

SENATE BILL NO. 169

BY SENATOR ALLAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 40:1749.12(7) and (12) through (18), the introductory paragraph
3 of 1749.14(C)(1), and the introductory paragraph of 1749.17(B) and to enact R.S.
4 40:1749.12(19) and 1749.21(C) and (D), relative to the Louisiana Underground
5 Utilities and Facilities Damage Prevention Law; to provide for definitions, terms,
6 and conditions; to provide for miscellaneous provisions; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1749.12(7) and (12) through (18), the introductory paragraph of
10 1749.14(C)(1), and the introductory paragraph of 1749.17(B) are hereby amended and
11 reenacted and R.S. 40:1749.12(19) and 1749.21(C) and (D) are hereby enacted to read as
12 follows:

13 §1749.12. Definitions

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

16 * * *

17 (7) "Excavation" or "excavate" means any operation causing movement or
18 removal of earth, rock, or other materials in or on the ground or submerged in a
19 marine environment that could reasonably result in damage to underground or
20 submerged utilities or facilities by the use of powered or mechanical or manual
21 means, including but not limited to pile driving, digging, blasting, augering, boring,
22 back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-
23 leveling, grading, and mechanical probing. "Excavation" or "excavate" shall not

1 include manual probing, **normal commercial farming operations**, or any **activity**
 2 **resulting from** force majeure; **related occurrences, including but not limited to**
 3 **an** act of God; or **an** act of nature.

4 * * *

5 (12) **"Normal commercial farming operations" means the following**
 6 **operations or activities for agriculture cultivation purposes:**

7 **(a) Operations or activities that do not encroach upon a private utility**
 8 **or pipeline servitude, public right-of-way, or a public franchise area.**

9 **(b) Operations or activities that do encroach upon a private utility or**
 10 **pipeline servitude and the depth of the excavation is less than twelve inches in**
 11 **the soil below the existing surface grade.**

12 (13) "Operator" means any person who owns or operates a public or private
 13 underground facility or utility which furnishes a service or material or stores,
 14 transports, or transmits electric energy, steam, oil, gases, natural gas, gas, mixture
 15 of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or
 16 corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic
 17 communication systems, or water or water systems, or drainage, sewer systems, or
 18 traffic control systems or other items of like nature.

19 ~~(13)~~(14) "Person" means an individual, firm, partnership, association, limited
 20 liability company, corporation, joint venture, municipality, governmental agency,
 21 political subdivision, or agent of the state or any legal representative thereof.

22 ~~(14)~~(15) "Pipeline" means all intrastate and interstate pipeline facilities
 23 defined by 49 CFR 192.3 and 49 CFR 195.2.

24 ~~(15)~~(16) "Regional notification center" means any one of the following:

25 (a) An entity designated as nonprofit by the Internal Revenue Service under
 26 Section 501(c) of the Internal Revenue Code and which is organized to protect its
 27 members from damage and is certified by the Department of Public Safety and
 28 Corrections in accordance with this Part.

29 (b) An organization of operators, consisting of two or more separate operators
 30 who jointly have underground utilities or facilities in three or more parishes in

1 Louisiana, which is organized to protect its own installation from damage and has
2 been certified by the Department of Public Safety and Corrections in accordance
3 with this Part.

4 (c) An operator who has underground utilities or facilities in a majority of
5 parishes in Louisiana and is organized to protect its own installation from damage,
6 and has been certified by the Department of Public Safety and Corrections in
7 accordance with this Part.

8 ~~(16)~~**(17)** "Service line or lines" means underground facilities or utilities
9 which provide power, gas, natural gas, communication, or water capabilities to a
10 building or structure or buildings or group of structures.

11 ~~(17)~~**(18)** "Underground facility or utility" means any pipe, conduit, duct,
12 wire, cable, valve, line, fiber optic equipment, or other structure which is buried or
13 placed below ground or submerged for use in connection with storage, conveyance,
14 transmission, or protection of electronics communication system, telephone or
15 telegraph system, or fiber optic, electric energy, oil, natural gas, gas, gases, steam,
16 mixture of gases, petroleum, petroleum products, hazardous or flammable
17 fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases, or other
18 substances of like nature or water or water systems, sewer systems or traffic,
19 drainage control systems, or other items of like nature.

20 ~~(18)~~**(19)** "Wildfire" means an uncontrolled combustion of natural vegetation.

21 * * *

22 §1749.14. Regional notification center

23 * * *

24 C.(1) Each operator of an underground facility or utility, after having
25 received the notification request from the regional notification center of an intent to
26 excavate **or an intent to conduct normal commercial farming operations**, shall
27 supply, prior to the proposed excavation **or normal commercial farming operation**,
28 the following information to the person responsible for the excavation **or normal**
29 **commercial farming operation**:

30 * * *

1 §1749.17. Excavation or demolition; repair of damage

2 * * *

3 B. Each person responsible for an excavation or demolition operation or
4 normal commercial farming operation which results in damage to an underground
5 facility or utility permitting the escape of any flammable, toxic, or corrosive
6 fluids/gases shall, immediately upon discovery of that damage:

7 * * *

8 §1749.21. Miscellaneous provisions

9 * * *

10 C. Any owner or operator of a natural gas pipeline that is inactive, has
11 a diameter of a minimum of fifteen inches and a maximum of seventeen inches,
12 and is located in a parish with a population between forty-five thousand and
13 seventy-five thousand shall maintain the minimum amount of ground cover as
14 provided by 49 CFR Part 192. If the minimum amount of ground cover has not
15 been maintained then the owner or operator of the natural gas pipeline shall,
16 at his own expense, restore the minimum amount of cover over the pipeline
17 prior to the pipeline being reactivated.

18 D. The provisions of Subsection C of this Section shall become null and
19 void on June 30, 2023.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____