

Regular Session, 2011

ACT No. 38

HOUSE BILL NO. 383

BY REPRESENTATIVE ARNOLD

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

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AN ACT

To amend and reenact R.S. 40:1749.12(4), 1749.13(B)(2) and (5), 1749.14(B) and (C)(1)(b)(iii) and (v), 1749.15, and 1749.20(C) and to enact R.S. 40:1749.12(15) and 1749.20(D), relative to the Louisiana Underground Utilities and Facilities Damage Prevention Law; to define "emergency"; to define "agricultural excavator"; to provide for a delay period following notification before the commencement of any excavation or demolition activity; to specify who shall receive a notice of intent to excavate; to define the period of time that markings shall be deemed good; to require certification of immediate action in a notice of emergency excavation; to provide for violations; to provide for penalties; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1749.12(4), 1749.13(B)(2) and (5), 1749.14(B) and (C)(1)(b)(iii) and (v), 1749.15, and 1749.20(C) are hereby amended and reenacted and R.S. 40:1749.12(15) and 1749.20(D) are hereby enacted to read as follows:

§1749.12. Definitions

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

* * *

(4) "Emergency" means any crisis situation which poses an imminent threat or danger to life, health, or property, ~~and requires immediate action, and immediate~~ action is taken.

* * *

1 (15) "Agricultural excavator" means a person who owns or operates a farm
2 and is directly involved in the cultivation of land or crops or who raises livestock.

3 §1749.13. Excavation and demolition; prohibitions

4 * * *

5 B.

6 * * *

7 (2) This notice shall contain the name, address, and telephone number of the
8 person filing the notice of intent, and, if different, the person responsible for the
9 excavation or demolition, the starting date, anticipated duration, and description of
10 the specific type of excavation or demolition operation to be conducted, the specific
11 location of the proposed excavation or demolition and a statement as to whether
12 directional boring or explosives are to be used. If the excavation or demolition is
13 part of a larger project, the notice shall be confined to the actual area of proposed
14 excavation or demolition that will occur during the ~~ten-day~~ twenty-day time period
15 under R.S. 40:1749.14(C).

16 * * *

17 (5) The excavator or demolisher shall wait at least forty-eight hours,
18 beginning at 7:00 a.m. on the next working day, following notification before
19 commencing any excavation or demolition activity, except in the case of an
20 emergency as defined in the provisions of this Part or if informed by the regional
21 notification center that no operators are to be notified.

22 * * *

23 §1749.14. Regional notification center

24 * * *

25 B. A regional notification center receiving a notice of intent to excavate shall
26 notify all member operators having underground utilities or facilities in or near the
27 site of the proposed excavation, except for the operator who provided the notice of
28 intent and requested not to receive such notification. All member operators shall
29 furnish the regional notification center with current emergency contact or
30 notification information, including twenty-four hour telephone numbers.

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

5 * * *

6 (b)

7 * * *

8 (iii) When the utility or facility operator has marked the location of
9 underground facilities or utilities, the marking shall be deemed good as long as
10 visible but not longer than ~~ten~~ twenty calendar days, including weekends and
11 holidays, from the "mark by" time. An additional notice to the regional notification
12 center shall be given by the excavator or demolisher in accordance with the
13 provisions of this Part when the marks are no longer visible or if the excavation or
14 demolition cannot be completed within ~~ten~~ twenty calendar days from the "mark by"
15 time, whichever occurs first.

16 * * *

17 (v) In the case whereby a forestry excavator or agricultural excavator has
18 requested that the utilities and facilities be marked for location, the operator of a
19 utility or facility shall mark the area of their utilities or facilities. The markings
20 provided by the operator shall be deemed good as long as the markings are visible
21 or up to thirty calendar days from the time the markings were made, whichever is
22 shorter.

23 * * *

24 §1749.15. Emergency excavation

25 A. The notice required ~~under~~ pursuant to R.S. 40:1749.13 shall not apply to
26 any person conducting an emergency excavation. Oral notice of the emergency
27 excavation shall be given as soon as practicable to the regional notification center or
28 each operator having underground utilities and facilities located in the area and, if
29 necessary, emergency assistance shall be requested from each operator in locating
30 and providing immediate protection to its underground utilities and facilities.

1 B. The excavator shall orally certify in the notice required in Subsection A
 2 of this Section that the situation poses an imminent threat or danger to life, health,
 3 or property and requires immediate action and that the excavator has a crew on site.

4 * * *

5 §1749.20. Violations; penalties

6 * * *

7 C. An excavator or demolisher who violates the provisions of R.S.
 8 40:1749.15(B) shall be subject to the following:

9 (1) For the first violation, a civil penalty of not more than fifty dollars.

10 (2) For a second violation of a similar nature within a two-year period from
 11 the previous violation, a civil penalty of not more than two hundred dollars.

12 (3) For a third violation of a similar nature within a two-year period from a
 13 previous violation, a civil penalty of not more than five hundred dollars.

14 (4) For a fourth and each subsequent violation of a similar nature within a
 15 two-year period from the previous violation, a civil penalty of not less than five
 16 hundred dollars nor more than five thousand dollars.

17 D. A person may be cited with a violation and held liable for a civil penalty
 18 pursuant to this Section although the commission of the offense did not occur in the
 19 presence of a law enforcement officer if the evidence is sufficient to establish that
 20 the defendant has committed the offense.

21 Section 2. This Act shall become effective on October 1, 2011.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____