

# FINAL BILL REPORT

## ESHB 1539

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Synopsis as Enacted

**Brief Description:** Making it a crime to excavate without notification near a transmission pipeline.

**Sponsors:** By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Linville, Roach, Morris, DeBolt, Ericksen, Williams and Upthegrove).

**House Committee on Technology, Energy & Communications**  
**Senate Committee on Water, Energy & Environment**

### **Background:**

A single statewide telephone number exists for referring excavators to the appropriate one-number locator service. A one-number locator service is operated by non-governmental entities and is a means by which a person can notify utilities of excavation and request field marking of underground facilities. In general, a one-number locator service receives requests for the location of buried utility facilities and relays those requests to member utilities and governmental agencies. The Washington Utilities and Transportation Commission, in consultation with the Washington Utilities Coordinating Council, establishes minimum standards and best management practices for one-number services.

Before conducting any excavation, excluding agricultural tilling less than 12 inches in depth, a person must notify pipeline companies of the scheduled excavation through the one-number locator service. Notification must occur in a window of not less than two business days but not more than 10 business days before beginning the excavation. If a pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must consult with the excavator on-site prior to excavation.

A civil penalty of not more than \$10,000 applies when a person fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline.

### **Summary:**

Upon receiving notice, during normal business hours, of an intended excavation, the one-number locator service must provide an excavation confirmation code containing the date and time that the confirmation code was issued. "Notice" is defined as contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code.

Any excavator who excavates within 35 feet of a transmission pipeline without obtaining a valid excavation confirmation code when required under law is guilty of a misdemeanor. A

"transmission pipeline" is defined as a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of 20 percent or more of the specified minimum yield strength.

The provision providing a civil penalty for failing to notify the one-number locator service and causing damage to a hazardous liquid or gas pipeline is modified to state that the penalty applies to any excavator instead of any person. The civil penalty may be imposed in addition to any criminal penalty for excavating within 35 feet of a transmission pipeline without obtaining a valid excavation confirmation code.

Affirmative defenses are created for an operator. "Operator" is defined as the individual conducting the excavation. The affirmative defenses are: (1) the operator was provided a valid excavation confirmation code; (2) the excavation was performed in an emergency situation; (3) the operator was provided a false confirmation code by an identifiable third party; or (4) notice of the excavation was not required.

Any person who intentionally provides an operator with a false excavation confirmation code is guilty of a misdemeanor.

**Votes on Final Passage:**

House	94	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 24, 2005