

CHAPTER 105**(SB 172)**

AN ACT relating to underground facility protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 367.4911 is amended to read as follows:

- (1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.
- (b) An excavator may commence work before the two (2) full working days provided for in paragraph (a) of this subsection have elapsed if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that they have no facilities in the area of the proposed excavation, demolition, or timber harvesting.
- (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.
- (3) Each excavator shall provide each applicable protection notification center with adequate information regarding:
 - (a) The name of the individual making the notification;
 - (b) The excavator's name, address, and a telephone number;
 - (c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street;
 - (d) The type and extent of excavation or demolition to be performed;
 - (e) A contact name and telephone number of the person responsible for the work to be performed.
- (4) If more than one (1) excavator will operate at the same site, each excavator shall notify the protection notification centers individually. Notification by an excavator will serve as notification for any of that excavator's employees. Failure by an excavator to notify the protection notification center does not relieve individual employees of responsibility.
- (5) The excavator shall inform and provide to excavation or demolition site employees:
 - (a) The underground facility location provided by each operator;
 - (b) Any related safety information provided by each operator; and
 - (c) The locate request identification number assigned by each protection notification center.
- (6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.
- (7) If, after the two (2) day period provided by KRS 367.4909(5)(a), the excavator finds evidence of an unmarked underground facility at the site, he shall immediately notify the protection notification center.
- (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues or if:
 - (a) The markings of any underground facility have been removed or are no longer visible; or
 - (b) The excavator has changed the work plan or location previously filed.
- (9) (a) Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage shall cease excavation or demolition activities and notify all affected operators of the location and nature of the underground facility damage ***immediately upon discovery of the damage.***

- (b) *Any individual or entity that is otherwise exempt from the requirements of KRS 367.4901 to 367.4917 under Section 2 of this Act, who conducts or is responsible for any excavation or demolition that results in underground facility damage to an underground facility or system used for producing, storing, conveying, transmitting, or distributing gas, petroleum, petroleum products, or hazardous liquids, shall cease excavation or demolition activities and notify all affected operators of the location and nature of the underground facility damage immediately upon discovery of the damage.*
- (c) If the underground facility damage causes concern for public or workplace safety, the excavator, *or the individual or entity that is otherwise exempt from the requirements of KRS 367.4901 to 367.4917 under Section 2 of this Act*, shall notify appropriate public safety agencies of the location and nature of the safety concern.
- (d)~~(e)~~ If the underground facility damage results in the escape *or suspected escape* of any flammable, toxic, or corrosive gas or liquid, the excavator, *or the individual or entity that is otherwise exempt from the requirements of KRS 367.4901 to 367.4917 under Section 2 of this Act*, shall cease excavation or demolition activities and immediately report to the appropriate authorities by calling the 911 emergency telephone number.

- (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.
- (11) Upon request by an operator or when the proposed excavation location cannot be accurately identified, an excavator shall mark the boundaries of the location to be excavated using the procedure set forth in KRS 367.4909(9)(k). After marking the boundaries, the excavator shall contact the protection notification center or centers. The requirements of KRS 367.4909(5) to (10) are reestablished upon the operator receiving notification of this marking from the protection notification center or centers. This marking shall not alter, or relieve the excavator from complying with, the requirements of KRS 367.4905 to 367.4917.

➔Section 2. KRS 367.4915 is amended to read as follows:

Except as provided in subsection (9) of Section 1 of this Act, the requirements of KRS 367.4905 to 367.4917 shall not apply to the following:

- (1) Excavation by an operator on its own easement except where that easement is crossed by another operator's facilities;
- (2) Routine road maintenance or railroad maintenance or repairs;
- (3) Tilling of soil for agricultural purposes;
- (4) Excavators excavating on private property, using nonmechanized equipment, if there is no encroachment on any operator's right-of-way or easement;
- (5) The opening of a grave in a cemetery;
- (6) A solid waste disposal site which is properly permitted;
- (7) Coal mining operations which are currently regulated under KRS Chapter 350;
- (8) A utility operator or utility operator subcontractor performing emergency work as defined in KRS 367.4903;
- (9) Leak migration testing using metal probes inserted by hand by an authorized representative of the operator;~~or~~
- (10) Any nonintrusive excavating performed by an operator or his subcontractor to locate the operator's underground facilities in response to a notice of excavation from the notification center, if all reasonable precautions have been taken to protect the underground facilities; *or*
- (11) *Nonintrusive excavating to inspect or perform maintenance for an existing utility pole.*

Signed by Governor March 24, 2021.