

Regular Session, 2014

HOUSE BILL NO. 868

BY REPRESENTATIVE PONTI

UTILITIES: Makes changes to the La. Underground Utilities and Facilities Damage Prevention Law

1 AN ACT

2 To amend and reenact R.S. 40:1749.12(10), 1749.13(B)(5), 1749.14(C)(1)(a), 1749.20(A)(2)
3 and (3) and (B) and to enact R.S. 40:1749.20(A)(3)(e), relative to the Louisiana
4 Underground Utilities and Facilities Damage Prevention Law; to add to the
5 definition of "mark by time"; to allow for mutual agreements to extend time periods
6 between notification and activity; to allow the use of supplemental offset markings;
7 to provide relative to penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1749.12(10), 1749.13(B)(5), 1749.14 (C)(1)(a), 1749.20(A)(2) and
10 (3) and (B) are hereby amended and reenacted and R.S. 40:1749.20(A)(3)(e) is hereby
11 enacted:

12 §1749.12. Definitions

13 As used in this Part, the following terms shall have the meanings ascribed to
14 them in this Section:

15 * * *

16 (10) "Mark by time" is the date and time provided by the regional
17 notification center by which the utility or facility operator is required to mark the
18 location or provide information to enable an excavator or demolisher, using
19 reasonable and prudent means, to determine the specific location of the utility or
20 facility as provided for in R.S. 40:1749.14(D). The mark by time may be extended
21 if mutually agreed upon and documented between the excavator and operator.

22 * * *

1 §1749.13. Excavation and demolition; prohibitions

2 * * *

3 B.

4 * * *

5 (5) The excavator or demolisher shall wait at least forty-eight hours,
6 beginning at 7:00 a.m. on the next working day, following notification, unless
7 mutually agreed upon and documented by the excavator and operator to extend such
8 time, before commencing any excavation or demolition activity, except in the case
9 of an emergency as defined in the provisions of this Part or if informed by the
10 regional notification center that no operators are to be notified.

11 * * *

12 §1749.14. Regional notification center

13 * * *

14 C.(1) Each operator of an underground facility or utility, after having
15 received the notification request from the regional notification center of an intent to
16 excavate, shall supply, prior to the proposed excavation, the following information
17 to the person responsible for the excavation:

18 (a) The specific location and type of all of its underground utilities or
19 facilities which may be damaged as a result of the excavation or demolition. If the
20 surface over the buried or submerged line is to be removed, supplemental offset
21 markings may be used. Offset markings shall be on a uniform alignment and shall
22 clearly indicate that the actual facility is a specific distance away.

23 * * *

24 §1749.20. Violations; penalties

25 A.

26 * * *

27 (2) A person who participates in a regional notification center and who fails
28 to mark or provide information regarding the location of underground utilities and
29 facilities used to store, transport, or convey that which is not regulated pursuant to

1 Chapter 16 of Title 30 of the Louisiana Revised Statutes of 1950, otherwise known
2 as the Hazardous Materials Information, Development, Preparedness, and Response
3 Act, shall be subject to a civil penalty of not more than one thousand dollars. A
4 subsequent violation shall be deemed to have occurred if a person fails to provide
5 information or markings within two years of the issuance of a prior citation for the
6 same or similar conduct.

7 (3) A person who is required by law to participate in a regional notification
8 center and who fails to provide information or markings to indicate hazardous
9 material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be
10 subject to the following:

11 (a) For the first violation, a ~~civil penalty of not more than two hundred fifty~~
12 ~~dollars~~ warning letter shall be given.

13 (b) For a second violation, a civil penalty of not more than ~~five hundred two~~
14 hundred fifty dollars.

15 (c) For a third violation, a civil penalty of not more than ~~one thousand five~~
16 hundred dollars.

17 (d) For a fourth ~~and each subsequent~~ violation, a civil penalty of not ~~less than~~
18 ~~two thousand dollars nor~~ more than ~~twenty-five~~ one thousand dollars.

19 (e) For a fifth and each subsequent violation, a civil penalty of not less than
20 two thousand dollars nor more than twenty-five thousand dollars.

21 B. An excavator or demolisher who violates the provisions of R.S.
22 40:1749.13, 1749.16, or 1749.17(B) shall be subject to the following:

23 (1) For the first violation, a ~~civil penalty of not more than two hundred fifty~~
24 ~~dollars~~ warning letter shall be given.

25 (2) For a second violation of a similar nature within a two-year period from
26 the previous violation, a civil penalty of not more than ~~five hundred~~ two hundred
27 fifty dollars.

demolition activity, except in the case of an emergency or if informed by the regional notification center that no operators are to be notified.

Proposed law retains present law and provides that the parties may extend the time in present law by mutual and documented agreement by the excavator and operator.

Present law provides that each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate, shall supply, prior to the proposed excavation, the specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition.

Proposed law retains present law and provides that if the surface over the buried or submerged line is to be removed, supplemental offset markings may be used and shall be on a uniform alignment and shall clearly indicate that the actual facility is a specific distance away.

Proposed law revises penalty provisions of the La. Underground Utilities and Facilities Damage Prevention Law, including but not limited to giving a warning for a first violation rather than a monetary civil penalty and specifying that the term "facility" in some penalty provisions refers to facilities which are related only to non-hazardous materials.

(Amends R.S. 40:1749.12(10), 1749.13(B)(5), 1749.14(C)(1)(a), 1749.20(A)(2) and (3) and (B); Adds R.S. 40:1749.20(A)(3)(e))