

SENATE BILL NO. 1236

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

5840S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 319, RSMo, by adding thereto one new section relating to underground damage prevention, with penalty provisions.

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

Section A. Chapter 319, RSMo, is amended by adding thereto
2 one new section, to be known as section 319.060, to read as
3 follows:

319.060. 1. There is hereby established the
2 **"Underground Damage Prevention Review Board" to review**
3 **reports of alleged violations of sections 319.010 to**
4 **319.060. The members of the board shall be appointed by the**
5 **governor. The board shall consist of nine members who shall**
6 **be as follows:**

- 7 (1) **A city or county official from this state;**
- 8 (2) **An employee or officer of an underground facility**
9 **owner;**
- 10 (3) **An employee or officer of an underground pipeline**
11 **facility owner;**
- 12 (4) **An employee or officer of a rural underground**
13 **facility owner;**
- 14 (5) **An employee or officer of a highway contractor who**
15 **does not own or operate underground facilities;**
- 16 (6) **An employee or officer of a utility contractor who**
17 **does not own or operate underground facilities;**

18 (7) An employee or officer of an excavator who does
19 not own or operate underground facilities;

20 (8) An employee or officer of an underground facility
21 contract locator; and

22 (9) A surveyor licensed under chapter 327.

23 2. Each member of the board shall be initially
24 appointed for a term of either two or four years.
25 Subsequent appointments shall be for four-year terms.
26 Members of the board may serve no more than two consecutive
27 four year terms. Vacancies in appointments made by the
28 governor occurring prior to the expiration of a term shall
29 be filled by appointment for the unexpired term. The person
30 appointed to a vacancy shall represent the same group as his
31 or her predecessor.

32 3. No member of the board may serve on a case in which
33 the member has a conflict of interest.

34 4. The governor may remove any member at any time for
35 cause.

36 5. The board shall meet within thirty days after the
37 appointment of all its members and thereafter at such other
38 times as may be expedient and necessary for the proper
39 performance of its duties, but the board shall hold at least
40 two regular meetings per year. At the board's first
41 meeting, the members shall elect a chair and vice chair.
42 The chair may serve in such capacity for a one-year term and
43 shall not serve as chair for more than two consecutive
44 terms. A majority of the board shall constitute a quorum
45 for the transaction of business.

46 6. The board shall receive reports of alleged
47 violations of sections 319.010 to 319.060. The board shall
48 contact persons against whom reports have been filed to
49 inform them of the alleged violation within ten days of the

50 filing of the report. The board shall maintain all of the
51 following information regarding reports of alleged
52 violations:

53 (1) The name, address, and telephone number of the
54 person making the report;

55 (2) The nature of the violation, including the statute
56 that is alleged to have been violated;

57 (3) Information provided by the person making the
58 report including, but not limited to, written and electronic
59 correspondence, pictures, and videos; and

60 (4) Information provided by the person against whom
61 the report has been filed including, but not limited to,
62 written and electronic correspondence, pictures, and videos.

63 7. The board shall review all reports of alleged
64 violations of sections 319.010 to 319.060 and accompanying
65 information. If the board determines that a person has
66 violated any provision of sections 319.010 to 319.060, the
67 board shall determine the appropriate action or penalty to
68 impose for each such violation. Actions and penalties may
69 include, but are not limited to, training, education, and a
70 civil penalty not to exceed two thousand five hundred
71 dollars. The board shall approve training courses and the
72 sponsors of training courses under this subsection. Any
73 fees for training courses approved by the board shall be
74 paid by the person determined to have violated any provision
75 of sections 319.010 to 319.060. The board shall notify each
76 person who is determined to have violated any provision of
77 sections 319.010 to 319.060 in writing of the board's
78 determination and the board's recommended action or
79 penalty. A person determined to be in violation of any
80 provision of sections 319.010 to 319.060 may request a
81 hearing before the board, after which the board may reverse

82 or uphold its original finding. If the board recommends a
83 penalty, the board shall notify the public service
84 commission of the recommended penalty and the commission
85 shall issue an order imposing the penalty.

86 8. If the board recommends a penalty, the fee assessed
87 upon an underground facility owner shall be collected
88 payable to the board or, at the discretion of the board, the
89 person making the complaint, in accordance with a schedule
90 and in a manner established by the board. All fees
91 collected by the board shall be deposited with the state
92 treasurer to be credited to the underground damage
93 prevention review board fund. All moneys received by the
94 board under the terms and provisions of this chapter shall
95 be deposited into the underground damage prevention review
96 board fund and shall be spent exclusively in support of
97 board activities to develop and disseminate educational
98 programming designed to improve worker and public safety
99 relating to excavation and underground facilities.

100 9. The board shall maintain a record of reports of
101 alleged violations of sections 319.010 to 319.060 received
102 under subsection 6 of this section for at least four years,
103 including responses to such reports.

104 10. The attorney general's office shall assign a legal
105 representative to provide legal counsel to the board, if
106 requested.

107 11. (1) There is hereby created in the state treasury
108 the "Underground Damage Prevention Review Board Fund", which
109 shall consist of moneys collected under subsection 8 of this
110 section. The state treasurer shall be custodian of the
111 fund. In accordance with sections 30.170 and 30.180, the
112 state treasurer may approve disbursements. The fund shall
113 be a dedicated fund and, upon appropriation, moneys in the

114 fund shall be used solely for the administration of this
115 section.

116 (2) Notwithstanding the provisions of section 33.080,
117 to the contrary, any moneys remaining in the fund at the end
118 of the biennium shall not revert to the credit of the
119 general revenue fund.

120 (3) The state treasurer shall invest moneys in the
121 fund in the same manner as other funds are invested. Any
122 interest and moneys earned on such investments shall be
123 credited to the fund.

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