

AMENDMENTS TO LB930

Introduced by Transportation and Telecommunications

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 76-2301, Revised Statutes Supplement,
4 2013, is amended to read:

5 76-2301 Sections 76-2301 to 76-2330 and section 2 of this
6 act shall be known and may be cited as the One-Call Notification
7 System Act.

8 Sec. 2. Unless otherwise agreed by the operator and
9 excavator in writing, no excavation shall be performed within
10 twenty-five feet of an underground natural gas transmission line
11 as defined in 49 C.F.R. Part 192.3 unless a representative of
12 the operator of the underground natural gas transmission line
13 is present at the planned excavation area. If the representative
14 of the operator fails to appear at the proposed excavation area
15 at the time work is scheduled to commence, the excavator shall
16 notify the operator that the representative failed to appear and
17 excavation operations can begin if reasonable precautions are
18 taken to protect the underground facility. This section does
19 not prohibit an operator from either voluntarily having its
20 representative present during excavation or from entering into
21 an agreement voluntarily with an excavator that allows an operator
22 representative to be present during excavation.

23 Sec. 3. Section 76-2323, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 76-2323 (1) Upon receipt of the information contained in
3 the notice pursuant to section 76-2321, an operator shall advise
4 the excavator of the approximate location of underground facilities
5 in the area of the proposed excavation by marking or identifying
6 the location of the underground facilities with stakes, flags,
7 paint, or any other clearly identifiable marking or reference point
8 and shall indicate if the underground facilities are subject to
9 section 2 of this act. The location of the underground facility
10 given by the operator shall be within a strip of land eighteen
11 inches on either side of the marking or identification plus
12 one-half of the width of the underground facility. If in the
13 opinion of the operator the precise location of a facility cannot
14 be determined and marked as required, the operator shall provide
15 all pertinent information and field locating assistance to the
16 excavator at a mutually agreed to time. The location shall be
17 marked or identified using color standards prescribed by the
18 center. The operator shall respond no later than two business
19 days after receipt of the information in the notice or at a time
20 mutually agreed to by the parties.

21 (2) The marking or identification shall be done in a
22 manner that will last for a minimum of five business days on
23 any nonpermanent surface and a minimum of ten business days on
24 any permanent surface. If the excavation will continue for longer
25 than five business days, the operator shall remark or reidentify
26 the location of the underground facility upon the request of the
27 excavator. The request for remarking or reidentification shall be

1 made through the center.

2 (3) An operator who determines that it does not have any
3 underground facility located in the area of the proposed excavation
4 shall notify the excavator of the determination prior to the date
5 of commencement of the excavation.

6 Sec. 4. Section 76-2324, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 76-2324 An excavator who fails to give notice of an
9 excavation pursuant to section 76-2321 or who fails to comply with
10 section 2 of this act and who damages an underground facility by
11 such excavation shall be strictly liable to the operator of the
12 underground facility for the cost of all repairs to the underground
13 facility. An excavator who gives the notice and who damages an
14 underground facility shall be liable to the operator for the cost
15 of all repairs to the underground facility unless the damage to
16 the underground facility was due to the operator's failure to
17 comply with section 76-2323. An excavator who fails to give notice
18 of an excavation pursuant to section 76-2321 and who damages an
19 underground facility that is operated by the excavator shall not be
20 in violation of the One-Call Notification System Act.

21 In addition to any liability provided in this section an
22 operator of a damaged underground facility shall be entitled to any
23 other remedies available at law or in equity provided by statute or
24 otherwise.

25 Sec. 5. Section 76-2325, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 76-2325 Any person who violates the provisions of section

1 76-2320, 76-2321, 76-2322, 76-2323, 76-2326, or 76-2330 or section
2 2 of this act shall be subject to a civil penalty as follows:

3 (1) For a violation related to a gas or hazardous liquid
4 underground pipeline facility, an amount not to exceed ten thousand
5 dollars for each violation for each day the violation persists, up
6 to a maximum of five hundred thousand dollars; and

7 (2) For a violation related to any other underground
8 facility, an amount not to exceed five hundred dollars for each day
9 the violation persists, up to a maximum of five thousand dollars.

10 An action to recover a civil penalty shall be brought
11 by the Attorney General or a prosecuting attorney on behalf of
12 the State of Nebraska in any court of competent jurisdiction of
13 this state. The trial shall be before the court, which shall
14 consider the nature, circumstances, and gravity of the violation
15 and, with respect to the person found to have committed the
16 violation, the degree of culpability, the absence or existence of
17 prior violations, whether the violation was a willful act, any
18 good faith attempt to achieve compliance, and such other matters as
19 justice may require in determining the amount of penalty imposed.
20 All penalties shall be ~~handled and distributed pursuant to~~ remitted
21 to the State Treasurer for distribution in accordance with Article
22 VII, section 5, of the Constitution of Nebraska.

23 Sec. 6. Original sections 76-2323, 76-2324, and 76-2325,
24 Reissue Revised Statutes of Nebraska, and section 76-2301, Revised
25 Statutes Supplement, 2013, are repealed.