



Changes to Kentucky's Call-Before-You-Dig Law: What They Mean to You

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SENATE BILL 104

- Changes made in SB 104 did not change the ways in which a party could be held liable under the Facility Damage Prevention Act of 1994; KRS 367.409 “The Dig Law”
- Penalty amounts were not changed
- Operator/Excavator responsibilities were not changed
- Designated the Kentucky Public Service Commission as the statewide Enforcement Authority



SENATE BILL 104

Enacted by the Kentucky General Assembly and signed by Governor Matt Bevin gave the PSC the “authority to enforce the existing provisions in Kentucky Statutes that are intended to protect natural gas and hazardous liquids pipelines in Kentucky by amending KRS 367.4901-4917. (Dig Law) Law goes into effect on July 14, 2018.

The changes in the Dig Law grants the PSC “statewide authority to enforce and assess injunctive relief (penalties) for any violation that results in damage to an underground facility used to transport gas or hazardous liquids subject to federal pipeline safety laws...”



Pipeline and Hazardous Materials Safety Administration (PHMSA)

- Kentucky, through a federal grant program, has the responsibility to enforce Federal Pipeline Safety Regulations for PHMSA
- Grant requires the effective enforcement of damage prevention regulations
- In 2016 and 2017 the Kentucky program was deemed deficient
- Changes enacted through SB 104 brings Kentucky's Pipeline Safety Program into compliance



WHO IS AFFECTED BY THE CHANGES IN THE DIG LAW

UTILITIES

- Investor Owned Natural Gas & Hazardous Liquids Operators
- Municipal Natural Gas Operators
- Master Meter Operators

EXCAVATORS

- General contractors etc.

GENERAL PUBLIC

- Homeowners



HOW WILL KYPSC ENFORCE THE NEW PROVISIONS OF THIS LAW

- This is definitely a “work in progress” and will be defined prior to implementation of the Commission’s enforcement process. I and other staff are working on the investigative process.
- A big part of that process is why I am here today and will be making presentations and answering questions to educate all stakeholders on how our enforcement process will work. There is a lot of work to do between now and implementation.



HOW WILL KYPSC ENFORCE THE PROVISIONS OF THIS LAW

GAS EXCAVATION DAMAGE REPORTING

- Damage Prevention Reporting System
- Collecting data since September 2017
- All Operators will be required to use the system
- Email notification will be coming out soon



HOW WILL KYPSC ENFORCE THE PROVISIONS OF THIS LAW

PSC INVESTIGATIVE PROCESS

- Specific data/information will be required with the Operator's initial submission through the Damage Reporting System.
- The damaging party will have the opportunity to provide information in support of why they should not be assessed a fine based on the damaged party (operator's) initial submission to the Commission. (Their side of the story)
- Not every reported damage reported to the Commission will result in a penalty.



PENALTIES

I should note that utility operators could be subject to penalties just as excavators and homeowners for not responding to locate requests or for improperly or inaccurately locating their underground facilities.

<u>Penalties</u>	<i>up to:</i>	\$1,250 for a First violation
		\$2,000 for a Second violation
		\$4,000 for Subsequent Violations

Note that I said “**up to**” for the first violation. We do have some discretion on the first violation penalty. Some of the \$1,250 **may** be mitigated by some type of training. The second and subsequent violations will not have mitigation options.



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QUESTIONS?

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