
SUBSTITUTE HOUSE BILL 1996

State of Washington 61st Legislature 2009 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives Armstrong and Eddy)

READ FIRST TIME 02/23/09.

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) "Bar hole" means a hole made in the soil or pavement with a bar
11 for the specific purpose of testing the subsurface atmosphere with a
12 combustible gas indicator.

13 (2) "Business day" means any day other than Saturday, Sunday, or a
14 legal local, state, or federal holiday.

15 ~~((+2))~~ (3) "Damage" includes the substantial weakening of
16 structural or lateral support of an underground facility, penetration,
17 impairment, or destruction of any underground protective coating,
18 housing, or other protective device, or the severance, partial or

1 complete, of any underground facility to the extent that the project
2 owner or the affected utility owner determines that repairs are
3 required.

4 ~~((+3))~~ (4) "Emergency" means any condition constituting a clear
5 and present danger to life or property, or a customer service outage.

6 ~~((+4))~~ (5) "Excavation" means any operation in which earth, rock,
7 or other material on or below the ground is moved or otherwise
8 displaced by any means, except ~~((the tilling of soil less than twelve
9 inches in depth for agricultural purposes, or road and ditch
10 maintenance that does not change the original road grade or ditch
11 flowline))~~:

12 (a) The tilling of soil less than twelve inches in depth for
13 agricultural purposes;

14 (b) Road and ditch maintenance that does not change the original
15 road grade or ditch flowline;

16 (c) For bar holes created by hand-operated equipment during
17 emergency leak investigations; or

18 (d) For bar holes less than twelve inches in depth.

19 ~~((+5))~~ (6) "Excavation confirmation code" means a code or ticket
20 issued by the one-number locator service for the site where an
21 excavation is planned. The code must be accompanied by the date and
22 time it was issued.

23 ~~((+6))~~ (7) "Excavator" means any person who engages directly in
24 excavation.

25 ~~((+7))~~ (8) "Gas" means natural gas, flammable gas, or toxic or
26 corrosive gas.

27 ~~((+8))~~ (9) "Hazardous liquid" means: (a) Petroleum, petroleum
28 products, or anhydrous ammonia as those terms are defined in 49 C.F.R.
29 Part 195 as in effect on March 1, 1998; and (b) carbon dioxide. The
30 utilities and transportation commission may by rule incorporate by
31 reference other substances designated as hazardous by the secretary of
32 transportation.

33 ~~((+9))~~ (10) "Identified facility" means any underground facility
34 which is indicated in the project plans as being located within the
35 area of proposed excavation.

36 ~~((+10))~~ (11) "Identified but unlocatable underground facility"
37 means an underground facility which has been identified but cannot be
38 located with reasonable accuracy.

1 (~~(11)~~) (12) "Locatable underground facility" means an underground
2 facility which can be field-marked with reasonable accuracy.

3 (~~(12)~~) (13) "Marking" means the use of stakes, paint, or other
4 clearly identifiable materials to show the field location of
5 underground facilities, in accordance with the current color code
6 standard of the American public works association. Markings shall
7 include identification letters indicating the specific type of the
8 underground facility.

9 (~~(13)~~) (14) "Notice" or "notify" means contact in person or by
10 telephone or other electronic methods that results in the receipt of a
11 valid excavation confirmation code.

12 (~~(14)~~) (15) "One-number locator service" means a service through
13 which a person can notify utilities and request field-marking of
14 underground facilities.

15 (~~(15)~~) (16) "Operator" means the individual conducting the
16 excavation.

17 (~~(16)~~) (17) "Person" means an individual, partnership, franchise
18 holder, association, corporation, a state, a city, a county, or any
19 subdivision or instrumentality of a state, and its employees, agents,
20 or legal representatives.

21 (~~(17)~~) (18) "Pipeline" or "pipeline system" means all or parts of
22 a pipeline facility through which hazardous liquid or gas moves in
23 transportation, including, but not limited to, line pipe, valves, and
24 other appurtenances connected to line pipe, pumping units, fabricated
25 assemblies associated with pumping or compressor units, metering and
26 delivery stations and fabricated assemblies therein, and breakout
27 tanks. "Pipeline" or "pipeline system" does not include process or
28 transfer pipelines.

29 (~~(18)~~) (19) "Pipeline company" means a person or entity
30 constructing, owning, or operating a pipeline for transporting
31 hazardous liquid or gas. A pipeline company does not include: (a)
32 Distribution systems owned and operated under franchise for the sale,
33 delivery, or distribution of natural gas at retail; or (b) excavation
34 contractors or other contractors that contract with a pipeline company.

35 (~~(19)~~) (20) "Reasonable accuracy" means location within twenty-
36 four inches of the outside dimensions of both sides of an underground
37 facility.

1 ~~((+20+))~~ (21) "Service lateral" means an individual customer
2 service line providing connection or conveyance to or from one or more
3 building units to an underground facility and operated by the owner of
4 the underground facility within its right-of-way or easement.

5 (22) "Transfer pipeline" means a buried or aboveground pipeline
6 used to carry hazardous liquid between a tank vessel or transmission
7 pipeline and the first valve inside secondary containment at the
8 facility provided that any discharge on the facility side of that first
9 valve will not directly impact waters of the state. A transfer
10 pipeline includes valves, and other appurtenances connected to the
11 pipeline, pumping units, and fabricated assemblies associated with
12 pumping units. A transfer pipeline does not include process pipelines,
13 pipelines carrying ballast or bilge water, transmission pipelines, or
14 tank vessel or storage tanks.

15 ~~((+21+))~~ (23) "Transmission pipeline" means a pipeline that
16 transports hazardous liquid or gas within a storage field, or
17 transports hazardous liquid or gas from an interstate pipeline or
18 storage facility to a distribution main or a large volume hazardous
19 liquid or gas user, or operates at a hoop stress of twenty percent or
20 more of the specified minimum yield strength.

21 ~~((+22+))~~ (24) "Underground facility" means any item buried or
22 placed below ground for use in connection with the storage or
23 conveyance of water, sewage, electronic, telephonic or telegraphic
24 communications, cablevision, electric energy, petroleum products, gas,
25 gaseous vapors, hazardous liquids, or other substances and including
26 but not limited to pipes, sewers, service laterals, conduits, cables,
27 valves, lines, wires, manholes, attachments, and those parts of poles
28 or anchors below ground. This definition does not include pipelines as
29 defined in subsection ~~((+17+))~~ (18) of this section, but does include
30 distribution systems owned and operated under franchise for the sale,
31 delivery, or distribution of natural gas at retail.

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

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

1 (2) All owners of underground facilities within a one-number
2 locator service area shall subscribe to the service. One-number
3 locator service rates for cable television companies will be based on
4 the amount of their underground facilities. An underground facility
5 owner who is required to subscribe to the one-number locator service
6 and fails to do so is liable for all damages to the owner's underground
7 facilities and for any other damages that occur as a result of proper
8 notice of a scheduled excavation through the one-number locator
9 service. Nothing under this subsection may be construed to require a
10 person who owns underground facilities at the person's residence, farm,
11 or place of business to subscribe to the one-number locator service.

12 (3) If no one-number locator service is available, notice shall be
13 provided individually to those owners of underground facilities known
14 to or suspected of having underground facilities within the area of
15 proposed excavation. The notice shall be communicated to the owners of
16 underground facilities not less than two business days or more than ten
17 business days before the scheduled date for commencement of excavation,
18 unless otherwise agreed by the parties.

19 ((+3)) (4) Upon receipt of the notice provided for in this
20 section, the owner of the underground facility shall provide the
21 excavator with reasonably accurate information as to its locatable
22 underground facilities by surface-marking the location of the
23 facilities. If there are identified but unlocatable underground
24 facilities, the owner of such facilities shall provide the excavator
25 with the best available information as to their locations. The owner
26 of the underground facility providing the information shall respond no
27 later than two business days after the receipt of the notice or before
28 the excavation time, at the option of the owner, unless otherwise
29 agreed by the parties. Excavators shall not excavate until all known
30 facilities have been marked. Once marked by the owner of the
31 underground facility, the excavator is responsible for maintaining the
32 markings. Excavators shall have the right to receive compensation from
33 the owner of the underground facility for costs incurred if the owner
34 of the underground facility does not locate its facilities in
35 accordance with this section.

36 ((+4)) (5) The owner of the underground facility shall have the
37 right to receive compensation for costs incurred in responding to

1 excavation notices given less than two business days prior to the
2 excavation from the excavator.

3 ~~((5) An owner of underground facilities is not required to
4 indicate the presence of existing service laterals or appurtenances if
5 the presence of existing service laterals or appurtenances on the site
6 of the construction project can be determined from the presence of
7 other visible facilities, such as buildings, manholes, or meter and
8 junction boxes on or adjacent to the construction site.))~~

9 (6) Emergency excavations are exempt from the time requirements for
10 notification provided in this section. For emergency bar holing twelve
11 or more inches in depth, reasonable measures will be taken to eliminate
12 electrical arc hazards.

13 (7) If the excavator, while performing the contract, discovers
14 underground facilities which are not identified, the excavator shall
15 cease excavating in the vicinity of the facility and immediately notify
16 the owner or operator of such facilities, or the one-number locator
17 service.

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

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

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