
HOUSE BILL 2694

State of Washington

66th Legislature

2020 Regular Session

By Representatives Pollet, Duerr, Appleton, Goehner, and Senn

Read first time 01/17/20. Referred to Committee on Local Government.

1 AN ACT Relating to underground utilities and safety committee;
2 amending RCW 19.122.050 and 19.122.130; and reenacting and amending
3 RCW 19.122.020.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

14 (3) "Commission" means the utilities and transportation
15 commission.

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

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

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

5 (7) "Equipment operator" means an individual conducting an
6 excavation.

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

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

14 (10) "Excavator" means any person who engages directly in
15 excavation.

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

21 (12) "Gas" means natural gas, flammable gas, or toxic or
22 corrosive gas.

23 (13) "Hazardous liquid" means:

24 (a) Petroleum, petroleum products, or anhydrous ammonia as those
25 terms are defined in 49 C.F.R. Part 195 as in effect on March 1,
26 1998;

27 (b) Carbon dioxide; and

28 (c) Other substances designated as hazardous by the secretary of
29 transportation and incorporated by reference by the commission by
30 rule.

31 (14) "Identified but unlocatable underground facility" means an
32 underground facility which has been identified but cannot be located
33 with reasonable accuracy.

34 (15) "Large project" means a project that exceeds seven hundred
35 linear feet.

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

38 (17) "Marking" means the use of stakes, paint, or other clearly
39 identifiable materials to show the field location of underground
40 facilities, in accordance with the current color code standard of the

1 American public works association. Markings shall include
2 identification letters indicating the specific type of the
3 underground facility. Locate marks are not required to indicate the
4 depth of the underground facility.

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

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

12 (20) "Person" means an individual, partnership, franchise holder,
13 association, corporation, the state, a city, a county, a town, or any
14 subdivision or instrumentality of the state, including any unit of
15 local government, and its employees, agents, or legal
16 representatives.

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

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

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

30 (b) Excavation contractors or other contractors that contract
31 with a pipeline company.

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

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

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

11 (26) "Transmission pipeline" means a pipeline that transports
12 hazardous liquid or gas within a storage field, or transports
13 hazardous liquid or gas from an interstate pipeline or storage
14 facility to a distribution main or a large volume hazardous liquid or
15 gas user, or operates at a hoop stress of twenty percent or more of
16 the specified minimum yield strength.

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

28 (28) "Unlocatable underground facility" means, subject to the
29 provisions of RCW 19.122.030, an underground facility that cannot be
30 marked with reasonable accuracy using available information to
31 designate the location of an underground facility. "Unlocatable
32 underground facility" includes, but is not limited to, service
33 laterals, storm drains, and nonconductive and nonmetallic underground
34 facilities that do not contain trace wires.

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

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

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

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

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

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

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

22 (a) Advise the commission and other state agencies, the
23 legislature, and local governments on best practices and training to
24 prevent damage to underground utilities, and policies to enhance
25 worker and public safety; and

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

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

32 (i) Local governments;

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

35 (iii) Contractors;

36 (iv) Excavators;

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

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

39 (vii) A pipeline company;

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

3 (ix) The commission; and

4 (x) A telecommunications company.

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

8 (4) The safety committee must meet at least once every three
9 months.

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

14 (6) To review complaints of alleged violations, the safety
15 committee must appoint at least three and not more than five members
16 as a review committee. The review committee must ~~((include the same
17 number of members representing excavators and facility operators. One
18 member representing facility operators must also be a representative
19 of a pipeline company or a natural gas utility subject to regulation
20 under Titles 80 and 81 RCW. The review committee must also include a
21 member representing the insurance industry))~~ be a balanced group,
22 including at least one excavator and one facility operator.

23 (7) Before reviewing a complaint alleging a violation of this
24 chapter, the review committee must notify the person making the
25 complaint and the alleged violator of its review and of the
26 opportunity to participate.

27 (8) The safety committee may provide written notification to the
28 commission, with supporting documentation, that a person has likely
29 committed a violation of this chapter, and recommend remedial action
30 that may include a penalty amount, training, or education to improve
31 public safety, or some combination thereof.

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