
SENATE BILL 5955

State of Washington

61st Legislature

2009 Regular Session

By Senators Oemig, Delvin, Hewitt, and Brandland

Read first time 02/10/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to locating underground facilities; amending RCW
2 19.122.020 and 19.122.030; adding a new section to chapter 19.122 RCW;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.122.020 and 2007 c 142 s 9 are each amended to read
6 as follows:

7 ((~~Unless the context clearly requires otherwise,~~) The definitions
8 in this section apply throughout this chapter((+)) unless the context
9 clearly requires otherwise.

10 (1) "Business day" means any day other than Saturday, Sunday, or a
11 legal local, state, or federal holiday.

12 (2) "Damage" includes the substantial weakening of structural or
13 lateral support of an underground facility, penetration, impairment, or
14 destruction of any underground protective coating, housing, or other
15 protective device, or the severance, partial or complete, of any
16 underground facility to the extent that the project owner or the
17 affected utility owner determines that repairs are required.

18 (3) "Emergency" means any condition constituting a clear and
19 present danger to life or property, or a customer service outage.

1 (4) "Excavation" means any operation in which earth, rock, or other
2 material on or below the ground is moved or otherwise displaced by any
3 means, except the tilling of soil less than twelve inches in depth for
4 agricultural purposes, or road and ditch maintenance that does not
5 change the original road grade or ditch flowline.

6 (5) "Excavation confirmation code" means a code or ticket issued by
7 the one-number locator service for the site where an excavation is
8 planned. The code must be accompanied by the date and time it was
9 issued.

10 (6) "Excavator" means any person who engages directly in
11 excavation.

12 (7) "Gas" means natural gas, flammable gas, or toxic or corrosive
13 gas.

14 (8) "Hazardous liquid" means: (a) Petroleum, petroleum products,
15 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
16 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities
17 and transportation commission may by rule incorporate by reference
18 other substances designated as hazardous by the secretary of
19 transportation.

20 (9) "Identified facility" means any underground facility which is
21 indicated in the project plans as being located within the area of
22 proposed excavation.

23 (10) "Identified but unlocatable underground facility" means an
24 underground facility which has been identified but cannot be located
25 with reasonable accuracy.

26 (11) "Locatable underground facility" means an underground facility
27 which can be field-marked with reasonable accuracy.

28 (12) "Marking" means the use of stakes, paint, or other clearly
29 identifiable materials to show the field location of underground
30 facilities, in accordance with the current color code standard of the
31 American public works association. Markings shall include
32 identification letters indicating the specific type of the underground
33 facility.

34 (13) "Notice" or "notify" means contact in person or by telephone
35 or other electronic methods that results in the receipt of a valid
36 excavation confirmation code.

37 (14) "One-number locator service" means a service through which a

1 person can notify utilities and request field-marking of underground
2 facilities.

3 (15) "Operator" means the individual conducting the excavation.

4 (16) "Person" means an individual, partnership, franchise holder,
5 association, corporation, a state, a city, a county, or any subdivision
6 or instrumentality of a state, and its employees, agents, or legal
7 representatives.

8 (17) "Pipeline" or "pipeline system" means all or parts of a
9 pipeline facility through which hazardous liquid or gas moves in
10 transportation, including, but not limited to, line pipe, valves, and
11 other appurtenances connected to line pipe, pumping units, fabricated
12 assemblies associated with pumping or compressor units, metering and
13 delivery stations and fabricated assemblies therein, and breakout
14 tanks. "Pipeline" or "pipeline system" does not include process or
15 transfer pipelines.

16 (18) "Pipeline company" means a person or entity constructing,
17 owning, or operating a pipeline for transporting hazardous liquid or
18 gas. A pipeline company does not include: (a) Distribution systems
19 owned and operated under franchise for the sale, delivery, or
20 distribution of natural gas at retail; or (b) excavation contractors or
21 other contractors that contract with a pipeline company.

22 (19) "Reasonable accuracy" means location within twenty-four inches
23 of the outside dimensions of both sides of an underground facility.

24 (20) "Service lateral" means an individual customer service line
25 providing connection or conveyance to or from one or more building
26 units to an underground facility.

27 (21) "Transfer pipeline" means a buried or aboveground pipeline
28 used to carry hazardous liquid between a tank vessel or transmission
29 pipeline and the first valve inside secondary containment at the
30 facility provided that any discharge on the facility side of that first
31 valve will not directly impact waters of the state. A transfer
32 pipeline includes valves, and other appurtenances connected to the
33 pipeline, pumping units, and fabricated assemblies associated with
34 pumping units. A transfer pipeline does not include process pipelines,
35 pipelines carrying ballast or bilge water, transmission pipelines, or
36 tank vessel or storage tanks.

37 ~~((+21))~~ (22) "Transmission pipeline" means a pipeline that
38 transports hazardous liquid or gas within a storage field, or

1 transports hazardous liquid or gas from an interstate pipeline or
2 storage facility to a distribution main or a large volume hazardous
3 liquid or gas user, or operates at a hoop stress of twenty percent or
4 more of the specified minimum yield strength.

5 ~~((+22+))~~ (23) "Underground facility" means any item buried or
6 placed below ground for use in connection with the storage or
7 conveyance of water, sewage, electronic, telephonic or telegraphic
8 communications, cablevision, electric energy, petroleum products, gas,
9 gaseous vapors, hazardous liquids, or other substances and including
10 but not limited to pipes, sewers, service laterals, conduits, cables,
11 valves, lines, wires, manholes, attachments, and those parts of poles
12 or anchors below ground. This definition does not include pipelines as
13 defined in subsection (17) of this section, but does include
14 distribution systems owned and operated under franchise for the sale,
15 delivery, or distribution of natural gas at retail.

16 **Sec. 2.** RCW 19.122.030 and 2000 c 191 s 17 are each amended to
17 read as follows:

18 (1) Before commencing any excavation, excluding agriculture tilling
19 less than twelve inches in depth, the excavator shall provide notice of
20 the scheduled commencement of excavation to all owners of underground
21 facilities through a one-number locator service.

22 (2) All owners of underground facilities within a one-number
23 locator service area shall subscribe to the service. One-number
24 locator service rates for cable television companies will be based on
25 the amount of their underground facilities. An underground facility
26 owner who is required to subscribe to the one-number locator service
27 and fails to do so is liable for all damages to the owner's underground
28 facilities and for any other damages that occur as a result of proper
29 notice of a scheduled excavation through the one-number locator
30 service.

31 (3) If no one-number locator service is available, notice shall be
32 provided individually to those owners of underground facilities known
33 to or suspected of having underground facilities within the area of
34 proposed excavation. The notice shall be communicated to the owners of
35 underground facilities not less than two business days or more than ten
36 business days before the scheduled date for commencement of excavation,
37 unless otherwise agreed by the parties.

1 ~~((+3))~~ (4) Upon receipt of the notice provided for in this
2 section, the owner of the underground facility shall provide the
3 excavator with reasonably accurate information as to its locatable
4 underground facilities by surface-marking the location of the
5 facilities. If there are identified but unlocatable underground
6 facilities, the owner of such facilities shall provide the excavator
7 with the best available information as to their locations. The owner
8 of the underground facility providing the information shall respond no
9 later than two business days after the receipt of the notice or before
10 the excavation time, at the option of the owner, unless otherwise
11 agreed by the parties. Excavators shall not excavate until all known
12 facilities have been marked. Once marked by the owner of the
13 underground facility, the excavator is responsible for maintaining the
14 markings. Excavators shall have the right to receive compensation from
15 the owner of the underground facility for costs incurred if the owner
16 of the underground facility does not locate its facilities in
17 accordance with this section.

18 ~~((+4))~~ (5) The owner of the underground facility shall have the
19 right to receive compensation for costs incurred in responding to
20 excavation notices given less than two business days prior to the
21 excavation from the excavator.

22 ~~((+5) An owner of underground facilities is not required to
23 indicate the presence of existing service laterals or appurtenances if
24 the presence of existing service laterals or appurtenances on the site
25 of the construction project can be determined from the presence of
26 other visible facilities, such as buildings, manholes, or meter and
27 junction boxes on or adjacent to the construction site.))~~

28 (6) The owner of the underground facility shall promptly notify the
29 one-number locator service when the owner of the underground facility
30 has fulfilled the requirements of this section. The notification may
31 be made available by any means including, but not limited to,
32 telephonic communication, voicemail, e-mail, text messaging, or
33 internet or web-based communication protocol. Upon receiving the
34 notification from affected underground facility owners, the one-number
35 locator service shall promptly make the information available to the
36 excavator that affected underground facility owners have fulfilled the
37 requirements of this section. The information may be made available by

1 any means including, but not limited to, telephonic communication,
2 voicemail, e-mail, text messaging, or internet or web-based
3 communication protocol.

4 (7) Emergency excavations are exempt from the time requirements for
5 notification provided in this section.

6 ~~((7))~~ (8) If the excavator, while performing the contract,
7 discovers underground facilities which are not identified, the
8 excavator shall cease excavating in the vicinity of the facility and
9 immediately notify the owner or operator of such facilities, or the
10 one-number locator service.

11 NEW SECTION. Sec. 3. A new section is added to chapter 19.122 RCW
12 to read as follows:

13 An owner of an underground facility located within a one-number
14 locator service area that does not subscribe to the one-number locator
15 service is guilty of a misdemeanor.

--- END ---