

SECOND REGULAR SESSION

HOUSE BILL NO. 1970

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIESHEIMER.

4210H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 319.030, RSMo, and to enact in lieu thereof one new section relating to locations of underground facilities, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 319.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 319.030, to read as follows:

319.030. 1. Every person owning or operating an underground facility to whom notice of intent to excavate is required to be given shall, upon receipt of such notice as provided in this section from a person intending to commence an excavation, inform the excavator as promptly as practical, but not in excess of two working days, unless the excavator agrees to extend the start date and time provided in the locate request through methods established by the notification center, of the approximate location of underground facilities in or near the area of the excavation so as to enable the person engaged in the excavation work to locate the facilities in advance of and during the excavation work, provided that no excavation shall begin earlier than the scheduled excavation date provided on the locate request unless the excavator has confirmed that all underground facilities have been located. The two working days provided for notice in this subsection and subsection 1 of section 319.026 shall begin at 12:00 a.m. following the receipt of the request by the notification center. Each underground facility owner receiving notifications from the notification center by use of the internet shall, after December 31, 2014, use the locate status system provided by the notification center. Those underground facility owners that do not receive notifications by use of the internet shall, no later than January 1, 2016, provide locate status to the notification center by an alternate method provided by the notification center. If the excavator states in the notice of intent to excavate that the excavation will involve trenchless

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 technology, the owner or operator shall inform the excavator of the depth, to the best of his or
19 her knowledge or ability, of the facility according to the records of the owner or operator. The
20 owner or operator shall provide the approximate location of underground facilities by use of
21 markings as designated in section 319.015. Persons representing the excavator and the owner
22 or operator shall meet on the site of excavation within two working days of a request by either
23 person for such meeting for the purpose of clarifying markings, or upon agreement of the
24 excavator and owner or operator, such meeting may be an alternate means of providing the
25 location of facilities by originally marking the approximate location of the facility at the time of
26 the meeting. If upon receipt of a notice of intent to excavate, an owner or operator determines
27 that he or she neither owns or operates underground facilities in or near the area of excavation,
28 the owner or operator shall within two working days after receipt of the notice, inform the
29 excavator that the owner or operator has no facilities located in the area of the proposed
30 excavation. The owner or operator of the underground facility shall make notice to the excavator
31 that no facilities are located in the area of excavation by contacting the excavator by any of the
32 following methods:

33 (1) By calling the primary number of the excavator or by calling the telephone number
34 of the responsible person as provided by the excavator under subdivision (4) of subsection 2 of
35 section 319.026;

36 (2) By leaving a message on the recording device for such numbers;

37 (3) By calling the cellular telephone number of the excavator or responsible person;

38 (4) By notifying the excavator by facsimile or electronic mail at numbers or addresses
39 stated by the excavator in the notice of excavation made under subsection 2 of section 319.026;

40 (5) By marking "clear" or "OK" at the site of excavation;

41 (6) By verbally informing the excavator in person.

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43 If the only means of contacting the excavator is one or more telephone numbers provided by the
44 excavator in the notice of excavation under section 319.026, then two attempts by the
45 underground facility owner to contact the excavator at one of the telephone numbers provided
46 shall constitute compliance with this subsection; or

47 (7) By use of a locate status system.

48 2. A record of the date and means of informing the excavator that no facilities were
49 located by the owner or operator shall be included in the written records of the underground
50 facility owner regarding each specific notice of excavation and shall be retained for a period of
51 five years.

52 3. If the owner or operator notifies the excavator that the area of excavation cannot be
53 determined from the description provided by the excavator through the notice required by this

54 section, the excavator shall provide clarification of the area of excavation by marking the area
55 with white flags or white paint, or by providing project plans to the owner or operator, or by
56 meeting on the site of the excavation with representatives of the owner or operator as provided
57 for in this section.

58 4. In the event that a person owning or operating an underground facility fails to comply
59 with the provisions of subsection 1 of this section after notice given by an excavator in
60 compliance with section 319.026, the excavator, prior to commencing the excavation, shall give
61 a second notice to the notification center as required by section 319.026 stating that there has
62 been no response to the original notice given under section 319.026. After the receipt of the
63 notice stating there has been "no response", the owner or operator of an underground facility
64 shall, within two hours of the receipt of such notice, mark its facilities or contact and inform the
65 excavator of when the facilities will be marked; provided, however, that for "no response"
66 notices made to the notification center by 2:00 p.m., the markings shall be completed on the
67 working day the notice is made to the notification center, and provided that for "no response"
68 notices made to the notification center after 2:00 p.m., the markings shall be completed no later
69 than 10:00 a.m. on the next working day. If an underground facility owner fails to mark its
70 facilities, **fails to mark its facilities accurately**, or **fails to** contact the excavator as required by
71 this subsection, **the underground facility owner or operator shall be in violation of this**
72 **section and subject to a penalty of no less than five hundred dollars and no more than five**
73 **thousand dollars for each offense, payable to the excavator for documented lost time and**
74 **expenses. Each continuous calendar day that any person owning or operating an**
75 **underground facility remains in violation shall be an additional violation. If an**
76 **underground facility owner or operator fails to mark his or her facilities or contact the**
77 **excavator as required by this subsection**, the excavator may commence the excavation.
78 Nothing in this subsection shall excuse the excavator from exercising the degree of care in
79 making the excavation as is otherwise required by law.

80 5. For purposes of this section, a period of two working days begins at 12:00 a.m.
81 following when the request is made.

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