

SENATE BILL No. 375

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: 811 utility location program. Provides that an operator of underground facilities (operator) that violates Indiana law regarding marking of underground facilities located in the area of a proposed excavation or demolition is subject to a civil penalty of not more than \$25,000 for each violation for each day the violation persists, not to exceed \$1,000,000 for any related series of violations. Requires a person responsible for performing a proposed excavation or demolition (excavator) to provide notice of the excavation or demolition to Indiana 811: (1) at least two, but not more than 20, full working days before the proposed excavation or demolition if the proposed area of excavation or demolition is less than 2,000 linear feet; and (2) at least 10, but not more than 20, full working days before the proposed excavation or demolition if the proposed area of excavation or demolition is 2,000 linear feet or greater. Requires an excavator to provide separate notice, and a separate request for location of underground facilities, to Indiana 811 for each 2,000 linear feet of proposed excavation or demolition, regardless of whether the proposed excavation or demolition will take place in an incorporated area. Provides that notice provided to Indiana 811 of a proposed excavation or demolition: (1) expires 20 days after the notice is submitted if the proposed area of excavation or demolition is less than 2,000 linear feet; and (2) expires 90 days after the notice is submitted if the proposed area of excavation or demolition is 2,000 linear feet or greater, and may be renewed for additional 90 day periods. Requires an operator that receives notice of a proposed excavation or demolition of less than 2,000 linear feet to provide to the
(Continued next page)

Effective: July 1, 2022.

Messmer

January 11, 2022, read first time and referred to Committee on Utilities.



Digest Continued

excavator, not later than 7:00 a.m. on the third working day after the operator receives the notice, location information regarding the operator's underground facilities located in the area of the proposed excavation or demolition. Provides that if Indiana 811 receives notice of a proposed excavation or demolition of 2,000 linear feet or more, Indiana 811 shall schedule a meeting between the excavator and any operator with underground facilities located in the area of the proposed excavation or demolition. Provides that at the meeting: (1) the excavator shall: (A) describe the scope of the proposed excavation or demolition; and (B) present a written proposed marking agreement; and (2) the excavator and the operators shall negotiate in good faith regarding the proposed marking agreement. Requires an operator that does not sign the marking agreement as presented or amended at the meeting to: (1) mark the operator's underground facilities not later than 48 hours before the scheduled commencement of the excavation or demolition; and (2) maintain the markers such that the markers remain reasonably visible until the completion of the excavation or demolition. Provides that an excavator or operator that does not negotiate in good faith regarding a proposed marking agreement is subject to: (1) a civil penalty of not more than \$1,000; and (2) reimbursement of the marking expenses of each other operator that incurred expenses in marking the operator's underground facilities in the area of the excavation.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 375

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-22.5-7, AS AMENDED BY P.L.118-2006,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 7. (a) A person who is engaged in transportation
4 or owns, operates, or leases pipeline facilities who violates any
5 provision of this chapter, **IC 8-1-26**, or any regulations issued pursuant
6 to this chapter **or IC 8-1-26**, is subject to a civil penalty not to exceed
7 twenty-five thousand dollars (\$25,000) for each violation for each day
8 that the violation persists. However, the maximum civil penalty may
9 not exceed one million dollars (\$1,000,000) for any related series of
10 violations.

11 (b) The commission may, after notice and opportunity for public
12 hearing, impose a civil penalty not to exceed the amount specified in
13 subsection (a) against a person who violates this chapter, **IC 8-1-26**, or
14 any rules issued pursuant to this chapter **or IC 8-1-26**, and may
15 compromise and collect the penalties which are payable to the state as
16 otherwise provided by law. However, a penalty may not be assessed or
17 collected for any violation for which the person has been found liable



1 under 49 U.S.C. 60101 et seq.

2 SECTION 2. IC 8-1-26-16, AS AMENDED BY P.L.122-2017,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2022]: Sec. 16. (a) Except as provided in section 19 of this
5 chapter, before commencing an excavation or demolition operation
6 described in section 14 of this chapter, each person responsible for the
7 excavation or demolition shall:

8 (1) serve notice on the association of the person's intent to
9 excavate or demolish; and

10 (2) perform white lining at the site of the excavation or demolition
11 if the person responsible for the excavation or demolition is
12 unable to provide to the association the physical location of the
13 proposed excavation or demolition by one (1) of the following
14 means:

15 (A) A street address.

16 (B) A legal description of the location.

17 (C) A highway location using highway mile markers or cross
18 streets.

19 (b) The notice required under subdivision (1) must be received:

20 (1) at least two (2) full working days but not more than twenty

21 (20) calendar days before the commencement of the work, **if the**
22 **proposed area of excavation or demolition is less than two**
23 **thousand (2,000) linear feet; and**

24 (2) **at least ten (10) full working days but not more than**
25 **twenty (20) calendar days before commencement of the work,**
26 **if the proposed area of excavation or demolition is two**
27 **thousand (2,000) linear feet or greater.**

28 Upon receiving the notice, the association immediately shall notify
29 each operator that has underground facilities located in the proposed
30 area of excavation or demolition. ~~A person responsible for excavation~~
31 ~~or demolition may commence work before the elapse of two (2) full~~
32 ~~working days if all affected operators have notified the person that the~~
33 ~~location of all the affected operators' facilities have been marked or that~~
34 ~~the affected operators have no facilities in the location of the proposed~~
35 ~~excavation or demolition.~~

36 (b) (c) After receiving a notice under this section, the association
37 shall provide notice of the proposed excavation or demolition to each
38 member operator that has underground facilities located in the
39 proposed area of excavation or demolition.

40 (e) (d) A person responsible for demolition must give an operator
41 a reasonable amount of time, as mutually determined by the operator,
42 the person responsible for demolition, and the project owner, to remove



1 or protect the operator's facilities before demolition of the structure is
2 commenced.

3 ~~(d)~~ **(e)** The notice required by subsection (a) must contain the
4 following information:

5 (1) The name, address, and telephone number of the person
6 serving the notice, and, if different, the person responsible for the
7 excavation or demolition.

8 (2) The starting date, anticipated duration, and type of excavation
9 or demolition operation to be conducted.

10 (3) The location of the proposed excavation or demolition.

11 (4) Whether or not explosives or blasting are to be used.

12 (5) The approximate depth of excavation.

13 (6) Whether the person responsible for the proposed excavation
14 or demolition intends to perform white lining at the site of the
15 proposed excavation or demolition.

16 ~~(e)~~ **(f)** The person responsible for the excavation or demolition shall
17 submit **to the association** a separate locate request, along with the
18 notice provided under ~~subsection (d)(3) to the association as follows:~~

19 ~~(1) Within an incorporated area, for each one thousand five~~
20 ~~hundred (1,500) linear feet of proposed excavation or demolition:~~

21 ~~(2) In an unincorporated area, subsection (e)(3) for at least each~~
22 ~~two thousand six hundred forty (2,640) (2,000) linear feet of~~
23 ~~proposed excavation or demolition.~~

24 ~~(f)~~ **(g)** A notice provided ~~under this section~~ by a person responsible
25 for an excavation or demolition:

26 **(1) described in subsection (b)(1) expires twenty (20) days; or**

27 **(2) described in subsection (b)(2) expires ninety (90) days;**

28 after the date the notice is submitted to the association under
29 subsection (a), as determined in the manner specified in section 17(d)
30 of this chapter.

31 **(h) A notice served for an excavation or demolition described in**
32 **subsection (b)(2) may be renewed for an additional ninety (90) days**
33 **by submission of a renewal request to the association not later than**
34 **five (5) working days before the expiration date of the notice. If a**
35 **request for renewal of a notice served for an excavation or**
36 **demolition described in subsection (b)(2) is submitted to the**
37 **association later than five (5) working days before the expiration**
38 **date of the notice, the association shall treat the request as a new**
39 **notice served under subsection (a) and shall schedule a meeting**
40 **regarding the notice under section 18(b) of this chapter.**

41 ~~(i) If, at the conclusion of the twenty (20) day period described in~~
42 ~~this time the notice of an excavation or demolition expires under~~



1 subsection (g), any part of the excavation or demolition is not complete
 2 at any part of the site for which the original notice was submitted, the
 3 person responsible for the excavation or demolition may not continue
 4 or resume the excavation or demolition at any part of the site for which
 5 the original notice was submitted until:

6 (1) the person responsible for the excavation or demolition
 7 submits to the association a new locate request, along with a
 8 notice that complies with subsection ~~(d)~~, (e), with respect to that
 9 part of the site for which the excavation or demolition is not
 10 complete; and

11 (2) each affected operator provides facility locate markings in
 12 compliance with section 18 of this chapter for that part of the site
 13 for which the new locate request and notice are submitted under
 14 subdivision (1).

15 ~~(g)~~ (j) The association shall maintain an adequate record of the
 16 notice required by this section for seven (7) years to document
 17 compliance with this chapter. A copy of the record shall be furnished
 18 to the person giving notice to excavate or demolish upon written
 19 request.

20 ~~(h)~~ (k) A person that:

21 (1) causes damage to a pipeline facility located in an area of
 22 excavation or demolition;

23 (2) is required to provide notice under this section for the
 24 excavation or demolition; and

25 (3) fails to provide the notice;

26 may be subject to a civil penalty in an amount recommended by the
 27 advisory committee and approved by the commission, not to exceed ten
 28 thousand dollars (\$10,000).

29 ~~(i)~~ (l) A person that:

30 (1) causes damage to a pipeline facility located in an area of
 31 excavation or demolition;

32 (2) is required to perform white lining under subsection (a)(2);
 33 and

34 (3) fails to perform white lining before an operator of a pipeline
 35 facility arrives at the site of the proposed excavation or demolition
 36 to mark the operator's pipeline facilities;

37 may be subject to a civil penalty in an amount recommended by the
 38 advisory committee and approved by the commission, not to exceed ten
 39 thousand dollars (\$10,000).

40 SECTION 3. IC 8-1-26-16.5, AS ADDED BY P.L.122-2017,
 41 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2022]: Sec. 16.5. (a) A person responsible for:



1 (1) a construction project; or
 2 (2) any other project or operation;
 3 that will involve an excavation or demolition operation described in
 4 section 14 of this chapter may voluntarily, before commencing
 5 preliminary engineering studies or construction planning activities in
 6 the project area that will be affected by the excavation or demolition,
 7 serve a design information notice on the association of the person's
 8 intent to conduct the preliminary engineering studies or construction
 9 planning activities. However, not more than two (2) design information
 10 notices for the same project and from the same person or source may
 11 be submitted in any given one hundred eighty (180) day period.

12 (b) A person that serves a design information notice on the
 13 association under this section shall ensure that white lining is
 14 performed in the project area that will be affected by the proposed
 15 excavation or demolition if the person is unable to provide to the
 16 association the physical location of the proposed excavation or
 17 demolition by one (1) of the following means:

- 18 (1) A street address.
 19 (2) A legal description of the location.
 20 (3) A highway location using highway mile markers or cross
 21 streets.

22 (c) A design information notice under this section must be received
 23 by the association at least ten (10) full working days but not more than
 24 twenty (20) calendar days before the commencement of the preliminary
 25 engineering studies or construction planning activities. Upon receiving
 26 the design information notice, the association shall immediately:

- 27 (1) notify each operator that has underground facilities located in
 28 the project area that will be affected by the proposed excavation
 29 or demolition; and
 30 (2) provide the person serving the design information notice a list
 31 of the identified operators receiving the notice under subdivision
 32 (1).

33 A person responsible for conducting the preliminary engineering
 34 studies or construction planning activities may commence work before
 35 the elapse of ten (10) full working days if all affected operators have
 36 notified the person providing the design information notice that the
 37 location of all the affected operators' facilities have been marked or that
 38 the affected operators have no facilities in the project area that will be
 39 affected by the proposed excavation or demolition.

40 (d) Upon receiving the design information notice, the association
 41 shall immediately:

- 42 (1) provide notice of the preliminary engineering studies or



1 construction planning activities to each member operator that has
 2 underground facilities located in the project area that will be
 3 affected by the proposed excavation or demolition; and

4 (2) provide the person serving the design information notice a list
 5 of the identified operators receiving the notice under subdivision
 6 (1).

7 (e) A design information notice under this section must contain the
 8 following information:

9 (1) The name, address, and telephone number of the person
 10 serving the notice and, if different, contact information for the
 11 person responsible for the preliminary engineering studies or
 12 construction planning activities.

13 (2) The name of and contact information for the person that will
 14 perform the proposed excavation or demolition in connection with
 15 the project, if known.

16 (3) The starting date, anticipated duration, and type of
 17 engineering studies or construction planning activities, if known.

18 (4) The location of the proposed excavation or demolition within
 19 the project area.

20 (5) Whether white lining will be performed at the site of the
 21 proposed excavation or demolition within the project area.

22 (f) Subject to subsection (g), upon receiving notice from the
 23 association under subsection (c) or (d), an operator shall contact the
 24 person serving the design information notice within the time specified
 25 in section ~~18(b)~~ **18(d)** of this chapter and shall do one (1) or more of
 26 the following:

27 (1) Provide to the person serving the design information notice a
 28 description of all of the operator's underground facilities in the
 29 project area that will be affected by the proposed excavation or
 30 demolition, along with information as to the location of the
 31 facilities. The description and location information provided
 32 under this subdivision may include:

33 (A) drawings marked with a scale;

34 (B) dimensions;

35 (C) reference points for underground facilities already existing
 36 in the area; or

37 (D) other facility records that are maintained by the operator.

38 (2) Allow:

39 (A) the person serving the design information notice; or

40 (B) another authorized person;

41 to inspect, at a location that is acceptable to the operator,
 42 drawings or other records for all of the operator's underground



1 facilities within the project area that will be affected by the
2 proposed excavation or demolition.

3 (3) Designate with temporary facility markers the location of all
4 of the operator's underground facilities within the project area that
5 will be affected by the proposed excavation or demolition, as
6 identified in the design information notice.

7 (g) An operator may reject a design information notice served under
8 this section:

9 (1) based upon security considerations; or

10 (2) if producing the information set forth in subsection (f) will
11 place the operator at a competitive disadvantage;
12 pending the operator obtaining additional information concerning the
13 legitimacy of the design information notice. If an operator rejects a
14 design information notice under this subsection, the operator shall
15 provide notice of the rejection to, and may request additional
16 information from, the person serving the design information notice.

17 (h) The submission of a design information notice under this section
18 does not relieve a person responsible for the excavation or demolition
19 operation involved in the project from providing the notice required
20 under section 16 of this chapter before commencing the excavation or
21 demolition operation.

22 SECTION 4. IC 8-1-26-18, AS AMENDED BY P.L.122-2017,
23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2022]: Sec. 18. (a) Subject to subsection (k), each operator
25 ~~notified that receives notice~~ under section 16 of this chapter **of an**
26 **excavation or demolition described in section 16(b)(1) of this**
27 **chapter** shall, not later than ~~two (2) full~~ **7:00 a.m. on the third**
28 **working days day** after receiving the notice of intent provided in
29 section 16 of this chapter, supply to the person responsible for the
30 excavation or demolition the following information, using maps when
31 appropriate:

32 (1) The approximate location and a description of all the
33 operator's underground facilities that may be damaged as a result
34 of the excavation or demolition.

35 (2) The location and description of all facility markers indicating
36 the approximate location of the underground facilities.

37 (3) Any other information that would assist that person in locating
38 and avoiding damage to the underground facilities, including
39 providing adequate temporary markings indicating the
40 approximate location of the underground facility and locations
41 where permanent facility markers do not exist.

42 **A person responsible for an excavation or demolition described in**



1 section 16(b)(1) of this chapter may commence the excavation or
2 demolition before 7:00 a.m. on the third working day after serving
3 notice of the excavation or demolition under section 16 of this
4 chapter if each operator that has underground facilities located in
5 the proposed area of excavation or demolition has notified the
6 person that the location of the operator's facilities has been marked
7 or that the operator has no facilities in the area of the proposed
8 excavation or demolition.

9 (b) If the association receives notice under section 16 of this
10 chapter of an excavation or demolition described in section
11 16(b)(2) of this chapter, the association, the person responsible for
12 the excavation or demolition, and an operator that has
13 underground facilities located in the proposed area of excavation
14 or demolition shall do the following:

15 (1) Not later than five (5) working days before the
16 commencement of the demolition or excavation, the
17 association shall schedule a meeting between:

18 (A) the person responsible for the excavation or
19 demolition; and

20 (B) any operator that has underground facilities located in
21 the proposed area of excavation or demolition;

22 to be held at a location agreed to by the association and the
23 person responsible for the excavation or demolition, and on a
24 date that is agreed to by the association and the person
25 responsible for the excavation or demolition but that is at
26 least two (2) working days after the date on which the
27 association receives the notice under section 16 of this
28 chapter.

29 (2) Immediately upon scheduling the meeting under
30 subdivision (1), the association shall provide notice of the date
31 and location of the meeting to each operator that has
32 underground facilities located in the proposed area of
33 excavation or demolition.

34 (3) Not later than two (2) working days after an operator
35 receives notice under subdivision (2), the operator shall notify
36 the association that:

37 (A) the operator agrees to the meeting time and location;
38 or

39 (B) the operator will not attend the meeting and will
40 contact the person responsible for the excavation or
41 demolition regarding the excavation or demolition.

42 (4) At the meeting scheduled under subdivision (1):



- 1 (A) the person responsible for the excavation or demolition
 2 shall:
- 3 (i) describe the scope of the excavation or demolition;
 4 and
- 5 (ii) present a written proposed marking agreement that
 6 divides the excavation or demolition area into sections
 7 and specifies for each section a date by which the
 8 underground facilities in the section must be marked by
 9 the operators; and
- 10 (B) the person responsible for the excavation or demolition
 11 and each operator present at the meeting shall negotiate in
 12 good faith regarding the proposed marking agreement.
- 13 (5) If an operator agrees to the marking agreement as
 14 presented under subdivision (4), or as amended during the
 15 meeting, the operator and the person responsible for the
 16 excavation or demolition shall:
- 17 (A) sign the agreement;
 18 (B) maintain a copy of the agreement until the date on
 19 which the excavation or demolition is complete; and
 20 (C) comply with the agreement until the date on which the
 21 excavation or demolition is complete.
- 22 (6) Not later than two (2) working days after the date of the
 23 meeting scheduled under subdivision (1), each operator that
 24 attended the meeting shall notify the association as to whether
 25 the operator has agreed to the marking agreement.
- 26 (7) An operator that does not sign the marking agreement
 27 under subdivision (5) shall:
- 28 (A) mark the operator's underground facilities in
 29 compliance with this section not later than forty-eight (48)
 30 hours before the scheduled commencement of the
 31 excavation or demolition; and
- 32 (B) until the date on which the excavation or demolition is
 33 complete, maintain the markers placed under clause (A)
 34 such that the markers remain reasonably visible.
- 35 (8) At least once every thirty (30) days after the date of the
 36 meeting scheduled under subdivision (1) until the date on
 37 which the excavation or demolition is complete, the
 38 association shall send notice to each operator:
- 39 (A) that has underground facilities located in the proposed
 40 area of excavation or demolition; and
- 41 (B) that did not sign the marking agreement;
 42 regarding the operator's responsibilities under subdivision



- 1 **(7).**
- 2 **(9) If the person responsible for the excavation or demolition**
- 3 **wishes to modify the marking agreement agreed to under**
- 4 **subdivision (5), the person shall immediately notify the**
- 5 **association and each operator that signed the marking**
- 6 **agreement.**
- 7 **(10) Upon completion of the excavation or demolition:**
- 8 **(A) the person responsible for the excavation or demolition**
- 9 **shall provide notice of the completion to the association;**
- 10 **and**
- 11 **(B) the association shall provide notice of the completion to**
- 12 **each operator that has underground facilities located in the**
- 13 **area of excavation or demolition.**
- 14 **(c) If the advisory committee finds that an operator or a person**
- 15 **responsible for an excavation or demolition has not negotiated in**
- 16 **good faith regarding a marking agreement under subsection (b)(4),**
- 17 **the operator or person responsible for the excavation or demolition**
- 18 **may be subject to one (1) or more of the following, as**
- 19 **recommended by the advisory committee and approved by the**
- 20 **commission:**
- 21 **(1) A civil penalty in an amount recommended by the advisory**
- 22 **committee and approved by the commission, not to exceed one**
- 23 **thousand dollars (\$1,000).**
- 24 **(2) Reimbursement of each other operator that incurred**
- 25 **expenses in marking the operator's underground facilities in**
- 26 **the area of the excavation or demolition under this section, in**
- 27 **the amount of the operator's marking expenses.**
- 28 ~~(b)~~ **(d) Each operator notified under section 16.5 of this chapter of**
- 29 **preliminary engineering studies or construction planning activities**
- 30 **shall, not later than ten (10) full working days after receiving the design**
- 31 **information notice, contact the person serving the design information**
- 32 **notice and shall do the following:**
- 33 **(1) Do one (1) or more of the following, in accordance with**
- 34 **section 16.5(f) of this chapter:**
- 35 **(A) Provide to the person serving the design information**
- 36 **notice the approximate location and a description of all the**
- 37 **operator's underground facilities that are located in the project**
- 38 **area that will be affected by the proposed excavation or**
- 39 **demolition.**
- 40 **(B) Allow:**
- 41 **(i) the person serving the design information notice; or**
- 42 **(ii) another authorized person;**



1 to inspect, at a location that is acceptable to the operator,
2 drawings or other records for all of the operator's underground
3 facilities within the project area that will be affected by the
4 proposed excavation or demolition.

5 (C) Designate with temporary facility markers the location of
6 all of the operator's underground facilities within the project
7 area that will be affected by the proposed excavation or
8 demolition, as identified in the design information notice.

9 (2) Using maps when appropriate, provide to the person serving
10 the design information notice the location and a description of all
11 facility markers indicating the approximate location of the
12 underground facilities, if applicable.

13 (3) Using maps when appropriate, provide to the person serving
14 the design information notice any other information that would
15 assist a person in locating the underground facilities during the
16 engineering studies or construction planning activities.

17 (e) Facility locate markings must consist of paint, flags, or stakes
18 or any combination that mark the approximate location of the
19 underground facilities. The method of marking must be appropriate for
20 the location of the underground facilities.

21 (f) Color coding of facility locate markings indicating the type
22 of underground facility must conform to the following color coding:

Facility and Type of Product	Specific Group
	Identifying Color
(1) Electric power distribution and transmission	Safety red
(2) Municipal electric systems	Safety red
(3) Gas distribution and transmission	High visibility safety yellow
(4) Oil distribution and transmission	High visibility safety yellow
(5) Dangerous materials, product lines, steam lines	High visibility safety yellow
(6) Communications service systems	Safety alert orange
(7) Cable television	Safety alert orange
(8) Police and fire communications	Safety alert orange
(9) Water systems	Safety precaution blue



- 1 (10) Sewer systems Safety green
 2 (11) Proposed excavation White
 3 ~~(e)~~ **(g)** Each operator notified under section 16 of this chapter shall,
 4 not later than ~~two (2) full~~ **7:00 a.m. on the third** working days day
 5 after receiving the notice of intent provided in section 16 of this
 6 chapter, make a reasonable attempt to provide notification to the person
 7 responsible for the excavation or demolition if the operator has no
 8 facilities in the location of the proposed excavation or demolition.
 9 ~~(f)~~ **(h)** Each operator notified under section 16.5 of this chapter of
 10 preliminary engineering studies or construction planning activities
 11 shall, not later than ten (10) full working days after receiving the design
 12 information notice, make a reasonable attempt to notify the person
 13 providing the design information notice under section 16.5 of this
 14 chapter if the operator has no facilities located in the project area that
 15 will be affected by the proposed excavation or demolition.
 16 ~~(g)~~ **(i)** This section does not apply to an operator making an
 17 emergency repair to its own underground facility.
 18 ~~(h)~~ **(j)** This subsection applies if all of the following occur:
 19 (1) An operator of a pipeline facility is required to supply
 20 information, including facility locate markings, under subsection
 21 (a) **or (b)** to a person responsible for an excavation or demolition.
 22 (2) The operator of the pipeline facility fails to supply the
 23 information described in subdivision (1) or provides incorrect
 24 facility locate markings.
 25 (3) The operator's pipeline facility is damaged during the
 26 excavation or demolition for which the operator was required to
 27 supply the information described in subdivision (1).
 28 The operator of the pipeline facility may be subject to a civil penalty in
 29 an amount recommended by the advisory committee and approved by
 30 the commission, not to exceed one thousand dollars (\$1,000).
 31 ~~(i)~~ **(k)** Subsection ~~(h)~~ **(j)** does not apply to an operator that:
 32 (1) is repairing its own underground facilities; or
 33 (2) fails to supply required information or provide facility locate
 34 markings due to factors beyond the control of the operator.
 35 ~~(j)~~ **(l)** A person that knowingly moves, removes, damages, or
 36 otherwise alters a facility locate marking supplied under this section
 37 may be subject to a civil penalty in an amount recommended by the
 38 advisory committee and approved by the commission, not to exceed ten
 39 thousand dollars (\$10,000). This subsection does not apply to a person
 40 that moves, removes, damages, or otherwise alters a facility locate
 41 marking as part of the excavation or demolition for which the facility
 42 locate markings were supplied.



- 1 ~~(k)~~ (m) If an operator receives, under section 16 of this chapter,
2 notice of an excavation or demolition and determines that the operator
3 is unable to do either or both of the following **not later than**
4 **forty-eight (48) hours before the commencement of the excavation**
5 **of demolition**, the operator shall notify the person responsible for the
6 excavation or demolition of the operator's determination and shall
7 provide additional information and, if requested, onsite assistance to
8 the person responsible for the excavation or demolition:
9 (1) Locate and mark the operator's affected underground facilities.
10 **in the time required by subsection (a):**
11 (2) Mark the approximate location of the operator's affected
12 underground facilities.

