paragraph.

3.1 Sec. 4. Minnesota Statutes 2016, section 216D.06, subdivision 2, is amended to read:

3.2 Subd. 2. **Cost reimbursement.** (a) If an excavator damages an underground facility,
3.3 the excavator shall reimburse the operator for the cost of necessary repairs, and for a pipeline
3.4 the cost of the product that was being carried in the pipeline and was lost as a direct result
3.5 of the damage.

3.6 (b) Reimbursement is not required if: (1) the damage to the underground facility was
3.7 caused by the sole negligence of the operator or the operator failed to comply with section
3.8 216D.04, subdivision 3-; or (2) the excavator proves (i) the precise location of the damaged
3.9 underground facility was incorrectly marked or unmarked, and (ii) the damaged underground
3.10 facility is located outside the standard installation depth established under section 216D.05,
3.11 paragraph (b).

3.12 (c) An operator must compensate an excavator for additional work performed to excavate
3.13 or repair underground facilities that is outside the scope of the original excavation and repair
3.14 agreement.