

FIRST REGULAR SESSION

[C O R R E C T E D]

SENATE BILL NO. 427

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time February 23, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2182S.01I

AN ACT

To repeal section 319.015, RSMo, and to enact in lieu thereof two new sections relating to Missouri one call.

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

Section A. Section 319.015, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 319.015 and 319.018, to read as
3 follows:

319.015. For the purposes of sections 319.010 to 319.050, the following
2 terms mean:

3 (1) "Approximate location", a strip of land not wider than the width of the
4 underground facility plus two feet on either side thereof. In situations where
5 reinforced concrete, multiplicity of adjacent facilities or other unusual specified
6 conditions interfere with location attempts, the owner or operator shall designate
7 to the best of his or her ability an approximate location of greater width;

8 (2) "Design request", a request from any person for facility location
9 information for design purposes only;

10 (3) "Emergency", either:

11 (a) A sudden, unexpected occurrence, presenting a clear and imminent
12 danger demanding immediate action to prevent or mitigate loss or damage to life,
13 health, property, or essential public services. "Unexpected occurrence" includes,
14 but is not limited to, thunderstorms, high winds, ice or snow storms, fires, floods,
15 earthquakes, or other soil or geologic movements, riots, accidents, water or
16 wastewater pipe breaks, vandalism, or sabotage; or

17 (b) Any interruption in the generation, transmission, or distribution of
18 electricity, or any damage to property or facilities that causes or could cause such

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 an interruption;

20 (4) "Excavation", any operation in which earth, rock or other material in
21 or on the ground is moved, removed or otherwise displaced by means of any tools,
22 equipment or explosives and includes, without limitation, backfilling, grading,
23 trenching, digging, ditching, drilling, well-drilling, augering, boring, tunneling,
24 scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and
25 demolition of structures, except that, the use of mechanized tools and equipment
26 to break and remove pavement and masonry down only to the depth of such
27 pavement or masonry, the use of pressurized air to disintegrate and suction to
28 remove earth, rock and other materials, the tilling of soil for agricultural or
29 seeding purposes, and the installation of marking flags and stakes for the location
30 of underground facilities that are not driven shall not be deemed
31 excavation. Backfilling or moving earth on the ground in connection with other
32 excavation operations at the same site shall not be deemed separate instances of
33 excavation;

34 (5) "Excavator", any person making one or more excavations who is
35 required to make notices of excavation under the requirements of sections 319.010
36 to 319.050;

37 (6) "Marking", the use of paint, flags, stakes, or other clearly identifiable
38 materials to show the field location of underground facilities, or the area of
39 proposed excavation, in accordance with the color code standard of the American
40 Public Works Association. Unless otherwise provided by the American Public
41 Works Association, the following color scheme shall be used: blue for potable
42 water; purple for reclaimed water, irrigation and slurry lines; green for sewers
43 and drain lines; red for electric, power lines, cables, conduit and lighting cables;
44 orange for communications, including telephone, cable television, alarm or signal
45 lines, cable or conduit; yellow for gas, oil, steam, petroleum or gaseous materials;
46 white for proposed excavation; pink for temporary marking of construction project
47 site features such as centerline and top of slope and toe of slope;

48 (7) "Notification center", [a statewide organization operating twenty-four
49 hours a day, three hundred sixty-five days a year on a not-for-profit basis,
50 supported by its participants, or by more than one operator of underground
51 facilities, having as its principal purpose the statewide receipt and dissemination
52 to participating owners and operators of underground facilities of information
53 concerning intended excavation activities in the area where such owners and
54 operators have underground facilities, and open to participation by any and all

55 such owners and operators on a fair and uniform basis. Such notification center
56 shall be governed by a board of directors elected by the membership and
57 composed of representatives from each general membership group, provided that
58 one of the board members shall be a representative of the state highways and
59 transportation commission so long as the commission is a participant in the
60 notification center] **the organization created under section 319.018;**

61 (8) "Notification center participant", an underground facility owner who
62 is a member and participant in the notification center;

63 (9) "Permitted project", a project for which a permit for the work to be
64 performed is required to be issued by a local, state or federal agency and, as a
65 prerequisite to receiving such permit, the applicant is required to notify all
66 underground facility owners in the area of the work for purposes of identifying
67 the location of existing underground facilities;

68 (10) "Person", any individual, firm, joint venture, partnership, corporation,
69 association, cooperative, municipality, political subdivision, governmental unit,
70 department or agency and shall include a notification center and any trustee,
71 receiver, assignee or personal representative thereof;

72 (11) "Pipeline facility" includes, without limitation, new and existing pipe,
73 rights-of-way, and any equipment, facility, or building used or intended for use
74 in the transportation of gas or the treatment of gas, or used or intended for use
75 in the transportation of hazardous liquids including petroleum, or petroleum
76 products;

77 (12) "Preengineered project", a project which is approved by an agency or
78 political subdivision of the state and for which the agency or political subdivision
79 responsible for the project, as part of its engineering and contract procedures,
80 holds a meeting prior to the commencement of any construction work on such
81 project and in such meeting all persons determined by the agency or political
82 subdivision to have underground facilities located within the excavation area of
83 the project are invited to attend and given an opportunity to verify or inform any
84 agency or political subdivision of the location of their underground facilities, if
85 any, within the excavation area and where the location of all known underground
86 facilities are duly located or noted on the engineering drawing as specifications
87 for the project;

88 (13) "State plane coordinates", a system of locating a point on a flat plane
89 developed by the National Oceanic and Atmospheric Administration and utilized
90 by state agencies, local governments, and other persons to designate the site of

91 a construction project;

92 (14) "Trenchless excavation", horizontal excavation parallel to the surface
93 of the earth which does not use trenching or vertical digging as the primary
94 means of excavation, including but not limited to directional boring, tunneling,
95 or augering;

96 (15) "Underground facility", any item of personal property which shall be
97 buried or placed below ground for use in connection with the storage or
98 conveyance of water, storm drainage, sewage, telecommunications service, cable
99 television service, electricity, oil, gas, hazardous liquids or other substances, and
100 shall include but not be limited to pipes, sewers, conduits, cables, valves, lines,
101 wires, manholes, attachments, or appurtenances, and those portions of pylons or
102 other supports below ground that are within any public or private street, road or
103 alley, right-of-way dedicated to the public use or utility easement of record, or
104 prescriptive easement. If gas distribution lines or electric lines,
105 telecommunications facilities, cable television facilities, water service lines, water
106 system, storm drainage or sewer system lines, other than those used for vehicular
107 traffic control, lighting of streets and highways and communications for
108 emergency response, are located on private property and are owned solely by the
109 owner or owners of such private property, such lines or facilities receiving service
110 shall not be considered underground facilities for purposes of this chapter, except
111 at locations where they cross or lie within an easement or right-of-way dedicated
112 to public use or owned by a person other than the owner of the private
113 property. Water and sanitary sewer lines providing service to private property
114 that are owned solely by the owner of such property shall not be considered
115 underground facilities at any location. Water, storm drainage, cross road
116 drainage, or sewer lines owned by the state highways and transportation
117 commission shall not be considered underground facilities at any location. For
118 railroads regulated by the Federal Railroad Administration, "underground
119 facility" as used in sections 319.015 to 319.050 shall not include any excavating
120 done by a railroad when such excavating is done entirely on land which the
121 railroad owns or on which the railroad operates, or in the event of emergency, on
122 adjacent land;

123 (16) "Underground facility owner", any person who owns or operates
124 underground facilities as defined by this section;

125 (17) "Working day", every day, except Saturday, Sunday or a legally
126 declared local, state or federal holiday.

319.018. 1. There is hereby created and established as an
instrumentality of the state of Missouri a notification center, which
may be known as the "Missouri One Call System", and which shall
constitute a body corporate and politic.

2. The notification center shall:

(1) Operate twenty-four hours a day, three hundred sixty-five
days a year;

(2) Be supported by its participants or by more than one
operator of underground facilities;

(3) Have as its principal purpose the statewide receipt and
dissemination to participating owners and operators of underground
facilities of information concerning intended excavation activities in
the area where such owners and operators have underground facilities;

(4) Be open to participation by any and all owners and operators
on a fair and uniform basis.

3. The notification center shall be governed by a board of
directors elected by the membership and composed of representatives
from each general membership group. One additional member shall be
a representative of the state highways and transportation commission
so long as the commission is a participant in the notification center.

4. The notification center shall be considered a public
governmental body for the purposes of chapter 610, RSMo.

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