

AN ACT relating to underground facility protection.

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

➔Section 1. KRS 367.4909 is amended to read as follows:

- (1) ~~An~~<sup>Each</sup> operator shall **become a member of the Kentucky Contact Center on or before February 28, 2018**~~[provide protection notification center access to excavators].~~
- (2) **As of March 1, 2018, an excavator or any person involved in overseeing an excavation, planning an excavation, or for demolition work shall not be liable for damages to underground facilities owned by nonmember operators**~~[Voluntary operator membership in the Kentucky Contact Center shall satisfy the requirement of subsection (1) of this section].~~
- (3) Each operator~~[member of the Kentucky Contact]~~ Center shall provide and update as needed to the Kentucky Contact Center **the following:**
  - (a) The general location of its underground facilities;~~[.]~~
  - (b) The operator identity and business address;~~[.]~~ and
  - (c) Emergency notification telephone numbers.
- (4) An operator shall respond to facility locate requests as follows:
  - (a) To a normal excavation locate request within two (2) working days after receiving notification from an excavator, excluding large projects;~~[.]~~
  - (b) To an emergency locate request as quickly as possible but not to exceed forty-eight (48) hours after receiving notification from an excavator;
  - (c) To a design information request within ten (10) working days after receiving notification from the person making the request; and
  - (d) To a large project request within five (5) working days from the later of receiving notification from an excavator or the scheduled excavation start date for that location.
- (5) ~~[An operator shall, ]~~Upon receiving an emergency locate request or a normal

excavation locate request, *an operator shall*:

- (a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition;
  - (b) Inform the excavator of any other information that would assist in locating and avoiding contact with or damage to underground facilities;
  - (c) Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and
  - (d) Notify the requesting party if underground facilities are not in conflict with the excavation or demolition.
- (6) Upon receiving a design information request, an operator shall contact the person making the request within the time period specified in subsection (4) of this section.

The operator shall:

- (a) Designate with temporary underground facility markers the location of all underground facilities owned by the operator within the area of the design information request as defined in KRS 367.4903;
- (b) Provide to the person making the design information request a description of all underground facilities owned by the operator in the area of the design information request and the location of the facilities, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator; or
- (c) Allow the person making the design information request or an authorized person to inspect the drawings or other records for all underground facilities with the proposed area of excavation at a location that is acceptable to the operator.

- (7) An operator may reject a design information request based upon security considerations or if producing the information will place the operator at a competitive disadvantage, pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the design information request and may request additional information.
- (8) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:
- |  |                               |
|--|-------------------------------|
| (a) Electric power distribution and transmission       | Safety Red                    |
| (b) Municipal electric systems                         | Safety Red                    |
| (c) Gas distribution and transmission                  | High visibility safety yellow |
| (d) Oil distribution and transmission                  | High visibility safety yellow |
| (e) Dangerous materials, product lines                 | High visibility safety yellow |
| (f) Telecommunication systems and cable television     | Safety alert orange           |
| (g) Temporary survey markings                          | Safety pink                   |
| (h) Police and fire communications                     | Safety alert orange           |
| (i) Water systems                                      | Safety precaution blue        |
| (j) Sewer and storm drainage systems                   | Safety green                  |
| (k) Proposed excavation or construction boundaries     | White                         |
| (l) Reclaimed water, slurry, and irrigation facilities | Purple                        |
- (9) If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Extraordinary circumstances include extreme weather conditions, force majeure, disasters, or civil unrest that make timely response difficult or impossible.
- (10) All underground facilities installed after January 1, 2013, shall include a means to accurately identify and locate the underground facilities from the surface. This subsection does not apply to the repair of existing facilities.

➔Section 2. KRS 367.4913 is amended to read as follows:

- (1) Each protection notification center shall:
  - (a) Operate the protection notification center during all working days;
  - (b) Provide a locate request identification number to the excavator for each excavation or demolition location request;
  - (c) Promptly after receiving an excavation or demolition work notification from an excavator, provide to each of its affected operator members the excavator information required by KRS 367.4911(3);
  - (d) Maintain a list of all its operator member's identities, business address and business and emergency telephone numbers and record this information in accordance with KRS 64.012 with the county clerk of each county where the operator member has underground facilities. The county clerk shall provide this information upon request for the actual cost of providing a copy, to be paid by the requesting party to the county clerk. The county clerk shall assume no liability associated with the receipt of this information from the protection notification center or for subsequent provision of this same information to the requesting party;
  - (e) Make the operator members information list available to any person for inspection at its place of business without charge or provide a copy of the list to any person for any county upon request for a fee not to exceed the actual cost of providing a copy;
  - (f) Define and adopt policies and procedures for processing design information requests; and
  - (g) Provide the person making a design information request a list of identified operators that will receive notification and notify those operators.
- (2) The Kentucky Contact Center shall be governed by a board of directors composed of representatives of member operators who are elected by the membership. Board

seats may be filled by representatives of the following:

- (a) A natural gas provider;
  - (b) An electric provider;
  - (c) A telecommunications provider;
  - (d) A water/sewer provider;
  - (e) An interstate pipeline operator;
  - (f) A municipal utility operator; and
  - (g) An advisory, nonvoting representative of one (1) of the following:
    1. Home Builders Association of Kentucky;
    2. National Electrical Contractors Association;
    3. Associated General Contractors of Kentucky; or
    4. Kentucky Association of Master~~[Plumbing, — Heating-Cooling]~~ Contractors.
- (3) The Kentucky Contact Center's board of directors shall establish the method to calculate the cost of service provided by the center.
- (4) The Kentucky Contact Center shall serve all Kentucky counties.