

Regular Session, 2014

HOUSE BILL NO. 868

BY REPRESENTATIVE PONTI

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 * * *

22 §1749.13. Excavation and demolition; prohibitions

23 * * *

24 B.

25 * * *

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

7 * * *

8 §1749.14. Regional notification center

9 * * *

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

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

19 * * *

20 §1749.20. Violations; penalties

21 A.

22 * * *

23 (2) A person who participates in a regional notification center and who fails
 24 to mark or provide information regarding the location of underground utilities and
 25 facilities used to store, transport, or convey that which is not regulated pursuant to
 26 Chapter 16 of Subtitle II of Title 30 of the Louisiana Revised Statutes of 1950,
 27 otherwise known as the Hazardous Materials Information Development,
 28 Preparedness, and Response Act, shall be subject to a civil penalty of not more than
 29 one thousand dollars. A subsequent violation shall be deemed to have occurred if

1 a person fails to provide information or markings within two years of the issuance
 2 of a prior citation for the same or similar conduct.

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

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

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

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

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

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

17 B. An excavator or demolisher who violates the provisions of R.S.
 18 40:1749.13, 1749.16, or 1749.17(B) shall be subject to the following:

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

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

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

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____