

CHANGES TO THE LAWS IN YOUR STATE

SUMMARY OF DAMAGE PREVENTION LAWS

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As states start to form various types of enforcement for their damage prevention laws, recognizing changes to these laws are becoming a little more complicated. Due to this, it is recommended that you stay involved with your state one call, review state codes, administrative codes, enforcement authority rule making decisions, state resolutions, and (of course) “Changes to the Laws in Your State” article that is produced yearly.

ARKANSAS

SB297 Passed 03/24/2023: Arkansas made substantial changes to their damage prevention law. First, the bill added/modified definitions for: (a) Contract locator, (b) Excavator, (c) Extraordinary circumstances; (which means floods, snow, ice storms, tornadoes, earthquakes, or other natural disasters and/or cybersecurity events involving the one call center’s system or the operator’s system.), (d) Infrastructure project, (e) Modified definition for mechanized equipment to exclude hydro vacuum systems, (f) Modified the definition of excavation by adding dredging to the list of activities considered excavation.

Second, the bill made significant changes to notification and response requirements as follows: (a) Added provision clarifying that each excavator must make the notification for their own excavation, (b) The notification obligation may not be delegated to a person who is not performing the excavation, (c) If multiple entities are carrying out excavation or demolition; then each entity is responsible for providing notice, (d) The two working day wait period is modified to not include day the notification was made, (e) Mandatory white lining, (f) Mandatory positive response, (g) Prior to beginning excavation, the excavator shall confirm through the one call center’s electronic positive response system that all operators have responded and that all facilities that may be affected by the proposed excavation have been marked, (h) The excavator may begin excavation before the specified waiting period only if the excavator has confirmed that all operators have responded with an appropriate electronic positive response, (i) If the operator declares extraordinary circumstances; the operator shall notify the excavator directly or through positive response the time and date that the excavation site will be marked, (j) Excavations utilizes only hydro-vacuum are exempt from notification requirements.

Finally, this bill introduces a new penalty structure as follows: (a) A training program for underground facilities damage prevention will be developed and administered by the one call center, (b) The Attorney General shall produce a quarterly report that shall include the number of complaints submitted, the number of the submitted complaints that were settled/prosecuted; and the amount of fines collected, (c) Penalties for violations involving an interstate/intrastate natural gas pipeline facility or an interstate/intrastate hazardous liquid pipeline facility are increased to a maximum civil penalty of two hundred fifty-seven thousand six hundred sixty-four dollars for each day the violation persists to a maximum of two million two hundred fifty-seven thousand six hundred sixty-four dollars. (d) Any person who damages an underground facility and violates any provisions of this chapter shall be subject to:

- For a first violation in a twelve-month period, the person shall be ordered to undergo training.
- For a second violation in a twelve-month period, the person shall be ordered to pay a civil penalty in an amount up to five thousand dollars for each violation.
- For three or more violations in a twelve-month period, the person shall be ordered to pay a civil penalty in an amount up to ten thousand dollars for each violation.
- For subsequent violations in a twelve-month period, the maximum penalty amount shall not exceed fifty thousand dollars.

- If mandatory training has been ordered and not completed within one hundred and twenty days, a monetary penalty up to two thousand five hundred dollars for each violation shall be assigned.

<https://arkansas811.com/>

CALIFORNIA

Important implementation dates to remember from previous legislation:

On or after 01/01/2023 - All new subsurface installations shall be mapped using a geographic information system and maintained as permanent records of the operator. The exceptions for this obligation are “oil and gas flowlines 3 inches or less in diameter that are located within the administrative boundaries of an oil field.”

Updated enforcement website: energysafety.ca.gov

www.digalert.org www.usanorth811.org

<https://energysafety.ca.gov/who-we-are/underground-safety-board/>

COLORADO

Best Practice- Large/Complex Projects Approved 11/09/2023: The Underground Damage Prevention Safety Commission has approved best practices for large/complex projects including but not limited to: Determine when to use this best practice, how to use this best practice and stakeholder impact of this best practice.

<http://colorado811.org/>

<https://ops.colorado.gov/udp-safety-commission/best-practices-standards>

GEORGIA

PSC Rule 515-9-4-.14 entitled Georgia Underground Marking Standards; Amended 12/22/2023 Effective 01/11/2024: Updates to this rule include the following: (a) Clarification for the term “No conflict” when responding to a locate request. This should only be communicated by facility owners through positive response. Also, paint or stakes should be left at the proposed excavation if there is no conflict., (b) Adds the requirement for both paint and flags in particular environmental conditions, (c) Allows for the use of flags and stakes in addition to the use of paint for underground utility markings, (d) Clarifies marking standards for facilities that are bundled within a trench or that do not have enough separation for separate tones, (e) Updated standards for marking ducts, (f) Clarification of utility markings for traffic control and traffic management systems.

<https://www.georgia811.com/>

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IDAHO

HB235 Passed 03/31/2023 Effective 07/01/2023: This bill extends the life of a notification ticket from three weeks to four weeks. Other notable inclusions are: (a) New definition of emergency excavation that includes an excavator requirement to notify the one call two hours prior to excavation in most cases, (b) Provides guidance, with exceptions, to underground facility owners for responding to emergency excavation notices. (Underground facility owner will contact excavator within one hour and arrive at site of the emergency excavation to provide marks within two hours), (c) Underground facility owners are required to provide updated representative contact information on an annual basis, (d) In regards to underground facilities' ability to receive compensation for short notice tickets, exemptions are added for emergency excavations and unidentified facilities on excavation site.

<https://www.digline.com/>

ILLINOIS

SB1438 Passed 07/28/2023 Effective 01/01/2024: This bill created the Illinois Dig Once Act. The purpose of this act is to minimize traffic interruptions, to enhance efficiency and coordination between the state, units of government, and utilities. The Department of Transportation, the Illinois State Toll Highway Authority, and the Department of Commerce and Economic Opportunity shall consult with the state one call center to jointly develop a policy and rules to reduce the scale and number of repeated excavations related to roads, highways, tollways, and expressways for the installation and maintenance of broadband infrastructure and public utilities in rights of way.

<https://www.illinois1call.com/>

INDIANA

IURC RM #22-03 Approved 07/26/2023 Effective 01/25/2024: Notable changes/additions from this new rule are as follows: (a) Clarification of marking requirements for underground utilities. (Underground facility operators shall mark their facilities not later than 7:00 a.m. at the prevailing time observed in Indianapolis, Indiana, on the working day after the elapse of two full working day periods from 7:00 a.m. to 6:00 p.m.), (b) The Commission, the pipeline safety division or a person approved by the commission can conduct education that is deemed "training.", (c) Requires a gas underground utility to indicate if the facility is a service line and must provide size and type of pipeline if greater than 2" in diameter, (d) Life of a notification tickets expires at 11:59 p.m. on the twentieth day from the notification ticket request, (e) Underground gas utilities must notify the IURC of damage to their facilities within 30 days, (f) If a gas facility must reschedule a facility locate, it must now reschedule within the two full working days, log the time, date, and the person responsible for notification, and give the new date when the facilities will be located, (g) Clarification of the tolerance zone to indicate 24" on all sides (including each side, top, and bottom) of the facility, (h) Gas operators must provide positive response to the one call center.

<https://indiana811.org/>

KANSAS

HB2226 Passed 04/24/2023 Effective 01/01/2024: This bill increases the life of a notification ticket to twenty calendar days. Other notable inclusions are: (a) The allowance of virtual white lining for excavation sites, (b) Grants the state corporation commission the ability to adjust the extent of time the notice of intent to excavate is valid, (c) Grants the state

corporation commission the ability to adjust the maximum number of days allowed to an operator for providing the location of the tolerance zone, (d) All utility damage must be reporter to operator and Kansas 811.

<https://kansas811.com/>

LOUISIANA

HB292 Passed 06/12/2023 Effective 08/01/2023: This bill requires that excavation activities shall commence not more than one hundred twenty hours past the mark-by-time. Other key points to this new law are: (a) If excavator makes excavation notification via telephonic notice; the excavator shall physically mark the proposed excavation using white paint, flags or stakes, (b) To clarify that the marking of the operator's facility shall be provided for excavation/demolition purposes only, (c) Requires potholing to determine the actual location of underground facilities in order to avoid damage, (d) A forestry excavator and the operator are to work together to determine the actual location of facilities during forestry excavation operations.

<https://www.louisiana811.com/>

MAINE

SB1479 Passed 06/12/2023: This bill directs the Public Utilities Commission to convene a stakeholder group to discuss liquefied propane gas systems and the Dig Safe law. The Commission shall submit a report summarizing the groups discussion and any recommended legislation.

<https://www.digsafe.com/>

MISSISSIPPI

SB2102 Passed 03/21/2023: Mississippi made substantial changes to the damage prevention law with the passing of this bill as follows: (a) Extend the pre-excavation notification period to three working days, (b) Adds definition for Impending Emergency (circumstances potentially dangerous to life, health, property, or loss of customer services, which would likely develop into an emergency if excavation is not initiated sooner than the normal notification requirements allow), (c) Includes advanced notification and locating requirements for excavations that fit the definition of impending emergency, (d) Increases the excavation renew notification to at least three days and not more than four days prior to the notification expiration date, (e) Extend underground facility locating and reporting requirement to three working days, (f) Adds that misrepresentation of emergency or impending emergency is a violation, (g) Underground facilities operators shall respond within two hours when notified of unmarked/unknown facilities at the site of excavation, (h) If an operator brings a lawsuit to enforce provisions; the prevailing party shall be awards legal costs, expenses and fees.

<https://www.ms811.org/>

NEBRASKA

LB 683 Passed 05/26/2023; Effective 09/01/2024: Nebraska has made several signifigant changes to their underground damage prevention law as follows: (a) It shall be a violation for an excavator to provide notice of excavation for an area that cannot be reasonably started within seventeen calendar days, (b) It shall be a violation to request remarking that cannot be started or continued within fourteen calendar days of remarking notification, (c) If the excavator receives notice of an alleged violation, excavator shall describe why the alleged violation occurred, (d) The Underground

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Excavation Safety Committee is created and representatives shall be appointed by the Governor. The Committee representatives are:

- The State Fire Marshal/designee
- Three operator representatives
- One operator alternate (in case operator representative is unavailable)
- Three excavator representatives
- One excavator alternate (in case excavator representative is unavailable)

(e)The Committee shall govern in accordance with rules and regulations promulgated/adopted by the State Fire Marshal and shall not meet less than monthly, (f) The Committee shall review investigations, determine if violation has occurred, and determine appropriate penalties, (g) Training may be assessed in lieu of or in addition to civil monetary penalties, (h) Violator is responsible of repayment of costs associated with violation investigations, (i) Civil penalties in excess of ten thousand dollars shall be referred to Attorney General/prosecuting attorney for action of behalf of the state.

<https://www.ne1call.com/>

NEVADA

SB27 Passes 05/25/2023; Effective 07/01/2023: Key points of this new approved legislation are: (a) New definition for non-mechanical equipment which means “equipment operated solely by human power, including, without limitation, a hammer or other device used to drive stakes or rods into the ground, mattock, pickaxe, shovel or spade.”, (b) Clarifies and redefines the term “immediate actions” in that an immediate action includes, without limitation:

- The use of non-mechanical equipment and methods that are standard in the industry to determine the severity or spread of an underground leak.
- The locating of a subsurface installation by the operator using non-mechanical equipment within the area of a proposed excavation under certain circumstances.

(c) Enhances the definition of excavation to include use of non-mechanical equipment by:

- “A contractor”
- “Any person, other than a contractor, if at any point the movement or removal of such material occurs more than twelve inches below the surface of the original groundline.”

(d) Replaces the term “hand-tool” with the new definition of non-mechanized equipment.

SB 397 Passed 05/31/2023; Effective 07/01/2023: This bill modifies the definition of operator to exclude interstate railroad companies that operate more than 1,000 miles of track in Nevada from the duties imposed on operators of subsurface installation if: (1) the subsurface installations owned, operated, or maintained by the company are located within the right-of-way of the company; (2) Are not subject to certain federal regulations governing pipeline safety. **This modification eliminates the requirement to join an association in order to receive notices regarding excavations or demolitions near operator owned facilities and the requirement to assist in locating and identifying subsurface installations of the operator that are affected by a proposed excavation or demolition.**

<https://www.usanorth811.org/>

NORTH DAKOTA

HB 1064 Passed 03/23/2023: This bill modified the definition of excavation to include “dredging”.

<https://www.ndonecall.com/>

OKLAHOMA

SB 497 Passed 05/05/2023; Effective date 11/01/2023: This bill modified the following: (a) Added an exemption to the definition of excavation to include “the moving of earth by tools manipulated only by human power for burying communication lines of a communications provider in a private or public easement or right-of-way when depth is not greater than twelve inches and within twelve inches of a communications provider terminal, (b) Adds a definition for “Design” or “survey” to mean the “notice to facility operators to provide underground facility information during the design or engineering phase of a project to mitigate potential impact to existing underground facilities”, (c) When a design/survey notice is received the operator/designee has fourteen days from time of the request to provide the relative utility information. Special note: excavation may not take place with a design/survey notification.

<https://okie811.org/>

SOUTH DAKOTA

HB1184 Passed 03/02/2023: This bill eliminates reference to the Public Utilities Commission and makes the deposit of monetary penalties into the one call fund mandatory.

<https://www.sdonecall.com/>

TENNESSEE

SB0952/HB0802 Effective 04/28/2023: Modifications as follows: (a) Added a definition of electronic white lining, (b) Added new subdivision for hand dig/hand digging to mean “any movement, placement, or removal of earth, rock, or other materials in or on the ground by use of non-mechanized tools or equipment, including, but not limited to, shovels, picks, post hole diggers, vacuum excavation, or soft digging, (c) Amended previous definition of excavation to mean “an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment, discharge of explosives, or by hand digging, and includes auguring, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, subsoiling, trenching, or tunneling;”, (d) Allowance for “electronic white lining” when designating the location of a proposed excavation, (e) Exemptions of notification requirements for: (1) A property owner utilizing non-mechanized tools or equipment on their own property; or (2) The use of non-mechanized tools or equipment by or on behalf of a member operator to a depth not greater than twelve inches for locating, repairing, connecting, protecting, or routine maintenance of the member operator’s underground facilities, (f) Authorizes the one call service to collect data on notification for excavations under certain circumstances.

HB798/SB782 Effective 04/25/2023: Increases the membership of the executive committee for the underground utility damage enforcement board from three to five members.

HB0233/SB0067 Effective 03/23/2023: Extends the underground utility damage enforcement board until 06/30/2028

<https://www.tenn811.com/>

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VIRGINIA

HB 2132/SB1145 Passed 03/23/2023: This bill made significant modifications to the Virginia one call law as follows: (a) New definition for “exigent circumstances” (Which means circumstances outside of an operator’s or contract locator’s control that prevent an operator or locator from completing the marking task. This includes a wrong address provided with the locate request, failure to provide a reasonably specific location of proposed excavation, inaccessibility of the excavation site due to physical barrier or risk of serious bodily injury, a locate request that cannot be carried out by a traditional locating method requiring assistance from the operator, catastrophic technological failure outside of the locator’s, operator’s, or notification center’s control, or the area of excavation does not conform with the defined limits of a locate request.), (b) Inclusion of definitions for “positive response” and “positive response systems”, (c) Eliminates definition and provisions for “Special Project Notice”, (d) Change of terminology throughout the Underground utility Damage Prevention Act from “Notification to the Notification Center” to “Locate Request”, (e) Defined limits of a locate requested are reduced to 1/3 of a mile per locate request, (f) Inserts compliance requirements related to positive response, (g) Eliminates the requirement for operators to provide field locates at the request of the designer, (h) Added a provision that no excavator shall begin any excavation before reviewing the positive response status, (i) Modifies and adds requirements when clear evidence of unmarked facilities are found on the excavation site, (j)

Increased penalties to not exceed ten thousand dollars per violation of the excavator notification requirement and added penalties not to exceed five thousand dollars for all other violations.

Special note: New section that states “Any person who knowingly and intentionally excavates after being notified by the Commission to cease excavation operations because the excavation constitutes an immediate threat to safety or property **is guilty of a Class 6 felony.**”

<https://va811.com/>

BILLS INTRODUCED

Indiana HB1122 Introduced 01/25/2024

Nebraska LB 1186 Introduced 1/12/2024

Oklahoma SB 1744 Introduced 02/05/2024

Oregon proposed dig rule changes for 2024. More information found at follows: <https://digsafelyoregon.com/2023/12/07/2024-changes-to-oregon-dig-rules-proposed/>

Washington HB 2409 Introduced 01/17/2024

Missouri HB 2329 01/09/2024

Missouri SB 1315 01/10/2024

ENFORCEMENT AGENCIES

Enforcement of the damage prevention laws in your state can be a bit confusing to navigate. Questions such as: who is enforced, who enforces it, and what is enforceable are frequent throughout the US. To help you with your navigation below we have categorized states in accordance with enforcement venues. Please note some states have more than one avenue of enforcement and may appear more than once in the list below. The Pipeline Hazardous Materials Safety Administration also has compiled extensive documentation for each state, which can be found at the following link:

<https://primis.phmsa.dot.gov/comm/DamagePreventionSummary.htm?nocache=6529>

- **Public Utilities Commission:** Alaska, Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Illinois- Illinois Commerce Commission, Indiana- Indiana Utility Regulatory Commission, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin
- **Attorney General:** Arkansas, District of Columbia, Iowa, Nevada, South Carolina, Texas, Utah, Nebraska, Wyoming
- **Relevant County Court:** Alabama, Alaska, Arkansas, New Mexico,
- **Division of Safety:** Washington
- **Division of Occupational and Professional Licenses:** Idaho
- **Standalone Damage Prevention Boards/Committees/Authorities:** Alabama, Colorado (Under the Department of Labor and Employment), Maryland, Mississippi, Puerto Rico, North Carolina, Idaho
- **Office of Energy Infrastructure Safety:** California
- **Railroad Commission:** Texas
- **Department of Energy:** New Hampshire
- **Department of Labor:** Montana
- **Department of Natural Resources:** Louisiana; California
- **State One Call:** North Dakota, South Dakota, Wyoming
- **Law Enforcement:** Florida
- **Federal Office of Pipeline Safety:** Maine (may defer), Alaska
- **Department of Consumer and Regulatory Affairs:** District of Columbia

ESG