

SB 6420 - H COMM AMD
By Committee on Local Government

ADOPTED 03/04/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 19.122.020 and 2011 c 263 s 2 are each reenacted
4 and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Bar hole" means a hole made in the soil or pavement with a
8 hand-operated bar for the specific purpose of testing the subsurface
9 atmosphere with a combustible gas indicator.

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

12 (3) "Commission" means the utilities and transportation
13 commission.

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

20 (5) "Emergency" means any condition constituting a clear and
21 present danger to life or property, or a customer service outage.

22 (6) "End user" means any utility customer or consumer of utility
23 services or commodities provided by a facility operator.

24 (7) "Equipment operator" means an individual conducting an
25 excavation.

26 (8) "Excavation" and "excavate" means any operation, including
27 the installation of signs, in which earth, rock, or other material on
28 or below the ground is moved or otherwise displaced by any means.

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

1 (10) "Excavator" means any person who engages directly in
2 excavation.

3 (11) "Facility operator" means any person who owns an underground
4 facility or is in the business of supplying any utility service or
5 commodity for compensation. "Facility operator" does not include a
6 utility customer who owns a service lateral that terminates at a
7 facility operator's main utility line.

8 (12) "Gas" means natural gas, flammable gas, or toxic or
9 corrosive gas.

10 (13) "Hazardous liquid" means:

11 (a) Petroleum, petroleum products, or anhydrous ammonia as those
12 terms are defined in 49 C.F.R. Part 195 as in effect on March 1,
13 1998;

14 (b) Carbon dioxide; and

15 (c) Other substances designated as hazardous by the secretary of
16 transportation and incorporated by reference by the commission by
17 rule.

18 (14) "Identified but unlocatable underground facility" means an
19 underground facility which has been identified but cannot be located
20 with reasonable accuracy.

21 (15) "Large project" means a project that exceeds seven hundred
22 linear feet.

23 (16) "Locatable underground facility" means an underground
24 facility which can be marked with reasonable accuracy.

25 (17) "Marking" means the use of stakes, paint, or other clearly
26 identifiable materials to show the field location of underground
27 facilities, in accordance with the current color code standard of the
28 American public works association. Markings shall include
29 identification letters indicating the specific type of the
30 underground facility. Locate marks are not required to indicate the
31 depth of the underground facility given the potential change of
32 topography over time.

33 (18) "Notice" or "notify" means contact in person or by telephone
34 or other electronic method, and, with respect to contact of a one-
35 number locator service, also results in the receipt of a valid
36 excavation confirmation code.

37 (19) "One-number locator service" means a service through which a
38 person can notify facility operators and request marking of
39 underground facilities.

1 (20) "Person" means an individual, partnership, franchise holder,
2 association, corporation, the state, a city, a county, a town, or any
3 subdivision or instrumentality of the state, including any unit of
4 local government, and its employees, agents, or legal
5 representatives.

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

14 (22) "Pipeline company" means a person or entity constructing,
15 owning, or operating a pipeline for transporting hazardous liquid or
16 gas. "Pipeline company" does not include:

17 (a) Distribution systems owned and operated under franchise for
18 the sale, delivery, or distribution of natural gas at retail; or

19 (b) Excavation contractors or other contractors that contract
20 with a pipeline company.

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

24 (24) "Service lateral" means an underground water, stormwater, or
25 sewer facility located in a public right-of-way or utility easement
26 that connects an end user's building or property to a facility
27 operator's underground facility, and terminates beyond the public
28 right-of-way or utility easement.

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

39 (26) "Transmission pipeline" means a pipeline that transports
40 hazardous liquid or gas within a storage field, or transports

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

5 (27) "Underground facility" means any item buried or placed below
6 ground for use in connection with the storage or conveyance of water,
7 sewage, electronic, telephonic or telegraphic communications,
8 cablevision, electric energy, petroleum products, gas, gaseous
9 vapors, hazardous liquids, or other substances and including but not
10 limited to pipes, sewers, conduits, cables, valves, lines, wires,
11 manholes, attachments, and those parts of poles or anchors that are
12 below ground. This definition does not include pipelines as defined
13 in subsection (21) of this section, but does include distribution
14 systems owned and operated under franchise for the sale, delivery, or
15 distribution of natural gas at retail.

16 (28) "Unlocatable underground facility" means, subject to the
17 provisions of RCW 19.122.030, an underground facility that cannot be
18 marked with reasonable accuracy using available information to
19 designate the location of an underground facility. "Unlocatable
20 underground facility" includes, but is not limited to, service
21 laterals, storm drains, and nonconductive and nonmetallic underground
22 facilities that do not contain trace wires.

23 (29) "Utility easement" means a right held by a facility operator
24 to install, maintain, and access an underground facility or pipeline.

25 **Sec. 2.** RCW 19.122.050 and 2011 c 263 s 9 are each amended to
26 read as follows:

27 (1) An excavator who, in the course of excavation, contacts or
28 damages an underground facility shall notify the facility operator
29 and a one-number locator service, and report the damage as required
30 under RCW 19.122.053. If the damage causes an emergency condition,
31 the excavator causing the damage shall also call 911 to alert the
32 appropriate local public safety agencies and take all appropriate
33 steps to ensure the public safety. No damaged underground facility
34 may be buried until it is repaired or relocated.

35 (2) A facility operator notified in accordance with subsection
36 (1) of this section shall arrange for repairs or relocation as soon
37 as is practical, or permit the excavator to do necessary repairs or
38 relocation at a mutually acceptable price.

1 **Sec. 3.** RCW 19.122.130 and 2017 c 20 s 1 are each amended to
2 read as follows:

3 (1) The commission must contract with a statewide, nonprofit
4 entity whose purpose is to reduce damages to underground and above
5 ground facilities, promote safe excavation practices, and review
6 complaints of alleged violations of this chapter. The contract must
7 not obligate funding by the commission for activities performed by
8 the nonprofit entity or the safety committee under this section.

9 (2) The contracting entity must create a safety committee to:

10 (a) Advise the commission and other state agencies, the
11 legislature, and local governments on best practices and training to
12 prevent damage to underground utilities, and policies to enhance
13 worker and public safety; and

14 (b) Review complaints alleging violations of this chapter
15 involving practices related to underground facilities.

16 (3) (a) The safety committee will consist of thirteen members, who
17 must be nominated by represented groups and appointed by the
18 contracting entity to staggered three-year terms. The safety
19 committee must include representatives of:

20 (i) Local governments;

21 (ii) A natural gas utility subject to regulation under Titles 80
22 and 81 RCW;

23 (iii) Contractors;

24 (iv) Excavators;

25 (v) An electric utility subject to regulation under Title 80 RCW;

26 (vi) A consumer-owned utility, as defined in RCW 19.27A.140;

27 (vii) A pipeline company;

28 (viii) ~~((The insurance industry;))~~ A water-sewer district subject
29 to regulation under Title 57 RCW;

30 (ix) The commission; and

31 (x) A telecommunications company.

32 (b) The safety committee may pass bylaws and provide for those
33 organizational processes that are necessary to complete the safety
34 committee's tasks.

35 (4) The safety committee must meet at least once every three
36 months.

37 (5) The safety committee may review complaints of alleged
38 violations of this chapter involving practices related to underground
39 facilities. Any person may bring a complaint to the safety committee
40 regarding an alleged violation occurring on or after January 1, 2013.

1 (6) To review complaints of alleged violations, the safety
2 committee must appoint at least three and not more than five members
3 as a review committee. The review committee must ~~((include the same~~
4 ~~number of members representing excavators and facility operators. One~~
5 ~~member representing facility operators must also be a representative~~
6 ~~of a pipeline company or a natural gas utility subject to regulation~~
7 ~~under Titles 80 and 81 RCW. The review committee must also include a~~
8 ~~member representing the insurance industry))~~ be a balanced group,
9 including at least one excavator and one facility operator.

10 (7) Before reviewing a complaint alleging a violation of this
11 chapter, the review committee must notify the person making the
12 complaint and the alleged violator of its review and of the
13 opportunity to participate.

14 (8) The safety committee may provide written notification to the
15 commission, with supporting documentation, that a person has likely
16 committed a violation of this chapter, and recommend remedial action
17 that may include a penalty amount, training, or education to improve
18 public safety, or some combination thereof."

19 Correct the title.

EFFECT: Clarifies that locate marks are not required to indicate
the depth of underground facilities due to the potential change of
topography over time.

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