

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), and  
3 1749.20(A)(2) and (3) and (B), relative to the Louisiana Underground Utilities and  
4 Facilities Damage Prevention Law; to add to the definition of "mark by time"; to  
5 allow for mutual agreements to extend time periods between notification and  
6 activity; to allow the use of supplemental offset markings; to provide relative to  
7 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), and 1749.20(A)(2)  
10 and (3) and (B) are hereby amended and reenacted to read as follows:

11 §1749.12. Definitions

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

14 \* \* \*

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

21 \* \* \*

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

1           (3) For a third violation of a similar nature within a two-year period from a  
2           previous violation, a civil penalty of not more than ~~one thousand~~ five hundred  
3           dollars.

4           (4) For a fourth ~~and each subsequent~~ violation of a similar nature within a  
5           two-year period from the previous violation, a civil penalty of not ~~less than two~~  
6           ~~thousand dollars nor~~ more than ~~twenty-five~~ one thousand dollars.

7           (5) For a fifth and each subsequent violation of a similar nature within a two-  
8           year period from the previous violation, a civil penalty of not less than two thousand  
9           nor more than twenty-five thousand dollars.

10          ~~(5) (6)~~ Any For any violation involving hazardous materials as defined in  
11          Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than  
12          two thousand dollars nor more than twenty-five thousand dollars.

13          ~~(6) (7)~~ An excavator or demolisher who is issued a citation for a violation  
14          shall immediately stop all excavation or demolition activity until the requirements  
15          of this Part are met. Failure to do so shall subject the excavator or demolisher to an  
16          additional citation and civil penalty of not more than twenty-five thousand dollars  
17          for each such subsequent citation issued.

18    \*        \*        \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB No. 868

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

Present law defines "mark by time" as the date and time provided by the regional notification center by which the utility or facility operator is required to mark the location or provide information to enable an excavator or demolisher, using reasonable and prudent means, to determine the specific location of the utility or facility.

Proposed law retains present law and adds that the mark by time may be extended if mutually agreed upon and documented between the excavator and operator.

Present law requires the excavator or demolisher to wait at least 48 hours, beginning at 7:00 a.m. on the next working day, following notification before commencing any excavation or

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), and 1749.20(A)(2) and (3) and (B))

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Made technical changes.