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Sub. S. B. No. 354

Senator Coley

Cosponsors: Senators LaRose, Seitz, Wagoner, Hite

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A B I L L

To amend sections 153.64, 3781.25, 3781.26, 3781.27, 1
3781.28, 3781.29, 3781.30, 3781.31, and 3781.32 2
and to enact sections 3781.261 and 3781.271 of the 3
Revised Code to modify the call before you dig 4
notification system. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 153.64, 3781.25, 3781.26, 3781.27, 6
3781.28, 3781.29, 3781.30, 3781.31, and 3781.32 be amended and 7
sections 3781.261 and 3781.271 of the Revised Code be enacted to 8
read as follows: 9

Sec. 153.64. (A) As used in this section: 10

(1) "Public improvement" means any construction, 11
reconstruction, improvement, enlargement, alteration, or repair of 12
a building, highway, drainage system, water system, road, street, 13
alley, sewer, ditch, sewage disposal plant, water works, and all 14
other structures or works of any nature by a public authority. 15

(2) "Public authority" includes the following: 16

(a) The state, or a county, township, municipal corporation, 17
school district, or other political subdivision, ~~or any~~ 18

(b) Any public agency, authority, board, commission, 19
instrumentality, or special district of or in the state or a 20
county, township, municipal corporation, school district, or other 21
political subdivision; 22

(c) A designer as defined in section 3781.25 of the Revised 23
Code who is acting on behalf of any entity described in division 24
(A)(2)(a) or (b) of this section. 25

(3) "Underground utility facilities" includes any item buried 26
or placed below ground or submerged under water for use in 27
connection with the storage or conveyance of water or sewage; or 28
electronic, telephonic, or telegraphic communications; 29
electricity; ~~electric energy~~; petroleum products; manufactured, 30
mixed, or natural gas; synthetic or liquified natural gas; propane 31
gas; or other substances. "Underground utility facilities" 32
includes, but is not limited to, all operational underground 33
pipes, sewers, tubing, conduits, cables, valves, lines, wires, 34
manholes, and attachments, whether owned by any public or private 35
or profit or nonprofit person, firm, partnership, company, 36
corporation, joint stock association, joint venture, or voluntary 37
association, wherever organized or incorporated, except for a 38
private septic system in a single- or ~~double-family~~ multi-family 39
dwelling utilized only for that dwelling and not connected to any 40
other system. 41

(4) "~~Underground utility protection~~ Protection service" means 42
a notification center not an owner of an underground utility 43
facility, ~~existing~~ that complies with the following: 44

(a) It exists for the purpose of receiving notice from public 45
authorities and from other persons that plan to prepare plans and 46
specifications for, or engage in, public improvements involving 47
digging, blasting, excavating, or other underground construction 48
activities ~~and distributing this;~~ 49

(b) It distributes the information described in division 50
(A)(4)(a) of this section to its members and participants; 51

(c) It has registered by March 14, 1989, with the secretary 52
of state and the public utilities commission under former division 53
(F) of this section as it existed on that date. "Registered 54
underground utility protection service" means an underground 55
utility protection service registered with the secretary of state 56
and the public utilities commission of Ohio pursuant to division 57
(F) of this section. 58

~~(5) "Owner of underground utility facility" does not include~~ 59
~~telephone companies classified as medium or small under rule~~ 60
~~4901-7-01 of the Ohio Administrative Code, owners of pipelines~~ 61
~~that conduct liquid petroleum products, or cable television~~ 62
~~companies to the extent that it requires membership in an~~ 63
~~underground utility protection service.~~ 64

~~(6)(5) "Construction area" means the area delineated on the~~ 65
~~plans and specifications for the public improvement within which~~ 66
~~the work provided for in the contract will be performed.~~ 67

(B)(1) In any public improvement which may involve 68
underground utility facilities, the public authority, prior to 69
preparing plans and specifications, shall contact ~~the registered~~ 70
~~underground utility a protection services~~ service and ~~the any~~ 71
owners of underground utility facilities that are not members of a 72
~~registered underground utility protection service~~ for the 73
existence and location of all underground utility facilities 74
within the construction area. ~~The~~ 75

(2) If requested by the public authority, each owner of 76
underground utility facilities within the construction area, other 77
than real property owners listed in divisions (C)(1) to (4) of 78
section 3781.25 of the Revised Code, shall do one of the following 79
within ten days of receiving notice from the public authority or a 80

<u>protection service:</u>	81
<u>(a) Mark the location of the underground utility facilities,</u>	82
<u>other than those facilities serving single-family or two-, three-,</u>	83
<u>or four-unit dwellings, within the construction area in accordance</u>	84
<u>with the marking standards described in division (C) of section</u>	85
<u>3781.29 of the Revised Code;</u>	86
<u>(b) Provide digital or paper drawings, or both, that meet</u>	87
<u>both of the following requirements:</u>	88
<u>(i) They are drawn to scale and include locatable items.</u>	89
<u>Locatable items may include poles, pedestals, back of curb,</u>	90
<u>sidewalk, edge of pavement, centerline of ditch, property lines,</u>	91
<u>and other similar items.</u>	92
<u>(ii) They depict the location of the underground utility</u>	93
<u>facilities.</u>	94
<u>Compliance with division (B)(2) of this section does not</u>	95
<u>relieve an owner of underground utility facilities from compliance</u>	96
<u>with the marking requirements of section 3781.29 of the Revised</u>	97
<u>Code.</u>	98
<u>(3) The public authority shall include, in the plans and</u>	99
<u>specifications for such improvement, the identity and location of</u>	100
<u>the existing underground utility facilities located in the</u>	101
<u>construction area as provided to the public authority by the owner</u>	102
<u>of the underground utility facility and the name, address, and</u>	103
<u>telephone number of each owner of any underground utility</u>	104
<u>facilities in the construction area that does not subscribe to a</u>	105
<u>registered underground utility protection service. Any</u>	106
<u>(4) Any anticipated temporary or permanent relocation of</u>	107
<u>underground utility facilities deemed necessary by the public</u>	108
<u>authority shall be negotiated or arranged by the public authority</u>	109
<u>with the owners of the underground utility facilities prior to the</u>	110
<u>start of construction. If a temporary or permanent relocation of</u>	111

utility facilities is necessary, the owner of the underground 112
utility facility shall be given a reasonable time to move such 113
utility facilities unless the contractor to whom the contract for 114
a public improvement is awarded or its subcontractor agrees with 115
the owner of the underground utility facility to coordinate 116
relocation with construction operations. ~~The~~ 117

(5) The public authority, within ten calendar days after 118
award of a contract for a public improvement, shall notify in 119
writing all owners of underground utility facilities known to be 120
located in the construction area of the public improvement of the 121
name and address of the contractor to whom the contract for the 122
public improvement was awarded. Where notice is given in writing 123
by certified mail, the return receipt, signed by any person to 124
whom the notice is delivered, shall be conclusive proof of notice. 125

(C) The contractor to whom a contract for a public 126
improvement is awarded or its subcontractor, at least two working 127
days, excluding Saturdays, Sundays, and legal holidays, but no 128
more than ten working days, prior to commencing construction 129
operations in the construction area which may involve underground 130
utility facilities, shall cause notice to be given to ~~the~~ 131
~~registered underground utility~~ a protection services service and 132
the owners of underground utility facilities shown on the plans 133
and specifications who are not members of a ~~registered underground~~ 134
~~utility protection service, in writing, by telephone, or in~~ 135
~~person. Where notice is given in writing by certified mail, the~~ 136
~~return receipt, signed by any person to whom the notice is~~ 137
~~delivered, shall be conclusive proof of notice.~~ The owner of the 138
underground utility facility, within forty-eight hours, excluding 139
Saturdays, Sundays, and legal holidays, after notice is received, 140
shall stake, mark, or otherwise designate the location of the 141
underground utility facilities in the construction area in such a 142
manner as to indicate their course together with the approximate 143

depth at which they were installed. ~~The marking or locating shall~~ 144
~~be coordinated to stay approximately two days ahead of the planned~~ 145
~~construction.~~ 146

(D) If the public authority fails to comply with the 147
requirements of division (B) of this section, the contractor to 148
whom the work is awarded or its subcontractor complies with the 149
requirements of division (C) of this section, and the contractor 150
or its subcontractor encounters underground utility facilities in 151
the construction area that would have been shown on the plans and 152
specifications for such improvement had ~~the registered underground~~ 153
~~utility~~ a protection service or owner of the underground utility 154
facility who is not a member of a ~~registered underground utility~~ 155
protection service whose name, address, and telephone number is 156
provided by the public authority been contacted, then the 157
contractor, upon notification to the public authority, is entitled 158
to an increase to the contract price for itself or its 159
subcontractor for any additional work that must be undertaken or 160
additional time that will be required and is entitled to an 161
extension of the completion date of the contract for the period of 162
time of any delays to the construction of the public improvement. 163

In the event of a dispute as to the application of this 164
section, procedures may be commenced under the applicable terms of 165
the construction contract, or if the contract contains no 166
provision for final resolution of the dispute, pursuant to the 167
procedures for arbitration in Chapter 2711. of the Revised Code. 168

This section does not affect rights between the contractors 169
and the public authority for any increase in contract price or 170
additional time to perform the contract when the public authority 171
complies with division (B) of this section. 172

Any public authority who complies with the requirements of 173
division (B) of this section and any contractor or its 174
subcontractor who complies with the requirements of division (C) 175

of this section shall not be responsible to the owner of the 176
underground utility facility if underground utility lines are 177
encountered not as marked in accordance with the provisions of 178
division (C) of this section by the owner of the underground 179
utility facility, unless the contractor or its subcontractor has 180
actual notice of the underground utility facility. Except as noted 181
in this division, this section does not affect rights between the 182
contractor or its subcontractor and the owner of the underground 183
utility facility for failure to mark or erroneously marking 184
utility lines. The public authority shall not make as a 185
requirement of any contract for public improvement any change in 186
responsibilities between the public authority and the owners of 187
the underground utility facilities in connection with damage, 188
injury, or loss to any property in connection with underground 189
utility facilities. 190

The contractor or its subcontractor shall alert immediately 191
the occupants of nearby premises as to any emergency that the 192
contractor or subcontractor may create or discover at or near such 193
premises. The contractor or its subcontractor shall report 194
immediately to the owner or operator of the underground facility 195
any break or leak on its lines or any dent, gouge, groove, or 196
other damage to such lines or to their coating or cathodic 197
protection, made or discovered in the course of their excavation. 198

(E) This section does not affect rights between the public 199
authority and the owners of the underground utility facilities for 200
responsibility for costs involving removal, relocation, or 201
protection of existing underground utility facilities, or for 202
costs for delays occasioned thereby. 203

~~(F) An underground utility protection service shall register 204
with the secretary of state and the public utilities commission of 205
Ohio, identifying its name, address, telephone number, membership, 206
and other pertinent information. The secretary of state and 207~~

~~commission shall establish procedures for accepting such 208
registrations and providing information about registrants to 209
public authorities on request. 210~~

Sec. 3781.25. As used in sections 3781.25 to 3781.32 of the 211
Revised Code: 212

(A) "Protection service" means a notification center, but not 213
an owner of an individual utility, that exists for the purpose of 214
receiving notice from persons that prepare plans and 215
specifications for or that engage in excavation work, that 216
distributes this information to its members and participants, and 217
that ~~is~~ has registered by March 14, 1989, with the secretary of 218
state and the public utilities commission of Ohio under former 219
division (F) of section 153.64 of the Revised Code as it existed 220
on ~~March 14, 1989~~ that date. 221

(B) "Underground utility facility" ~~means~~ includes any item 222
buried or placed below ~~the surface of the earth~~ ground or 223
submerged under water for use in connection with the storage or 224
conveyance of water or sewage; electronic, telephonic, or 225
telegraphic communications; television signals; electricity; crude 226
oil; petroleum products; artificial or liquefied petroleum; 227
manufactured, mixed, or natural gas; synthetic or liquefied 228
natural gas; propane gas; coal; steam; hot water; or other 229
substances; ~~except that it does not include.~~ "Underground utility 230
facility" includes all operational underground pipes, sewers, 231
tubing, conduits, cables, valves, lines, wires, worker access 232
holes, and attachments, owned by any person, firm, or company. 233
"Underground utility facility" does not include a private septic 234
systems system in a one-family or ~~two-family~~ multi-family dwelling 235
utilized only for that dwelling and not connected to any other 236
system. 237

(C) "Utility" means any owner or operator, or an agent of an 238

owner or operator, of an underground utility facility, including 239
any public authority ~~as defined in section 153.64 of the Revised~~ 240
~~Code~~, that owns or operates an underground utility facility, 241
~~except~~. "Utility" does not include the owners of the following 242
types of real property with respect to any underground utility 243
facility located on that property: 244

(1) The owner of a single-family or two-, three-, or 245
four-unit residential dwelling; 246

(2) The owner of an apartment complex; 247

(3) The owner of a commercial or industrial building or 248
complex of buildings, including but not limited to, factories and 249
shopping centers; 250

(4) The owner of a farm. 251

(D) "Approximate location" means the immediate area within 252
the perimeter of a proposed excavation site where the underground 253
utility facilities are located. 254

(E) "Tolerance zone" means the site of the underground 255
utility facility including the width of the underground utility 256
facility plus eighteen inches on each side of the facility. 257

~~(E)~~(F) "Days Working days" excludes Saturdays, Sundays, and 258
legal holidays as defined in section 1.14 of the Revised Code and 259
"hours" excludes hours on Saturdays, Sundays, and legal holidays. 260

~~(F)~~(G) "Designer" means an engineer, architect, landscape 261
architect, contractor, surveyor, or other person who develops 262
plans or designs for real property improvement or any other 263
activity that will involve excavation. 264

~~(G)~~(H) "Developer" means the person for whom the excavation 265
is made and who will own or be the lessee of any improvement that 266
is the object of the excavation. 267

~~(H)~~(I) "Excavation" means the use of hand tools, powered 268

equipment, or explosives to move earth, rock, or other materials 269
in order to penetrate or bore or drill into the earth, or to 270
demolish any structure whether or not it is intended that the 271
demolition will disturb the earth. "Excavation" includes such 272
agricultural operations as the installation of drain tile, but 273
excludes agricultural operations such as tilling that do not 274
penetrate the earth to a depth of more than twelve inches. 275
"Excavation" excludes any activity by a governmental entity which 276
does not penetrate the earth to a depth of more than twelve 277
inches. "Excavation" excludes ~~any underground coal mining and~~ 278
~~reclamation operations that do not involve disturbance to the~~ 279
~~earth's surface regulated under Chapter 1513. of the Revised Code~~ 280
~~and rules adopted under it.~~ 281

~~(I)~~(J) "Excavation site" means the area within which 282
excavation will be performed. 283

~~(J)~~(K) "Excavator" means the ~~contractor or other person who~~ 284
~~is~~ or persons responsible for making the actual excavation. 285

~~(K)~~(L) "Interstate gas pipeline" means an interstate gas 286
pipeline subject to the "Natural Gas Pipeline Safety Act of 1968," 287
82 Stat. 720, 49 U.S.C. 1671, as amended. 288

~~(L)~~(M) "Interstate hazardous liquids pipeline" means an 289
interstate hazardous liquids pipeline subject to the "Hazardous 290
Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C. 291
2002, as amended. 292

~~(M)~~(N) "Special notification requirements" means requirements 293
for notice to an owner of an interstate hazardous liquids pipeline 294
or an interstate gas pipeline that must be made prior to 295
commencing excavation and pursuant to the owner's public safety 296
program adopted under federal law. 297

(O) "Commercial excavator" means any excavator, excluding a 298
utility as defined in this section, that satisfies both of the 299

<u>following:</u>	300
<u>(1) For compensation, performs, directs, supervises, or is</u>	301
<u>responsible for the excavation, construction, improvement,</u>	302
<u>renovation, repair, or maintenance on a construction project and</u>	303
<u>holds out or represents oneself as qualified or permitted to act</u>	304
<u>as such;</u>	305
<u>(2) Employs tradespersons who actually perform excavation,</u>	306
<u>construction, improvement, renovation, repair, or maintenance on a</u>	307
<u>construction project.</u>	308
<u>(P) "Person" has the same meaning as in section 1.59 of the</u>	309
<u>Revised Code and also includes a public authority.</u>	310
<u>(Q) "Positive response system" means an automated system</u>	311
<u>facilitated by a protection service allowing a utility to</u>	312
<u>communicate to an excavator the presence or absence of any</u>	313
<u>conflict between the existing underground utility facilities and</u>	314
<u>the proposed excavation site.</u>	315
<u>(R) "One call notification system" means the software or</u>	316
<u>communications system used by a protection system to notify its</u>	317
<u>membership of proposed excavation sites.</u>	318
<u>(S) "Project" means any undertaking by a private party of an</u>	319
<u>improvement requiring excavation.</u>	320
<u>(T) "Public authority" has the same meaning as in section</u>	321
<u>153.64 of the Revised Code.</u>	322
<u>(U) "Improvement" means any construction, reconstruction,</u>	323
<u>improvement, enlargement, alteration, or repair of a building,</u>	324
<u>highway, drainage system, water system, road, street, alley,</u>	325
<u>sewer, ditch, sewage disposal plant, water works, and all other</u>	326
<u>structures or works of any nature.</u>	327
<u>(V) "Emergency" means an unexpected occurrence causing a</u>	328
<u>disruption or damage to an underground utility facility that</u>	329

requires immediate repair or a situation that creates a clear and 330
imminent danger that demands immediate action to prevent or 331
mitigate loss of or damage to life, health, property, or essential 332
public services. 333

(W) "Nondestructive manner" means using low-impact, low-risk 334
technologies such as hand tools, or hydro or air vacuum excavation 335
equipment. 336

Sec. 3781.26. (A) Each utility that owns or operates 337
underground utility facilities shall participate in and register 338
the location of its underground utility facilities with a 339
protection service that serves the area where the facilities are 340
located. A utility may elect to participate in the service on a 341
limited basis and if it does so, it shall register the location of 342
its underground utility facilities ~~only~~ by identifying the 343
municipal corporations, and outside the limits of a municipal 344
corporation, the townships by county and, where applicable, the 345
immediate geographic area in which it has facilities. The service 346
shall establish reasonable fees for limited basis participants. 347

(B) Protection services, utilities, commercial excavators, 348
excavation equipment dealers, the public utilities commission of 349
Ohio, the board of building standards, local law enforcement 350
agencies, and fire departments should publicize the importance of 351
ascertaining the location of underground utility facilities before 352
excavating and the use of protection services to ascertain that 353
information. 354

(C) A protection service shall maintain records of 355
notifications received from developers, designers, and excavators, 356
and of its notifications made to utilities, developers, designers, 357
and excavators, under sections 3781.27 and 3781.28 of the Revised 358
Code. The records of a protection service shall identify by 359
reference number, the notifications it received regarding a 360

proposed excavation site, the notifications it provided regarding 361
a proposed excavation site, and the date and time of each 362
notification. 363

(D) Each utility fully participating in a protection service 364
pursuant to this section shall also participate in its affiliated 365
positive response system. Each utility participating in a 366
protection service on a limited basis shall directly communicate 367
to the excavator the presence or absence of any conflict between 368
the existing underground utility facilities and the proposed 369
excavation site. 370

Sec. 3781.261. An excavator, contractor, or utility that 371
utilizes a protection service shall obtain training in the 372
protection of underground utility facilities. An excavator, 373
contractor, or utility shall be deemed to have obtained that 374
training if the excavator, contractor, or utility is a member of a 375
protection service or a statewide association representing 376
excavators, contractors, or utilities and the service or 377
association provides that training. An excavator, contractor, or 378
utility also may obtain the training from such a service or 379
association without becoming a member. 380

Sec. 3781.27. Sections 3781.27 to 3781.32 do not apply to 381
"public improvements" as defined in section 153.64 of the Revised 382
Code. 383

(A) In order to ascertain the name of each utility with 384
underground utility facilities located at the proposed excavation 385
site and the types and ~~approximate location~~ tolerance zones of 386
those facilities based on current records of the utility, any 387
developer who is planning a project that will require excavation 388
or the designer employed by the developer for the project shall 389
notify ~~the~~ a protection service of the location of the proposed 390

excavation site. 391

(B) Except in the case of limited basis participants, the 392
protection service shall provide notice of the proposed excavation 393
to each participant in the service that has underground utility 394
facilities in the area of the proposed excavation site. ~~In~~ Except 395
as provided in section 3781.271 of the Revised Code, in the case 396
of limited basis participants, the protection service shall notify 397
the developer or the designer employed by the developer of the 398
name of each limited basis participant with underground utility 399
facilities within the municipal corporation or township and county 400
of the proposed excavation site, and the developer or designer 401
shall contact that utility. 402

(C)(1) Each utility that has any underground utility 403
facilities in the area of the proposed excavation site shall 404
notify the developer or the designer employed by the developer of 405
the ~~approximate~~ locations and description of the utility's 406
underground utility facilities located at the proposed excavation 407
site, ~~or that the utility does not have any underground utility~~ 408
~~facilities at the site~~ in accordance with division (C)(2) of this 409
section. The utility shall make this notification within ten 410
working days of receiving a notice under division (B) of this 411
section or by a later date acceptable to the developer or designer 412
and utility. In the case of an interstate hazardous liquid 413
pipeline or an interstate gas pipeline, the utility also shall 414
provide written notice to the developer or designer of any special 415
notification requirements. 416

(2) If requested by the developer or the designer employed by 417
the developer, each utility shall do one of the following in order 418
to comply with the notification requirements of division (C)(1) of 419
this section: 420

(a) Mark the location of the underground utility facilities, 421
other than those facilities serving single-family or two-, three-, 422

or four-unit dwellings, at the proposed excavation site in 423
accordance with the marking standards described in division (C) of 424
section 3781.29 of the Revised Code; 425

(b) Provide digital or paper drawings, or both, that meet 426
both of the following requirements: 427

(i) They are drawn to scale and include locatable items. 428
Locatable items may include poles, pedestals, back of curb, 429
sidewalk, edge of pavement, centerline of ditch, property lines, 430
and other similar items. 431

(ii) They depict the location of the underground utility 432
facilities. 433

Compliance with division (C)(2) of this section does not 434
relieve a utility from compliance with the marking requirements of 435
section 3781.29 of the Revised Code. 436

(D) The utility shall determine if any relocation, support, 437
or removal, or protective steps beyond those described in 438
divisions (A)(1) to ~~(D)~~(5) of section 3781.30 of the Revised Code 439
are required in order to prevent disturbance or interference with 440
the underground utility facilities during excavation. The utility 441
shall determine whether it will permit the developer or the 442
designer employed by the developer to make those adjustments, and, 443
if the adjustments are to be made by the utility, a reasonable 444
amount of time necessary to make those adjustments. 445

(E)(1) Based on the information provided pursuant to division 446
(C) of this section, the developer or the designer employed by the 447
developer shall indicate the approximate locations of underground 448
utility facilities either on or with the plans prepared for the 449
project. The developer or designer shall include with the plans 450
the names, addresses, and telephone numbers of utilities with 451
underground facilities at the excavation site, indicating which 452
utilities are limited basis participants; the name and telephone 453

number of ~~the~~ any appropriate protection service; and any required 454
adjustments as described in division (D) of this section, 455
including the reasonable time necessary for the utility to make 456
those adjustments. In the case of an interstate hazardous liquid 457
pipeline or an interstate gas pipeline, the developer or designer 458
also shall include any special notification requirements. 459

(2)(a) Except as otherwise provided in division (E)(2)(b) of 460
this section, the developer or designer shall provide the plans to 461
the commercial excavator ~~before excavation begins~~ prior to 462
entering into a contract that involves such excavation. If the 463
developer does not prepare written plans or have any written plans 464
prepared, ~~he~~ the developer shall otherwise provide the approximate 465
locations, identifying information on the utilities, information 466
on required adjustments, and any special notification requirements 467
to the commercial excavator before excavation begins. 468

(b) When the developer is a utility, ~~he~~ the utility shall 469
provide either the plans or the approximate locations, identifying 470
information on the utilities, information on required adjustments, 471
and any special notification requirements to the excavator before 472
excavation begins. 473

(3) The developer or designer shall design the project taking 474
into account the approximate location of existing underground 475
utility facilities in order to prevent, as far as is practicable, 476
disturbance or interference with those facilities. 477

(4) When a project includes installation of new underground 478
utility facilities, the developer or designer shall attempt to 479
design the installation so that at least a twelve-inch clearance 480
is provided between the facilities. No facility shall be installed 481
with less than a twelve-inch clearance unless the owners of 482
existing facilities are notified, in writing, prior to 483
installation. 484

(F)(1) This section does not apply in the case of a utility 485
making emergency repair to its own underground utility facility. 486

(2) This section does not apply in the case of the owner of 487
the types of real property identified in divisions (C)(1) to (4) 488
of section 3781.25 of the Revised Code, unless the owner employs a 489
designer to make written plans for work that will involve 490
excavation. If the owner employs a designer, the designer shall 491
contact ~~the utility~~ a protection service and utilities that are 492
limited basis participants in accordance with divisions (A) and 493
(B) of this section, and shall include in or with the plans the 494
information required under division (E) of this section. The owner 495
shall provide that information to the excavator. 496

Sec. 3781.271. Beginning on July 1, 2013, each protection 497
service shall reasonably modify its one-call notification system 498
so as to permit the reasonable identification of the location of a 499
proposed excavation site in a manner in which the protection 500
service may then notify any potentially affected limited basis 501
participants. Each member of a protection service, including 502
limited basis participants, shall be responsible for providing 503
current contact information to the protection service. 504

Sec. 3781.28. (A) Except as otherwise provided in divisions 505
(C), (D), (E), and (F) of this section, at least forty-eight hours 506
but not more than ten working days before commencing excavation, 507
the excavator shall notify ~~the~~ a protection service of the 508
location of the excavation site and the date on which excavation 509
is planned to commence. 510

(B) On receipt of notice under division (A) of this section, 511
the protection service shall provide to each utility with 512
underground utility facilities located at the excavation site, 513
notice of the proposed excavation, ~~except that in the case of a~~ 514

~~limited basis participant in the service, the service shall notify 515
the excavator of the name of each limited basis participant with 516
underground utility facilities located in the municipal 517
corporation or township and county of the proposed excavation 518
site, and the excavator shall notify the limited basis participant 519
of the proposed excavation at least forty eight hours but not more 520
than ten days before commencing excavation. The excavator may make 521
this notification by telephone. 522~~

(C) In the case of an interstate hazardous liquids pipeline 523
or interstate gas pipeline, the excavator shall comply with the 524
special notice requirements of the public safety program of the 525
owner of the pipeline as indicated in the plans or otherwise 526
provided to the excavator in accordance with division (E) or 527
(F)(2) of section 3781.27 of the Revised Code. 528

(D) If it has been determined pursuant to division (D) of 529
section 3781.27 of the Revised Code that relocation, support, 530
removal, or protective steps are necessary, the excavator shall 531
provide earlier notice to the utility in order to provide the 532
utility with reasonable time to coordinate making the adjustments 533
with actual excavation. 534

(E) If an excavation will cover a large area and will 535
progress from one area to the next over a period of time, the 536
excavator shall provide written notice of excavation with 537
projected timelines for segments of the excavation as the 538
excavation progresses in order to coordinate the marking of 539
~~approximate locations~~ underground utility facilities with actual 540
excavation schedules. Under such circumstances, the utility and 541
excavator shall determine a mutually agreed upon marking schedule 542
based on the project schedule. Once such a schedule is 543
established, the marking and notification requirements set forth 544
in division (A)(1) of section 3781.29 of the Revised Code shall 545
not apply. 546

(F)(1) In the case of a utility that is making an emergency 547
repair to its own underground utility system or a governmental 548
entity making an underground emergency repair to traffic control 549
devices, as defined in section 4511.01 of the Revised Code, used 550
on any street or highway under the entity's jurisdiction, the 551
utility or governmental entity shall notify ~~the~~ a protection 552
service and each limited basis participant of the excavation site. 553
This notice need not occur before commencing excavation. 554

(2) In the case of an excavation at the site of real property 555
of the type described in divisions (C)(1) to (4) of section 556
3781.25 of the Revised Code: 557

(a) If the owner of the property is the excavator, this 558
section does not apply unless the excavation is planned for an 559
area where a utility easement is located ~~or~~, a public 560
right-of-way, or where utility facilities are known to serve the 561
property. 562

(b) If the owner of the property employs an excavator, the 563
excavator shall comply with the requirements of this section. If 564
the owner did not employ a designer to make written plans, the 565
excavator shall provide the notice required under this section to 566
~~the~~ a protection service and to each utility that is a limited 567
basis participant in ~~the~~ a protection service that has underground 568
utility facilities within the municipal corporation or township 569
and county of the excavation site, as indicated by the protection 570
service. 571

Sec. 3781.29. (A)(1) Except as otherwise provided in division 572
(A)(2) of this section, within forty-eight hours of receiving 573
notice under section 3781.28 of the Revised Code, each utility 574
shall review the status of its facilities within the excavation 575
site, locate and mark ~~the approximate location of~~ its underground 576
utility facilities at the excavation site in such a manner as to 577

indicate their course, and report the appropriate information to 578
the protection service for its positive response system. If a 579
utility does not mark its underground utility facilities or 580
contact the excavator within ~~forty eight hours of receiving notice~~ 581
~~under section 3781.28 of the Revised Code~~ that time, the utility 582
is deemed to have given notice that it does not have any 583
facilities at the excavation site. If the utility cannot 584
accurately mark the ~~approximate location~~ facilities, the utility 585
shall mark ~~the approximate location~~ them to the best of its 586
ability, notify the excavator using the positive response system 587
that the markings may not be accurate, and provide additional 588
guidance to the excavator in locating the facilities as needed 589
during the excavation. 590

(2) In the case of an interstate hazardous liquids pipeline 591
or an interstate gas pipeline, the owner of the pipeline shall 592
locate and mark ~~the approximate location of~~ its pipeline within 593
the time frame established in the public safety program of the 594
owner. 595

(B) Unless a facility actually is uncovered or probed by the 596
utility or excavator, any indications of the depth of the facility 597
shall be treated as estimates only. 598

(C) ~~A~~ (1) Except as provided in division (C)(2) of this 599
section, a utility shall mark ~~the approximate location of~~ its 600
underground facilities using the following color codes: 601

Type of Underground			602
Utility Facility		Color	603
Electric power transmission		Safety red	604
and distribution			605
Gas transmission and distribution		High visibility safety yellow	606
Oil transmission and distribution		High visibility safety yellow	607
Dangerous materials, product		High visibility safety yellow	608
lines, and steam lines			609

Telephone and telegraph systems	Safety alert orange	610
Police and fire communications	Safety alert orange	611
Cable television	Safety alert orange	612
Water systems	Safety precaution blue	613
Slurry systems	Safety precaution blue <u>purple</u>	614
Sewer lines	Safety green.	615

(2) All underground facilities shall be marked in accordance with the Ohio universal marking standards that are on file with the Ohio utilities protection service. Industry representatives serving on Ohio damage prevention councils shall review the marking standards every two years.

(D) Except as otherwise provided in divisions (E) and (F) of this section, prior to notifying a protection service of the proposed excavation, an excavator shall define and premark the approximate location. Proposed construction or excavation markings shall be made in white through the use of an industry-recognized method such as chalk-based paint, flags, stakes, or other method applicable to the specific site and when possible shall indicate the excavator's identity by name, abbreviation, or initial.

(E)(1) Before beginning an emergency excavation, or as soon as possible thereafter, an excavator shall make every effort to notify a protection service of the excavation. In providing notification, the excavator shall provide, at a minimum:

(a) The name of the individual notifying the protection service;

(b) The name, address, any electronic mail address, and any telephone and facsimile numbers of the excavator;

(c) The specific location of the excavation site;

(d) A description of the excavation.

(2) Upon receiving the information set forth in division (E)(1) of this section, the protection service shall provide the

excavator with a reference number and a list of utilities that the protection service intends to notify. The protection service shall immediately notify each utility that according to the registration information provided under section 3781.26 of the Revised Code has facilities located within the designated area of the emergency excavation.

(3) Any utility notified of an emergency excavation may inspect all of its underground utility facilities located at the emergency excavation site and may take any otherwise lawful action it considers necessary to prevent disturbance to or interference with its facilities during excavation.

(F) An excavator is not required to premark the approximate location of an excavation as provided in division (D) of this section in any of the following situations:

(1) The utility can determine the precise location, direction, size, and length of the proposed excavation site by referring to the notification provided by the protection service pursuant to sections 3781.27 and 3781.28 of the Revised Code.

(2) The excavator and the affected utility have had an on-site, preconstruction meeting for the purpose of premarking the excavation site.

(3) The excavation involves replacing a pole that is within five feet of the location of an existing pole.

(4) Premarking by the excavator would clearly interfere with pedestrian or vehicular traffic control.

Sec. 3781.30. (A) When making excavations using traditional or trenchless technologies, the excavator shall do all of the following:

(A)(1) Maintain reasonable clearance between any underground facility and the cutting edge or point of powered equipment;

~~(B)~~(2) Protect and preserve the markings of ~~approximate~~ 671
~~locations~~ tolerance zones of underground utility facilities until 672
those markings are no longer required for proper and safe 673
excavations; 674

~~(C)~~(3) When approaching and excavating within the tolerance 675
zone of underground utility facilities ~~while excavating~~ with 676
powered equipment, require an individual other than the equipment 677
operator, to ~~look~~ visually monitor the excavation activity for any 678
~~sign~~ indication of the underground utility facility; 679

~~(D)~~(4) Conduct the excavation ~~in~~ within the ~~vicinity~~ 680
tolerance zone of ~~the~~ underground utility ~~facility~~ facilities in a 681
careful ~~and~~, prudent, and nondestructive manner, ~~excavating by~~ 682
~~hand, if~~ when necessary, ~~to determine the precise location of the~~ 683
~~facility and~~ in order to prevent damage; 684

~~(E)~~(5) Excavate up to the total depth of the excavation to 685
either determine the precise location of underground utility 686
facilities or verify that the total depth of excavation is free of 687
such facilities; 688

(6) As soon as any damage is discovered, including gouges, 689
dents, or breaks to coatings, cable sheathes, and cathodic 690
protection anodes or wiring, report the type and location of the 691
damage to the utility and permit the utility a reasonable amount 692
of time to make necessary repairs; 693

~~(F)~~(7) Immediately report to the utility, the protection 694
service, and, if necessary, to the appropriate law enforcement 695
agencies and fire departments by calling 9-1-1, any damage to an 696
underground utility facility that results in escaping flammable, 697
corrosive, explosive, or toxic liquids or gas, and take reasonable 698
appropriate actions needed to protect persons and property and to 699
minimize safety hazards until those agencies and departments and 700
the utility arrive at the scene. 701

(B) When utilizing trenchless excavation methods, the excavator must comply with the following requirements, in a manner consistent with division (A) of this section: 702
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(1) Expose and confirm all underground utility facilities at each crossing point by the proposed excavation in a nondestructive manner to the installation depth of the new facility; 705
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(2) Expose all parallel underground utility facilities in a nondestructive manner at the beginning and end of each trenchless excavation to the installation depth of the new facility. If the proposed alignment is within the tolerance zone of any parallel underground utility facility, the underground utility facility shall be exposed every one hundred feet. 708
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(3) Ensure that the final product installation maintains the proper clearances of existing underground utility facilities as determined pursuant to division (E)(4) of section 3781.27 of the Revised Code. 714
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Sec. 3781.31. (A) When a utility marks ~~the approximate~~ 718
~~location~~ of its underground utility facilities in accordance with 719
~~division (A) of~~ section 3781.29 of the Revised Code, the utility 720
may request that the excavator provide prior notice to the utility 721
of the actual commencement of the excavation. An excavator that 722
receives a request for notice under this division shall provide 723
the notice to the utility at least ~~twenty-four hours~~ one full 724
working day prior to the commencement of excavation. The excavator 725
may make this notice by telephone. 726

(B) If the markings of ~~approximate locations~~ underground 727
utility facilities made under section 3781.29 of the Revised Code 728
are destroyed or removed before excavation is completed, the 729
excavator shall notify the utility through the protection service 730
that the markings have been destroyed or removed, and the utility 731
shall remark the ~~approximate locations within forty-eight hours of~~ 732

~~the notice~~ facilities in accordance with section 3781.29 of the 733
Revised Code. 734

Sec. 3781.32. (A) Any connections or tie-ins to existing 735
utility services within a public right-of-way shall comply with 736
permit requirements of the public ~~agency~~ authority that has 737
jurisdiction over that right-of-way. 738

(B) A developer or the designer employed by the developer 739
shall not require, as a condition for entering into a contract for 740
a project that will require excavation, that responsibility for 741
performance of duties imposed under sections 3781.25 to 3781.32 of 742
the Revised Code shall be assumed by a person other than the 743
person on whom those duties are imposed under those sections. This 744
division does not prohibit a utility from entering into any 745
contract for the performance of duties that are imposed on a 746
utility under those sections. 747

(C) Nothing in sections 3728.25 to 3728.32 of the Revised 748
Code shall be construed to require a utility to relocate its 749
underground utility facilities located at an excavation site. 750

Section 2. That existing sections 153.64, 3781.25, 3781.26, 751
3781.27, 3781.28, 3781.29, 3781.30, 3781.31, and 3781.32 of the 752
Revised Code are hereby repealed. 753