

1 AN ACT relating to underground facility protection.

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

3 ➔Section 1. KRS 367.4903 is amended to read as follows:

4 As used in KRS 367.4903 to 367.4917:

- 5 (1) "Underground facility" means an underground line or system used for producing,  
6 storing, conveying, transmitting, or distributing telecommunications, electricity,  
7 gas, petroleum, petroleum products, cable television, hazardous liquids, water,  
8 steam, or sewerage, including storm drainage;
- 9 (2) "Damage" means weakening of structural or lateral support or penetration of a  
10 facility coating, housing, or other protective device. It also means the partial or  
11 complete dislocation or severance of underground facilities or rendering any  
12 underground facility permanently inaccessible by the placement of a permanent  
13 structure having one (1) or more stories;
- 14 (3) "Demolition" means any operation by which a structure or mass of material is  
15 wrecked, razed, moved, or removed by means of mechanized equipment, or  
16 discharge of explosives;
- 17 (4) "Excavator" means any entity or individual, other than those exempted by KRS  
18 367.4915, ***actually*** engaged in excavation, demolition, or timber harvesting using  
19 mechanized equipment, ***whether for the person doing the excavation or for***  
20 ***another person***;
- 21 (5) "Operator" means any entity or individual owning or operating underground  
22 facilities to serve the public;
- 23 (6) "Excavation" means any activity that results in the movement, placement, probing,  
24 boring, or removal of earth, rock, or other material in or on the ground by the use of  
25 any tools or equipment, by the discharge of explosives, or by the harvesting of  
26 timber using mechanized equipment. Forms of excavating include but are not  
27 limited to auguring, backfilling, digging, ditching, drilling, driving, grading, piling,

- 1 pulling-in, ripping, scraping, trenching, and tunneling. Driving wooden stakes by  
2 use of hand tools to a depth of six (6) inches or less below existing grade shall not  
3 constitute excavation;
- 4 (7) "Emergency" means there exists substantial likelihood that loss of life or property,  
5 the inability to restore interrupted utility service, an imminent danger to health or  
6 the environment, or the blockage of public transportation facilities will result before  
7 procedures required under KRS 367.4909 to 367.4913 can be completed;
- 8 (8) "Protection notification center" means an operator-provided notification center  
9 through which an excavator can contact the operator to enable the operator to  
10 provide the excavator with the approximate location of underground facilities;
- 11 (9) "Kentucky Contact Center" means Kentucky Underground Protection, Inc.,  
12 organized as a nonprofit corporation and a multimember protection notification  
13 center providing a single telephone contact number and designated by the Kentucky  
14 Public Service Commission to be the sole recipient of 811 dialed calls through  
15 which an excavator may contact all Kentucky Contact Center members and all  
16 affected *member* operators may receive information to enable them to provide the  
17 excavator with the approximate location of underground facilities;
- 18 (10) "Routine road maintenance" means preservation, including road repairs and  
19 resurfacing, and the replacement of signs, posts, and guardrails at the exact same  
20 location when no additional penetration of existing grade is necessary, but does not  
21 include road construction, installation of signs, posts, and guardrails, or any activity  
22 that requires penetration of existing grade;
- 23 (11) "Approximate location," when referring to an underground facility, means:  
24 (a) For underground metallic facilities and underground nonmetallic facilities  
25 with metallic tracer wire, a distance not to exceed the combined width of the  
26 underground facility plus *twenty-four (24)*~~eighteen (18)~~ inches measured  
27 from the outer edge of each side of the underground facility; or

- 1 (b) For unmapped or unlocatable facilities~~[nonmetallic facilities without~~  
2 ~~metallic tracer wire]~~, the underground facility shall be located as accurately as  
3 possible from field location records and shall require notification from the  
4 operator of the inability to accurately locate the facility;
- 5 (12) "Working day" means every day, except Saturday, Sunday, and holidays  
6 established by federal or state statute. For purposes of measuring any period of  
7 time prescribed or allowed under the Underground Facility Damage Prevention  
8 Act of 1994, a working day shall commence at 12:01 a.m. local time and end at  
9 12 midnight local time excluding the day the locate request was made~~[a twenty-~~  
10 ~~four (24) hour period commencing from the time of receipt of the notification by the~~  
11 ~~Kentucky Contact Center except Saturday, Sunday, and holidays established by~~  
12 ~~federal or state statute];~~
- 13 (13) "Nonintrusive excavating" means excavation using hand tools or equipment that  
14 uses air or water pressure as the direct means to break up soil for removal by hand  
15 tools or vacuum excavation;
- 16 (14) "Mechanized equipment" means mechanical power equipment, including trenchers,  
17 bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows,  
18 skidders, and yarders;
- 19 (15) "Normal excavation locate request" means a notification made to a protection  
20 notification center where a request for locating utility facilities is processed;
- 21 (16) "Emergency locate request" means a notification made to a protection notification  
22 center by an excavator to alert facility owners or operators of the need to begin  
23 immediate excavation in response to an emergency;
- 24 (17) "Design information request" means a notification made to a protection notification  
25 center by a person providing professional services and making a request in  
26 preparation for bidding, preconstruction engineering, or other advance planning  
27 efforts. A design information request may not be used for excavation purposes;

- 1 (18) "Large project ***request***" means an area of excavation occurring on or after July 1,  
2 2016, measuring more than two thousand (2,000) feet in length. Multiple  
3 excavation notifications in an area may be considered together in determining if the  
4 excavations are part of a large project;~~and~~
- 5 (19) "Commission" means the Kentucky Public Service Commission;
- 6 **(20) "Person" means an individual, an entity, a foreign entity, or other legal or**  
7 **commercial entity;**
- 8 **(21) "Positive response" means an automated or written electronic communication**  
9 **provided by a protection notification center or operator that allows excavators,**  
10 **operators, and other interested parties to determine the status of locating an**  
11 **underground facility and to verify that operators and excavators have complied**  
12 **with Sections 2 and 3 of this Act;**
- 13 **(22) "Tolerance zone" means a strip of land at least four (4) feet wide but not wider**  
14 **than the width of the underground facility plus two (2) feet on either side of the**  
15 **outer limits of the facility; and**
- 16 **(23) "Unlocatable facility" means an underground facility that cannot be located**  
17 **from the surface using normal locating methods and requires additional efforts**  
18 **and extended time.**
- 19 ➔Section 2. KRS 367.4909 is amended to read as follows:
- 20 (1) Each operator shall provide protection notification center access to excavators.
- 21 (2) Voluntary operator membership in the Kentucky Contact Center shall satisfy the  
22 requirement of subsection (1) of this section.
- 23 (3) Each operator member of the Kentucky Contact Center shall provide and update as  
24 needed to the Kentucky Contact Center the general location of its underground  
25 facilities, the operator identity and business address, and emergency notification  
26 telephone numbers.
- 27 (4) Each operator shall report to the commission excavation damage to an underground

1 facility used in the transportation of gas or hazardous liquid within thirty (30)  
2 calendar days of being informed of the damage. Each report of excavation damage  
3 shall be made by electronic mail or as otherwise prescribed by the commission.

4 (5) An operator shall respond to facility locate requests **and provide a positive response**  
5 as follows:

6 (a) To a normal excavation locate request, within two (2) working days after  
7 receiving notification from an excavator **or any time prior to the scheduled**  
8 **excavation start date if agreed to and documented by the operator and the**  
9 **excavator or the protection notification center handling the locate request,**  
10 **excluding large project requests, design information requests, emergency**  
11 **locate requests, and unmapped or unlocatable facilities**~~[, excluding large~~  
12 ~~projects];~~

13 (b) To an emergency locate request, **the operator shall contact the excavator**  
14 **within two (2)**~~[as quickly as possible but not to exceed forty eight (48)]~~ hours  
15 after receiving notification from an excavator, **and the operator in**  
16 **coordination with the excavator shall provide any necessary locates within**  
17 **the later of six (6) hours of receiving the notification or prior to the**  
18 **scheduled excavation start time unless it is determined that an emergency**  
19 **does not exist;**

20 (c) To a design information request, within ten (10) working days after receiving  
21 notification from the person making the request;~~[and]~~

22 (d) To a large project request, **within two (2) working days the operator shall**  
23 **notify the excavator that an excavation area has been determined to be a**  
24 **large project, and the operator shall respond to the request** within five (5)  
25 working days from the later of **providing notification to the**  
26 **excavator**~~[receiving notification from an excavator]~~ or **five (5) working days**  
27 **prior to** the scheduled excavation start date for that location; **and**

1 (e) To an unmapped or unlocatable facility request, within the later of seven (7)  
 2 working days for a normal locate request or ten (10) working days for a  
 3 large project request after receiving the notification from an excavator or  
 4 prior to the scheduled excavation start date.

5 (6) An operator shall, after~~upon~~ receiving an emergency locate request, ~~or~~ a normal  
 6 excavation locate request, or large project request as provided in subsection (5) of  
 7 this section:

8 (a) Inform the excavator of the approximate location and description of any of the  
 9 operator's underground facilities that may be damaged or pose a safety  
 10 concern because of excavation or demolition;

11 ~~(b) [Inform the excavator of any other information that would assist in locating~~  
 12 ~~and avoiding contact with or damage to underground facilities;~~

13 ~~(c)~~ Unless permanent facility markers are provided, provide temporary markings  
 14 to inform the excavator of the ownership and approximate location of the  
 15 underground facility; and

16 ~~(c)~~~~(d)~~ Provide a positive response to the requesting party~~[Notify the~~  
 17 ~~requesting party if underground facilities are not in conflict with the~~  
 18 ~~excavation or demolition].~~

19 (7) Upon receiving a design information request, an operator shall contact the person  
 20 making the request within the time period specified in subsection (5) of this section.  
 21 The operator shall:

22 (a) Designate with temporary underground facility markers the location of all  
 23 underground facilities owned by the operator within the area of the design  
 24 information request as defined in KRS 367.4903;

25 (b) Provide to the person making the design information request a description of  
 26 all underground facilities owned by the operator in the area of the design  
 27 information request and the location of the facilities, which may include

1 drawings marked with a scale, dimensions, and reference points for  
 2 underground utilities already built in the area or other facility records that are  
 3 maintained by the operator; or

4 (c) Allow the person making the design information request or an authorized  
 5 person to inspect the drawings or other records for all underground facilities  
 6 with the proposed area of excavation at a location that is acceptable to the  
 7 operator.

8 (8) An operator may reject a design information request **and not be held in violation of**  
 9 **subsection (6) of this section** based upon security considerations or if producing the  
 10 information will place the operator at a competitive disadvantage, pending the  
 11 operator obtaining additional information confirming the legitimacy of the notice.  
 12 The operator shall notify the person making the design information request and may  
 13 request additional information.

14 (9) Temporary underground facility markers shall consist of paint, chalk, flags, stakes,  
 15 or any combination thereof and shall conform to the following standards of the  
 16 American Public Works Association uniform color code:

- |    |  |                               |
|----|--|-------------------------------|
| 17 | (a) Electric power distribution and transmission   | Safety Red                    |
| 18 | (b) Municipal electric systems                     | Safety Red                    |
| 19 | (c) Gas distribution and transmission              | High visibility safety yellow |
| 20 | (d) Oil distribution and transmission              | High visibility safety yellow |
| 21 | (e) Dangerous materials, product lines             | High visibility safety yellow |
| 22 | (f) Telecommunication systems and cable television | Safety alert orange           |
| 23 | (g) Temporary survey markings                      | Safety pink                   |
| 24 | (h) Police and fire communications                 | Safety alert orange           |
| 25 | (i) Water systems                                  | Safety precaution blue        |
| 26 | (j) Sewer and storm drainage systems               | Safety green                  |
| 27 | (k) Proposed excavation or construction boundaries | White                         |

1 (l) Reclaimed water, slurry, and irrigation facilities Purple

2 **(m) Fiber optic and critical telecommunication Safety alert orange**

3 (10) If extraordinary circumstances exist, an operator shall notify the excavator of the  
 4 operator's inability to comply with this section. **Notification under this subsection**  
 5 **shall temporarily relieve the operator of complying with subsections (5) and (6) of**  
 6 **this section until the operator can recover from the extraordinary circumstances.**

7 Extraordinary circumstances include **snow, rain,** extreme weather conditions, force  
 8 majeure, disasters, or civil unrest that make timely response difficult or impossible  
 9 **or make it difficult or impossible for paint to adhere.**

10 (11) All underground facilities installed after January 1, 2013, shall include a means to  
 11 accurately identify and locate the underground facilities from the surface. This  
 12 subsection does not apply to the repair of existing facilities.

13 ➔Section 3. KRS 367.4911 is amended to read as follows:

14 (1) (a) Each excavator, or person responsible for an excavation, planning excavation,  
 15 or demolition work shall, not less than two (2) full working days nor more  
 16 than ten (10) full working days prior to commencing work, notify each  
 17 affected **operator's designated protection notification center**~~[operator]~~ of the  
 18 excavator's intended work and work schedule, **unless a future start date is**  
 19 **agreed upon and documented by the excavator and the operator or the**  
 20 **protection notification center handling the locate request**~~[- Contacting the~~  
 21 ~~applicable protection notification centers shall satisfy this requirement].~~

22 (b) An excavator may **not** commence work before the **operator, the operator's**  
 23 **designee, or the operator's designated protection notification center has**  
 24 **given a positive response as defined in Section 1 of this Act**~~[two (2) full~~  
 25 ~~working days provided for in paragraph (a) of this subsection have elapsed if~~  
 26 ~~all affected operators have notified the person]~~ that the location of all the  
 27 affected operators' facilities have been marked or that they have no facilities in



- 1 the area of the proposed excavation, demolition, or timber harvesting.
- 2 (2) Locate requests are valid for twenty-one (21) calendar days from the day of the *last*  
3 *positive response*~~[initial request]~~.
- 4 (3) Each excavator shall provide each applicable protection notification center with  
5 adequate information regarding:
- 6 (a) The name of the individual making the notification;
- 7 (b) The excavator's name, address, and a telephone number;
- 8 (c) The excavation or demolition site location or locations, each of which shall  
9 not exceed two thousand (2,000) feet in length unless the excavator and  
10 operator agree to a larger area, the city or community, county and street  
11 address, including the nearest cross street;
- 12 (d) The type and extent of excavation or demolition to be performed;
- 13 (e) A contact name and telephone number of the person responsible for the work  
14 to be performed.
- 15 (4) If more than one (1) excavator will operate at the same site, each excavator shall  
16 notify the protection notification centers individually. Notification by an excavator  
17 will serve as notification for any of that excavator's employees. Failure by an  
18 excavator to notify the protection notification center does not relieve individual  
19 employees of responsibility.
- 20 (5) The excavator shall inform and provide to excavation or demolition site employees:
- 21 (a) The underground facility location provided by each operator;
- 22 (b) Any related safety information provided by each operator; and
- 23 (c) The locate request identification number assigned by each protection  
24 notification center.
- 25 (6) The excavator shall protect and preserve temporary underground facility markers  
26 until the scheduled excavation or demolition is completed.
- 27 (7) If, after the *response time*~~[two (2) day period]~~ provided by KRS 367.4909(5)(a), the

1 excavator finds evidence of an unmarked underground facility at the site, he shall  
2 immediately notify ~~a~~<sup>the</sup> protection notification center. **When an excavator has**  
3 **complied with subsection (1)(b) of this section and evidence of an unmarked**  
4 **underground facility is uncovered, the operator shall have six (6) hours to**  
5 **identify the underground facility.**

6 (8) The excavator shall contact the protection notification center to request remarking  
7 two (2) working days in advance of the expiration of each twenty-one (21) day  
8 period while excavation or demolition continues or if:

9 (a) The markings of any underground facility have been removed or are no longer  
10 visible; or

11 (b) The excavator has changed the work plan or location previously filed.

12 (9) (a) Each excavator who conducts or is responsible for any excavation or  
13 demolition that results in underground facility damage shall cease excavation or  
14 demolition activities and notify all affected operators of the location and  
15 nature of the underground facility damage **immediately upon discovery of the**  
16 **damage. If a gas leak is suspected, the excavator shall call 911 emergency**  
17 **service.**

18 (b) If the underground facility damage causes concern for public or workplace  
19 safety, the excavator shall notify appropriate public safety agencies of the  
20 location and nature of the safety concern.

21 (c) If the underground facility damage results in the escape of any flammable,  
22 toxic, or corrosive gas or liquid, the excavator shall cease excavation or  
23 demolition activities and immediately report to the appropriate authorities by  
24 calling the 911 emergency telephone number.

25 (10) When excavation or demolition is necessary within the **tolerance zone**~~[approximate~~  
26 ~~location of the underground facility]~~, the excavator shall hand-dig or use  
27 nonintrusive means to avoid damage to the underground facility, **except**

1 *mechanized equipment may be used:*

2 *(a) To remove the pavement or other manmade hard surface if used during the*  
3 *initial penetration only to the depth necessary and if an individual other*  
4 *than the equipment operator visually monitors the excavation activity;*

5 *(b) To remove indigenous rock if used during the initial penetration only to the*  
6 *extent necessary, if an individual other than the equipment operator*  
7 *visually monitors the excavation activity, and if the excavation is planned to*  
8 *avoid damage to the underground facility. However, if the underground*  
9 *facility contains flammable, toxic, corrosive, or hazardous products, the*  
10 *excavator shall notify the facility owner of their intent prior to removing*  
11 *indigenous rock;*

12 *(c) To remove materials that are more than twelve (12) inches in any direction*  
13 *from the outer edge of the located facility if the excavator visually identifies*  
14 *the precise location of the underground facility or visually confirms that no*  
15 *facility is present within the depth of the excavation, if an individual other*  
16 *than the equipment operator visually monitors the excavation activity, and*  
17 *if the excavation is planned to avoid damage to the underground facility;*

18 *(d) By an operator or contractor working on behalf of the operator near that*  
19 *operator's own facilities if no other underground facility is located within*  
20 *twelve (12) inches in any direction of the mechanized equipment; and*

21 *(e) To place shores into an existing excavation or remove shores from an*  
22 *existing excavation.*

23 (11) Upon request by an operator or when the proposed excavation location cannot be  
24 accurately identified, an excavator shall mark the boundaries of the location to be  
25 excavated using the procedure set forth in KRS 367.4909(9)(k). After marking the  
26 boundaries, the excavator shall contact the protection notification center or centers.  
27 The requirements of KRS 367.4909(5) to (10) are reestablished upon the operator

1 receiving notification of this marking from the protection notification center or  
2 centers. This marking shall not alter, or relieve the excavator from complying with,  
3 the requirements of KRS 367.4905 to 367.4917.

4 ➔Section 4. KRS 367.4913 is amended to read as follows:

- 5 (1) Each protection notification center shall:
- 6 (a) Operate the protection notification center during all working days;
  - 7 (b) Provide a *unique* locate request identification number to the excavator for  
8 each excavation or demolition location request;
  - 9 (c) Promptly after receiving an excavation or demolition work notification from  
10 an excavator, provide to each of its affected operator members the excavator  
11 information required by KRS 367.4911(3);
  - 12 (d) Maintain a list of all its operator member's identities, business address and  
13 business and emergency telephone numbers and record this information in  
14 accordance with KRS 64.012 with the county clerk of each county where the  
15 operator member has underground facilities. The county clerk shall provide  
16 this information upon request for the actual cost of providing a copy, to be  
17 paid by the requesting party to the county clerk. The county clerk shall assume  
18 no liability associated with the receipt of this information from the protection  
19 notification center or for subsequent provision of this same information to the  
20 requesting party;
  - 21 (e) Make the operator members information list available to any person for  
22 inspection at its place of business without charge or provide a copy of the list  
23 to any person for any county upon request for a fee not to exceed the actual  
24 cost of providing a copy;
  - 25 (f) Define and adopt policies and procedures for processing design information  
26 requests; and
  - 27 (g) Provide the person making a design information request a list of identified

1 operators that will receive notification and notify those operators.

- 2 (2) The Kentucky Contact Center shall be governed by a board of directors ~~composed~~  
3 ~~of representatives of member operators~~ who are elected by the membership. Board  
4 seats **shall be composed of no more than twenty (20) voting members and five (5)**  
5 **nonvoting members as follows**~~[may be filled by representatives of the following]:~~
- 6 (a) **At least one (1) but not more than two (2) voting members representing**~~[A]~~  
7 natural gas **providers**~~[provider];~~
  - 8 (b) **At least one (1) but not more than two (2) voting members representing**~~[An]~~  
9 electric **providers**~~[provider];~~
  - 10 (c) **At least one (1) but not more than two (2) voting members representing**~~[A]~~  
11 telecommunications **providers**~~[provider];~~
  - 12 (d) **At least one (1) but not more than two (2) voting members representing**~~[A]~~  
13 water/sewer **providers**~~[provider];~~
  - 14 (e) **At least one (1) but not more than two (2) voting members representing**~~[An]~~  
15 interstate pipeline **operators**~~[operator];~~
  - 16 (f) **At least one (1) but not more than two (2) voting members representing**~~[A]~~  
17 municipal utility **operators**~~[operator];~~~~[-and]~~
  - 18 (g) **At least one (1) but not more than two (2) voting members representing**  
19 **rural electric cooperatives;**
  - 20 (h) **At least one (1) but not more than two (2) voting members representing**  
21 **rural telecommunications providers;**
  - 22 (i) **At least one (1) but not more than two (2) voting members representing**  
23 **rural water providers**
  - 24 (j) **At least one (1) but not more than two (2) voting members representing**  
25 **commercial excavators; and**
  - 26 (j) **At least one (1) but not more than five (5) advisory, nonvoting members**  
27 **representing the following:**

- 1            **1. Public Service Commission;**
- 2            **2. Home Builders Association of Kentucky;**
- 3            **3. National Electric Contractors Association;**
- 4            **4. Associated General Contractors of Kentucky; or**
- 5            **5. Kentucky Association of Master Contractors**~~[An advisory, nonvoting~~  
6            ~~representative of one (1) of the following:~~
- 7            ~~1.— Home Builders Association of Kentucky;~~
- 8            ~~2.— National Electrical Contractors Association;~~
- 9            ~~3.— Associated General Contractors of Kentucky; or~~
- 10           ~~4.— Kentucky Association of Plumbing, Heating Cooling Contractors].~~

11    **(3) Nonvoting members shall be elected by a majority of the voting members and**  
12    **shall serve for one (1) year terms which expire on December 31. Nonvoting**  
13    **members are eligible for reappointment by a majority of the voting members.**

14    **(4)** The Kentucky Contact Center's board of directors shall establish the method to  
15    calculate the cost of service provided by the center.

16    ~~**(5)**~~~~[(4)]~~ The Kentucky Contact Center shall serve all Kentucky counties.

17            ➔Section 5. KRS 367.4915 is amended to read as follows:

18    The requirements of KRS 367.4905 to 367.4917 shall not apply to the following:

- 19    (1) Excavation by an operator on its own easement except where that easement is  
20    crossed by another operator's facilities;
- 21    (2) Routine road maintenance or railroad maintenance or repairs;
- 22    (3) Tilling of soil for agricultural purposes;
- 23    (4) Excavators excavating on private property, using nonmechanized equipment, if  
24    there is no encroachment on any operator's right-of-way or easement;
- 25    (5) The opening of a grave in a cemetery;
- 26    (6) A solid waste disposal site which is properly permitted;
- 27    (7) Coal mining operations which are currently regulated under KRS Chapter 350;

- 1 (8) A utility operator or utility operator subcontractor performing emergency work as  
2 defined in KRS 367.4903;
- 3 (9) Leak migration testing using metal probes inserted by hand by an authorized  
4 representative of the operator; or
- 5 (10) Any nonintrusive excavating performed by an operator or his subcontractor to  
6 locate the operator's underground facilities in response to a notice of excavation  
7 from the notification center, if all reasonable precautions have been taken to protect  
8 the underground facilities

9 **(11) Noninvasive excavating to inspect or perform maintenance for an existing utility**  
10 **pole.**

11 ➔Section 6. KRS 367.4917 is amended to read as follows:

- 12 (1) An excavator who fails to comply with any provision of KRS 367.4911, or an  
13 operator who fails to comply with any provision of KRS 367.4909~~[, shall be guilty~~  
14 ~~of endangering underground facilities and]~~ may be subject to a **civil penalty**~~[fine]~~ of  
15 two hundred~~[and]~~ fifty dollars (\$250) for the first **violation**~~[offense]~~, no more than  
16 one thousand dollars (\$1,000) for the second **violation**~~[offense within one (1) year,]~~  
17 and no more than three thousand dollars (\$3,000) for the third and any subsequent  
18 **violation. If an excavator is not found in violation of Section 3 of this Act or an**  
19 **operator is not found in violation of Section 2 of this Act within the last three**  
20 **hundred sixty-five (365) days, the violation shall be considered a first violation**  
21 **under this subsection. If a person commits a violation in the course and scope of**  
22 **employment, the penalties shall be imposed on the employer**~~[offense].~~
- 23 (2) A protection notification center that fails to comply with any provision of KRS  
24 367.4913 shall be subject to a **civil penalty**~~[fine]~~ of one thousand dollars (\$1,000)  
25 for each **violation**~~[offense]~~.
- 26 (3) A person that knowingly provides false notice to a utility notification center of an  
27 emergency as defined in KRS 367.4903 shall be subject to a **civil penalty**~~[fine]~~ of

- 1           one thousand dollars (\$1,000) for each violation~~[offense]~~.
- 2       (4) Any person who violates any provision of the Underground Facility Damage  
3       Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a  
4       facility containing any flammable, toxic, corrosive, or hazardous material or results  
5       in the release of any flammable, toxic, corrosive, or hazardous material shall be  
6       subject to a **civil penalty, in addition to the civil penalty in subsection (1) of this**  
7       **section,**~~[fine]~~ not to exceed one thousand dollars (\$1,000) for each  
8       violation~~[offense]~~. The penalties of this subsection are not in conflict with and are  
9       in addition to civil damages for personal injury or property damage.
- 10      (5) (a) Except as provided in subsection (6) of this section, all **civil penalties**~~[fines]~~  
11           recovered for a violation of this section shall be paid to the general fund of the  
12           state, county, city, or fire protection agency which issued the citation.
- 13      (b) In the event that more than one (1) government agency was involved, the court  
14           shall direct an apportionment of the **civil penalties**~~[fines]~~.
- 15      (c) Failure to comply with the provisions of the Underground Facility Damage  
16       Prevention Act of 1994, KRS 367.4901 to 367.4917, may be determined at the  
17       conclusion of an investigation and shall be based on evidence available to  
18       state, county, or city officials, law enforcement, or fire protection agencies  
19       which issue the citation.
- 20      (6) The commission shall have statewide authority to enforce and assess civil penalties  
21       provided for in this section and to seek injunctive relief for any violation that results  
22       in damage to an underground facility used to transport gas or hazardous liquid  
23       subject to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. Once the  
24       commission initiates an investigation or undertakes an enforcement action against a  
25       person for an alleged violation, no other state, county, city, or fire protection agency  
26       shall initiate or continue any enforcement action against the person for the same  
27       alleged violation. Any action to recover penalties assessed pursuant to this



1 subsection shall be brought in the Franklin Circuit Court. All penalties recovered by  
2 the commission shall be paid into the State Treasury and credited to the account of  
3 the commission.

4 (7) The commission may promulgate administrative regulations in accordance with  
5 KRS Chapter 13A to enforce the Underground Facility Damage Prevention Act of  
6 1994. The commission shall exercise its authority under the Underground Facility  
7 Damage Prevention Act of 1994 in accordance with the rules and procedures set  
8 forth in KRS Chapter 278 and all applicable administrative regulations promulgated  
9 by the commission.

10 ➔Section 7. This Act takes effect January 1, 2021.