

FIRST REGULAR SESSION

HOUSE BILL NO. 1359

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BYRNES.

2610H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 319, RSMo, by adding thereto two new sections relating to underground facility safety, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 319, RSMo, is amended by adding thereto two new sections, to be known as sections 319.032 and 319.060, to read as follows:

- 319.032. 1. Upon receiving a notice of intent to excavate from an excavator, the notification center shall promptly transmit all details of such notice submitted under section 319.026 to the department of natural resources. The department shall immediately make the following determinations and notify the excavator of such determinations:**
- (1) Determine whether the excavation location is within a site:**
 - (a) On which the department is overseeing any environmental remediation at the time of the proposed excavation;**
 - (b) That requires a remedial response, as such site is described by the department or in a United States Environmental Protection Agency record of decision;**
 - or**
 - (c) For which environmental remediation has been completed; or**
 - (2) Determine whether the excavation location is within a site that is:**
 - (a) Under environmental investigation by the department; or**
 - (b) Listed on the department's registry of abandoned or uncontrolled hazardous waste sites.**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 2. (1) If the excavation location is within a site described in subdivision (1) of
18 subsection 1 of this section at the time of the proposed excavation, the department shall
19 notify all persons having control over a hazardous substance, as defined in section
20 260.500, responsible for contaminating the site, require a test by such persons of the soil
21 at the excavation location to ensure the safety of the excavators working at such site, and
22 notify the excavators of the test results.

23 (2) If the excavation location is within a site described in subdivision (2) of
24 subsection 1 of this section at the time of the proposed excavation, the department shall
25 test the soil at the excavation location to ensure the safety of the excavators working at
26 such site and notify the excavators of the test results.

 319.060. 1. There is hereby established the "Underground Damage Prevention
2 Review Board" to review reports of alleged violations of sections 319.010 to 319.060.
3 The members of the Board shall be appointed by the governor. The board shall consist
4 of nine members who shall be as follows:

- 5 (1) A city or county official from this state;
- 6 (2) An employee or officer of an underground facility owner;
- 7 (3) An employee or officer of an underground pipeline facility owner;
- 8 (4) An employee or officer of a rural underground facility owner;
- 9 (5) An employee or officer of a highway contractor who does not own or operate
10 underground facilities;
- 11 (6) An employee or officer of a utility contractor who does not own or operate
12 underground facilities;
- 13 (7) An employee or officer of an excavator who does not own or operate
14 underground facilities;
- 15 (8) An employee or officer of an underground facility contract locator; and
- 16 (9) A surveyor licensed under chapter 327.

17 2. Each member of the board shall be initially appointed for a term of either two
18 or four years. Subsequent appointments shall be for four-year terms. Members of the
19 board shall serve no more than two consecutive four year terms. Vacancies in
20 appointments made by the governor occurring prior to the expiration of a term shall be
21 filled by appointment for the unexpired term. The person appointed to a vacancy shall
22 represent the same group as his or her predecessor.

23 3. No member of the board shall serve on a case in which the member has a
24 conflict of interest.

25 4. The governor may remove any member at any time for cause.

26 5. The board shall meet within thirty days after the appointment of all its
27 members and thereafter at such other times as may be expedient and necessary for the

28 proper performance of its duties, but the board shall hold at least two regular meetings
29 per year. At the board's first meeting, the members shall elect a chair and vice chair.
30 The chair shall serve in such capacity for a one-year term and shall not serve as chair
31 for more than two consecutive terms. A majority of the board shall constitute a quorum
32 for the transaction of business.

33 6. The board shall receive reports of alleged violations of sections 319.010 to
34 319.060. The board shall contact persons against whom reports have been filed to
35 inform them of the alleged violation within ten days of the filing of the report. The
36 board shall maintain all of the following information regarding reports of alleged
37 violations:

38 (1) The name, address, and telephone number of the person making the report;

39 (2) The nature of the violation, including the statute that is alleged to have been
40 violated;

41 (3) Information provided by the person making the report including, but not
42 limited to, written and electronic correspondence, pictures, and videos; and

43 (4) Information provided by the person against whom the report has been filed
44 including, but not limited to, written and electronic correspondence, pictures, and
45 videos.

46 7. The board shall review all reports of alleged violations of sections 319.010 to
47 319.060 and accompanying information. If the board determines that a person has
48 violated any provision of sections 319.010 to 319.060, the board shall determine the
49 appropriate action or penalty to impose for each such violation. Actions and penalties
50 may include, but are not limited to, training, education, and a civil penalty not to exceed
51 two thousand five hundred dollars. The board shall approve training courses and the
52 sponsors of training courses under this subsection. Any fees for training courses
53 approved by the board shall be paid by the person determined to have violated any
54 provision of sections 319.010 to 319.060. The board shall notify each person who is
55 determined to have violated any provision of sections 319.010 to 319.060 in writing of
56 the board's determination and the board's recommended action or penalty. A person
57 determined to be in violation of any provision of sections 319.010 to 319.060 may request
58 a hearing before the board, after which the board may reverse or uphold its original
59 finding. If the board recommends a penalty, the board shall notify the public service
60 commission of the recommended penalty and the commission shall issue an order
61 imposing the penalty.

62 8. If the board recommends a penalty, the fee assessed upon an underground
63 facility owner shall be collected payable to the board or, at the discretion of the board,
64 the person making the complaint, in accordance with a schedule and in a manner

65 established by the board. All fees collected by the board shall be deposited with the state
66 treasurer to be credited to the underground damage prevention review board fund. All
67 moneys received by the board under the terms and provisions of this chapter shall be
68 deposited into the underground damage prevention review board fund and shall be
69 spent exclusively in support of board activities to develop and disseminate educational
70 programming designed to improve worker and public safety relating to excavation and
71 underground facilities.

72 9. The board shall maintain a record of reports of alleged violations of sections
73 319.010 to 319.060 received under subsection 6 of this section for at least four years,
74 including responses to such reports.

75 10. The attorney general's office shall assign a legal representative to provide
76 legal counsel to the board, if requested.

77 11. (1) There is hereby created in the state treasury the "Underground Damage
78 Prevention Review Board Fund", which shall consist of moneys collected under
79 subsection 8 of this section. The state treasurer shall be custodian of the fund. In
80 accordance with sections 30.170 and 30.180, the state treasurer may approve
81 disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys
82 in the fund shall be used solely for the administration of this section.

83 (2) Notwithstanding the provisions of section 33.080, to the contrary, any moneys
84 remaining in the fund at the end of the biennium shall not revert to the credit of the
85 general revenue fund.

86 (3) The state treasurer shall invest moneys in the fund in the same manner as
87 other funds are invested. Any interest and moneys earned on such investments shall be
88 credited to the fund.

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