

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 884

Introduced by Cavanaugh, M., 6.

Read first time January 07, 2022

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to the One-Call Notification System Act; to
2 amend sections 76-2302, 76-2313, 76-2317, 76-2321, 76-2324, and
3 76-2326, Reissue Revised Statutes of Nebraska, and sections 76-2301
4 and 76-2303, Revised Statutes Cumulative Supplement, 2020; to
5 restate legislative intent; to define and redefine terms; to provide
6 for notice to private residential owners as prescribed; to provide
7 duties; to harmonize provisions; and to repeal the original
8 sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-2301, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 76-2301 Sections 76-2301 to 76-2332 and sections 5 and 6 of this act
4 shall be known and may be cited as the One-Call Notification System Act.

5 Sec. 2. Section 76-2302, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 76-2302 (1) It is the intent of the Legislature to establish a means
8 by which excavators may notify operators and private residential owners
9 of underground facilities in an excavation area. The so that operators
10 will then have the opportunity to identify and locate the underground
11 facilities prior to excavation and so that the excavators will ~~may then~~
12 observe proper precautions to safeguard the underground facilities from
13 damage.

14 (2) It is the purpose of the One-Call Notification System Act to aid
15 the public by preventing injury to persons and damage to property and the
16 interruption of utility services resulting from accidents caused by
17 damage to underground facilities.

18 Sec. 3. Section 76-2303, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 76-2303 For purposes of the One-Call Notification System Act, the
21 definitions found in sections 76-2303.01 to 76-2317 and sections 5 and 6
22 of this act shall be used.

23 Sec. 4. Section 76-2313, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 76-2313 Operator means ~~shall mean~~ a person who manages or controls
26 the functions of an underground facility but shall not include a private
27 residential owner or other person who is an owner or tenant of real
28 property where underground facilities are located if the underground
29 facilities are used exclusively to furnish services or commodities on the
30 real property.

31 Sec. 5. Private residential owner means a person other than an

1 operator who owns a residential property and who is responsible for
2 maintenance and repair of underground sewer lines on such property,
3 regardless of whether or not such person has homeowners insurance
4 coverage for repair of sewer line damage.

5 Sec. 6. Sewer plane means the underground space that contains a
6 sewer line to a private residential property, generally from the lowest
7 point of the residential property to the top of the sewer main to which
8 the sewer line is connected.

9 Sec. 7. Section 76-2317, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 76-2317 Underground facility means shall mean any item of personal
12 property buried or placed below ground for use in connection with the
13 storage or conveyance of water, sewage, electronic communications,
14 telephonic communications, telegraphic communications, cable television,
15 electric energy, oil, gas, hazardous liquids, or other substances,
16 including pipes, trunk lines, fiber optic cables, sewers, conduits,
17 cables, valves, lines, wires, manholes, and attachments to such personal
18 property. Underground facility includes a private sewer line owned by a
19 private residential owner if such line operates at sewer depth or within
20 the sewer plane.

21 Sec. 8. Section 76-2321, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-2321 (1) A person shall not commence any excavation without first
24 giving notice to every operator and private residential owner. An
25 excavator's notice to the center shall be deemed notice to all operators.
26 An excavator's notice to operators shall be ineffective for purposes of
27 this subsection unless given to the center. Notice to the center shall be
28 given at least two full business days, but no more than ten business
29 days, before commencing the excavation, except notice may be given more
30 than ten business days in advance when the excavation is a road
31 construction, widening, repair, or grading project provided for in

1 sections 70-311 to 70-313 and 86-708 to 86-710. An excavator may commence
2 work before the elapse of two full business days when (a) notice to the
3 private residential owner and the center has been given as provided by
4 this subsection and (b) all the affected operators have notified the
5 excavator that the location of all the affected operator's underground
6 facilities have been marked or that the operators have no underground
7 facilities in the location of the proposed excavation.

8 (2) The notice required pursuant to subsection (1) of this section
9 shall include (a) the name and telephone number of the person making the
10 notification, (b) the name, address, and telephone number of the
11 excavator, (c) the location of the area of the proposed excavation,
12 including the range, township, section, and quarter section, unless the
13 area is within the corporate limits of a city or village, in which case
14 the location may be by street address, (d) the date and time excavation
15 is scheduled to commence, (e) the depth of excavation, (f) the type and
16 extent of excavation being planned, including whether the excavation
17 involves tunneling or horizontal boring, and (g) whether the use of
18 explosives is anticipated.

19 Sec. 9. Section 76-2324, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 76-2324 An excavator who fails to give notice of an excavation
22 pursuant to section 76-2321 or who fails to comply with section 76-2331
23 and who damages an underground facility by such excavation shall be
24 strictly liable to the operator or private residential owner of the
25 underground facility for the cost of all repairs to the underground
26 facility. An excavator who gives the notice and who damages an
27 underground facility shall be liable to the operator or private
28 residential owner for the cost of all repairs to the underground
29 facility, except that if any unless the damage to the operator's
30 underground facility was due to the operator's failure to comply with
31 section 76-2323, the excavator shall not be liable to the operator for

1 such cost. An excavator who fails to give notice of an excavation
2 pursuant to section 76-2321 and who damages an underground facility that
3 is operated by the excavator shall not be in violation of the One-Call
4 Notification System Act.

5 In addition to any liability provided in this section an operator or
6 private residential owner of a damaged underground facility shall be
7 entitled to any other remedies available at law or in equity provided by
8 statute or otherwise.

9 Sec. 10. Section 76-2326, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 76-2326 If any underground facility is damaged, dislocated, or
12 disturbed before or during excavation, including if discovered by the
13 private residential owner and reported to the excavator within a
14 reasonable time after such discovery, the excavator shall immediately
15 notify the center. An excavator shall not conceal or attempt to conceal
16 damage, dislocation, or disturbance of an underground facility and shall
17 not repair or attempt to repair the underground facility unless
18 authorized by the operator or private residential owner of the
19 underground facility.

20 Sec. 11. Original sections 76-2302, 76-2313, 76-2317, 76-2321,
21 76-2324, and 76-2326, Reissue Revised Statutes of Nebraska, and sections
22 76-2301 and 76-2303, Revised Statutes Cumulative Supplement, 2020, are
23 repealed.