

**SUBSTITUTE FOR  
SENATE BILL NO. 540**

A bill to enhance public safety, protect the environment, and prevent the disruption of vital public services by reducing the incidences of damage to underground facilities caused by excavation or blasting activity by providing notices to facility owners and facility operators before excavation or blasting; to provide for certain notices to affected parties when underground facilities are damaged; to provide for the powers and duties of certain state governmental officers and entities; to allow the promulgation of rules; to prescribe penalties; to allow the imposition of a fee; to provide for immunity for certain individuals; to allow claims for damages against certain governmental entities in certain circumstances; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "MISS

1 DIG underground facility damage prevention and safety act".

2 Sec. 3. As used in this act:

3 (a) "Additional assistance" means a response by a facility  
4 owner or facility operator to a request made by an excavator during  
5 business hours, for help in locating a facility.

6 (b) "Approximate location" means a strip of land at least 36  
7 inches wide, but not wider than the width of the marked facility  
8 plus 18 inches on either side of the facility marks.

9 (c) "Blasting" means changing the level or grade of land or  
10 rendering, tearing, demolishing, moving, or removing earth, rock,  
11 buildings, structures, or other masses or materials by seismic  
12 blasting or the detonation of dynamite or any other explosive  
13 agent.

14 (d) "Business day" means Monday through Friday, excluding  
15 holidays observed by the notification system and posted on the  
16 notification system website.

17 (e) "Business hours" means from 7 a.m. to 5 p.m., eastern  
18 standard time, on business days.

19 (f) "Caution zone" means the area within 48 inches of either  
20 side of the facility marks provided by a facility owner or facility  
21 operator.

22 (g) "Commission" means the Michigan public service commission  
23 created in section 1 of 1939 PA 3, MCL 460.1.

24 (h) "Damage" means any impact upon or exposure of an  
25 underground facility requiring its repair or replacement due to  
26 weakening, partial destruction, or complete destruction of the  
27 facility, including, but not limited to, the protective coating,

1 lateral support, cathodic protection, or housing of the facility.

2 (i) "Design ticket" means a communication to the notification  
3 system in which a request for information regarding underground  
4 facilities for predesign, design, or advance planning purposes, but  
5 not marking for excavation or blasting, is made under the  
6 procedures described in section 6a.

7 (j) "Dig notice" means a communication to the notification  
8 system by an excavator providing notice of intended excavation or  
9 blasting activity as required by this act.

10 (k) "Emergency" means a sudden or unforeseen occurrence,  
11 including a government-declared emergency, involving a clear and  
12 imminent danger to life, health, or property, or imminent danger to  
13 the environment, that requires immediate correction in order to  
14 restore or to prevent the interruption of essential governmental  
15 services, utility services, or the blockage of public  
16 transportation and that requires immediate excavation or blasting.

17 (l) "Emergency notice" means a communication to the  
18 notification system to alert the facility owners or facility  
19 operators of the urgent need for marking the location of a facility  
20 due to an emergency.

21 (m) "Excavation" means, other than surface maintenance,  
22 moving, removing, or otherwise displacing earth, rock, or other  
23 material below existing surface grade with power tools or power  
24 equipment, including, but not limited to, grading, trenching,  
25 tiling, digging, drilling, boring, augering, tunneling, scraping,  
26 cable or pipe plowing, and pile driving; and wrecking, razing,  
27 rending, moving, or removing a structure or mass of materials.

Excavation does not include any of the following:

(i) Any of the following activities performed in the course of farming operations:

(A) Any farming operation performed in the public right-of-way to a depth of not more than 12 inches below the existing surface grade if the farming operation is not performed within 6 feet of any aboveground structure that is part of a facility.

(B) Any farming operation performed outside a public right-of-way and within 25 yards of an existing petroleum or natural gas pipeline to a depth of not more than 18 inches below the existing surface grade if the farming operation is not performed within 6 feet of any aboveground structure that is part of a facility.

(C) Any farming operation performed outside a public right-of-way and not within 25 yards of an existing petroleum or natural gas pipeline if the farming operation is not performed within 6 feet of any aboveground structure that is part of a facility.

(ii) Replacing a fence post, sign post, or guardrail in its existing location.

(iii) Any excavation performed at a grave site in a cemetery.

(iv) Any excavation performed within a landfill unit as defined in R 299.4103 of the Michigan administrative code during its active life as defined in R 299.4101 of the Michigan administrative code or during its postclosure period as set forth in R 299.4101 to R 299.4922 of the Michigan administrative code.

(n) "Excavator" means any person performing excavation or blasting.

(o) "Facility" or "underground facility" means an underground

1 or submerged conductor, pipe, or structure, including, but not  
2 limited to, a conduit, duct, line, pipe, wire, or other device and  
3 its appurtenances used to produce, store, transmit, or distribute a  
4 utility service, including communications, data, cable television,  
5 electricity, heat, natural or manufactured gas, oil, petroleum  
6 products, steam, sewage, video, water, and other similar  
7 substances, including environmental contaminants or hazardous  
8 waste.

9 (p) "Facility operator" means a person that controls the  
10 operation of a facility.

11 (q) "Facility owner" means a person that owns a facility.

12 (r) "Farm" means that term as defined in section 2 of the  
13 Michigan right to farm act, 1981 PA 93, MCL 286.472.

14 (s) "Farming operations" means plowing, cultivating, planting,  
15 harvesting, and similar operations routine to most farms and that  
16 are performed on a farm. Farming operations do not include  
17 installation of drainage tile, underground irrigation lines, or the  
18 drilling of a well.

19 (t) "Governmental agency" means the state and its political  
20 subdivisions, including counties, townships, cities, villages, or  
21 any other governmental entity.

22 (u) "Mark", "marks", or "marking" means the temporary  
23 identification on the surface grade of the location of a facility  
24 in response to a ticket as described in section 7.

25 (v) "Notification system" means MISS DIG System, Inc., a  
26 Michigan nonprofit corporation formed and operated by each facility  
27 owner and facility operator to administer a 1-call system for the

1 location of facilities, or any successor to this corporation.

2 (w) "Person" means an individual, firm, joint venture,  
3 partnership, corporation, association, governmental agency,  
4 department or agency, utility cooperative, or joint stock  
5 association, including any trustee, receiver, assignee, or personal  
6 representative thereof.

7 (x) "Positive response" means the procedure administered by  
8 the notification system to allow excavators to determine whether  
9 all facility owners or facility operators contacted under a ticket  
10 have responded in accordance with this act.

11 (y) "Public right-of-way" means the area on, below, or above a  
12 public roadway, highway, street, alley, easement, or waterway.

13 (z) "Safe zone" means an area 48 inches or more from either  
14 side of the facility marks provided by a facility owner or facility  
15 operator.

16 (aa) "Soft excavation" means a method and technique designed  
17 to prevent contact damage to underground facilities, including, but  
18 not limited to, hand-digging, cautious digging with nonmechanical  
19 tools, vacuum excavation methods, or use of pneumatic hand tools.

20 (bb) "Start date" means the date that a proposed excavation or  
21 blasting is expected to begin as indicated on a ticket.

22 (cc) "Surface maintenance" means the repairing or patching of  
23 road potholes and cracks, reshaping a road surface, graveling and  
24 repositioning loose stone, railroad rail and tie replacement, road  
25 milling and resurfacing that does not extend below the original  
26 road base, and reshaping and repair of the railroad grade. Surface  
27 maintenance does not include any work below the depth of the

1 existing road surface material or 12 inches, whichever is less.

2 (dd) "Ticket" means a communication from the notification  
3 system to a facility owner or facility operator requesting the  
4 marking of underground facilities, based on information provided by  
5 an excavator in a dig notice.

6 (ee) "White lining" means marking by an excavator of the area  
7 of a proposed excavation or blasting, with white paint or flags, or  
8 both, before giving notice to the notification system.

9 Sec. 4. (1) Facility owners and facility operators shall  
10 continue to operate and be members of MISS DIG Systems, Inc., a  
11 Michigan nonprofit corporation, that shall have the duties and  
12 undertake the responsibilities of the notification system under  
13 this act on and after the effective date of this act. The  
14 notification system responsibilities and duties do not include the  
15 physical marking of facilities, which is the responsibility of a  
16 facility owner or facility operator upon notification under this  
17 act.

18 (2) The notification system and its procedures shall be  
19 governed by its board of directors and in accordance with its  
20 current articles of incorporation and bylaws as of the effective  
21 date of this act, with any future changes made in accordance with  
22 the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to  
23 450.3192, and the notification system's articles, bylaws, and board  
24 procedures. The notification system shall request input regarding  
25 its policies from all interested persons, including facility owners  
26 and facility operators, excavators, marking service providers, and  
27 governmental agencies.

1           (3) Funding for the notification system operations shall be  
2 established by the notification system, including through fees  
3 based on a reasonable assessment of operating costs among facility  
4 owners or facility operators. A facility owner or facility operator  
5 shall not charge a fee to excavators for marking facilities under  
6 this act.

7           (4) Facility owners and facility operators shall be members of  
8 and participate in the notification system and pay the fees levied  
9 by the notification system under this section. This obligation and  
10 the requirements of this act for facility owners and facility  
11 operators do not apply to persons owning or operating a facility  
12 located on real property the person owns or occupies if the  
13 facility is operated solely for the benefit of that person.

14           (5) Owners of real property on which there is a farm  
15 operation, as that term is defined in section 2 of the Michigan  
16 right to farm act, 1981 PA 93, MCL 286.472, may become a nonvoting  
17 member of the notification system, known as a farm member, upon  
18 providing the notification system with the information necessary to  
19 send the farm member a ticket for purposes of notification under  
20 section 6(1). A farm member is not subject to any fees levied under  
21 subsection (3).

22           (6) The notification system is exempt from taxes collected  
23 under the general property tax act, 1893 PA 206, MCL 211.1 to  
24 211.155.

25           Sec. 5. (1) An excavator shall provide a dig notice to the  
26 notification system at least 72 hours, but not more than 14  
27 calendar days, before the start of any blasting or excavation. If



1 the dig notice is given during business hours, the 72-hour period  
2 shall be measured from the time the dig notice is made to the  
3 notification system. If a dig notice is given before 7 a.m. on a  
4 business day, the 72-hour period begins at 7 a.m. on that day. If a  
5 dig notice is given on a nonbusiness day or after 5 p.m. on a  
6 business day, the 72-hour period begins at 7 a.m. on the next  
7 business day. All hours of nonbusiness days are excluded in  
8 counting the 72-hour period. If there are multiple excavators on  
9 the same site, each excavator shall provide its own dig notice.

10 (2) A dig notice shall contain at least all of the following:

11 (a) The name, address, and telephone number of the excavator.

12 (b) A description of the proposed area of blasting or  
13 excavation, including the street address and a property  
14 description.

15 (c) The specific type of work to be performed.

16 (d) The start date and time of blasting or excavation.

17 (e) Whether the proposed blasting or excavation will be  
18 completed within 21 days after the start date.

19 (3) A ticket is valid for 21 days from the start date of the  
20 excavation or blasting on the ticket as identified by the  
21 excavator, except that a ticket is valid for 180 days from the  
22 start date if the dig notice indicates that the proposed excavation  
23 or blasting will not be completed within 21 days from the start  
24 date.

25 (4) An excavator shall comply with the notification system  
26 procedures and all requirements of this act.

27 (5) Except as otherwise provided in this subsection, before

1 blasting or excavating in a caution zone, an excavator shall expose  
2 all marked facilities in the caution zone by soft excavation. If  
3 conditions make complete exposure of the facility impractical, an  
4 excavator shall consult with the facility owner or facility  
5 operator to reach agreement on how to protect the facility. For  
6 excavations in a caution zone parallel to a facility, an excavator  
7 shall use soft excavation at intervals as often as reasonably  
8 necessary to establish the precise location of the facility. An  
9 excavator may use power tools and power equipment in a caution zone  
10 only after the facilities are exposed or the precise location of  
11 the facilities is established.

12 (6) An excavator shall provide support or bracing of  
13 facilities or excavation walls in an excavation or blasting area  
14 that are reasonably necessary for protection of the facilities.

15 (7) An excavator shall provide notification to the  
16 notification system if facility markings are destroyed or covered  
17 by excavation or blasting activities or if a ticket expires before  
18 the commencement of excavation. If a ticket expires before the  
19 commencement of excavation, an excavator shall provide a new dig  
20 notice to the notification system, and comply with subsection (1).

21 (8) An excavator shall provide notification to the  
22 notification system requesting additional assistance if the  
23 location of a marked facility within the approximate location  
24 cannot be determined.

25 (9) An excavator shall provide immediate additional notice to  
26 the notification system and stop excavation in the immediate  
27 vicinity if the excavator has reason to suspect the presence of an

1 unmarked facility due to any 1 of the following:

2 (a) Visible evidence of a facility with no marks visible.

3 (b) Lack of a positive response to a ticket.

4 (c) A positive response from a facility owner or facility  
5 operator indicating the presence of a facility with no marks  
6 visible.

7 (10) If an excavator contacts or damages a facility, the  
8 excavator shall provide immediate notice to the facility owner or  
9 facility operator.

10 (11) If an excavator damages a facility resulting in the  
11 escape of any flammable, toxic, or corrosive gas or liquid, or  
12 endangering life, health, or property, the excavator shall call 9-  
13 1-1 and provide immediate notice to the facility owner or facility  
14 operator. The excavator shall also take reasonable measures to  
15 protect the excavator, those in immediate danger, the general  
16 public, and the environment until the facility owner or facility  
17 operator, or emergency first responders, have arrived and taken  
18 control of the site.

19 (12) An excavator shall provide prompt emergency notice to the  
20 notification system for any proposed excavation or blasting in an  
21 emergency. In an emergency, blasting or excavation required to  
22 address the conditions of the emergency may be performed as the  
23 emergency conditions reasonably require, subject to the provisions  
24 in this act for emergency notice and marking facilities in response  
25 to an emergency notice.

26 (13) If the location of a proposed excavation or blasting  
27 cannot be described in a manner sufficient to enable the facility

1 owner or facility operator to ascertain the precise tract or parcel  
2 involved, an excavator shall provide white lining in advance of  
3 submitting a ticket or additional assistance to the facility owner  
4 or facility operator on reasonable request to identify the area of  
5 the proposed excavation or blasting.

6 (14) For purposes of this section, notice to the notification  
7 system constitutes notice to all facility owners or facility  
8 operators regarding facilities located in the area of the proposed  
9 excavation or blasting.

10 (15) Except as otherwise provided in this act, an excavator  
11 may conduct excavation in a safe zone using power equipment without  
12 establishing the precise location of any facilities.

13 Sec. 6. (1) The notification system shall receive dig notice  
14 notification of proposed excavation and blasting activities and  
15 promptly transmit a ticket to facility owners or facility operators  
16 of facilities in the area of the proposed excavation or blasting.  
17 The notification system shall provide alternative means of access  
18 and notification to the system. Except for shutdowns caused by acts  
19 of nature, war, or terrorism, the notification system shall be  
20 available 24 hours per day, 7 days per week.

21 (2) The notification system shall publicize the availability  
22 and use of the notification system and educate the public,  
23 governmental agencies, excavators, farm operators, facility owners,  
24 and facility operators regarding the practices and procedures of  
25 the notification system, the requirements of this act, and  
26 practices to protect underground facilities from damage.

27 (3) The notification system shall administer a positive

1 response system to allow excavators to determine whether all of the  
2 facility owners or facility operators in the area have responded to  
3 a ticket and whether a particular facility owner or facility  
4 operator does not have facilities in the area of a proposed  
5 excavation or blasting.

6 (4) The notification system shall maintain adequate records of  
7 its notification activity for a period of 6 years after the date of  
8 the notice, including voice recordings of calls. The notification  
9 system shall provide copies of those records to any interested  
10 person upon written request and payment of a reasonable charge for  
11 reproduction and handling as determined by the notification system.

12 (5) The notification system shall expedite the processing of  
13 any emergency notice it receives under this act.

14 (6) The notification system shall receive design tickets under  
15 the procedures described in section 6a and transmit them to  
16 facility owners or facility operators.

17 Sec. 6a. (1) The notification system shall establish  
18 reasonable procedures, including marking response times, for design  
19 ticket notification to facility owners or facility operators of  
20 requests for project design or planning services to determine the  
21 type, size, and general location of facilities during the planning  
22 and design stage of a construction or demolition project. Facility  
23 owners or operators may charge the person requesting project design  
24 or planning services separate fees for design or planning services.

25 (2) Procedures under this section do not affect or alter the  
26 obligation of excavators to provide notice of blasting or  
27 excavation under section 5.

1           (3) The response to a design ticket is to provide general  
2 information regarding the location of underground facilities, not  
3 to mark any facilities. However, if a facility owner or operator  
4 does not have drawings or records that show the location of a  
5 facility, the facility owner or operator shall mark that facility  
6 under the procedures described in section 7. A design ticket or  
7 information provided in response to a design ticket does not  
8 satisfy the requirement under this act for excavation or blasting  
9 notice to the notification system or marking the approximate  
10 location of facilities for blasting or excavation.

11           Sec. 7. (1) A facility owner or facility operator shall  
12 respond to a ticket by the start date and time for the excavation  
13 or blasting under section 5(1) by marking its facilities in the  
14 area of the proposed excavation or blasting in a manner that  
15 permits the excavator to employ soft excavation to establish the  
16 precise location of the facilities.

17           (2) A facility owner or facility operator shall mark the  
18 location of each facility with paint, stakes, flags, or other  
19 customary methods using the uniform color code of the American  
20 national standards institute as follows:

21           (a) White - used by excavators to mark a proposed excavation  
22 or blasting area.

23           (b) Pink - temporary survey markings.

24           (c) Red - electric power lines, cables, conduit, and lighting  
25 cables.

26           (d) Yellow - gas, oil, steam, petroleum, or gaseous materials.

27           (e) Orange - communication, cable television, alarm or signal

1 lines, cables, or conduit.

2 (f) Blue - potable water.

3 (g) Purple - reclaimed water, irrigation, and slurry lines.

4 (h) Green - sewers and drain lines.

5 (3) A facility owner or facility operator shall provide  
6 notification to the notification system using positive response.

7 (4) Upon receiving a notification during business hours from  
8 an excavator through the notification system of previous marks  
9 being covered or destroyed, a facility owner or facility operator  
10 shall mark the location of a facility within 24 hours, excluding  
11 all hours on nonbusiness days.

12 (5) If a facility owner or facility operator receives a  
13 request under section 5(8) or (9), that facility owner or facility  
14 operator shall provide additional assistance to an excavator within  
15 3 hours of a request made by the excavator during business hours.  
16 An excavator and a facility owner or facility operator may agree to  
17 an extension of the time for additional assistance. If a request  
18 for additional assistance is made at a time when the additional  
19 assistance cannot be provided during normal business hours or  
20 assistance is required at a remote rural location, the response  
21 time shall be no later than 3 hours after the start of the next  
22 business day or a time based on mutual agreement.

23 (6) If a facility owner or facility operator receives notice  
24 that a facility has been damaged, that facility owner or facility  
25 operator shall promptly dispatch personnel to the area.

26 (7) A facility owner or facility operator shall respond within  
27 3 hours to an emergency notice, or before the start day and time

1 provided in an emergency notice if that start day and time is more  
2 than 3 hours from the time of notice.

3 (8) New facilities built after the effective date of this act  
4 shall be constructed in a manner that allows their detection when  
5 in use.

6 (9) This section does not apply to the state transportation  
7 department or to the marking of a county or intercounty drain by a  
8 county drain commissioner's office or drainage board.

9 Sec. 8. This act does not limit the right of an excavator,  
10 facility owner, or facility operator to seek legal relief and  
11 recovery of actual damages incurred and equitable relief in a civil  
12 action arising out of a violation of the requirements of this act,  
13 or to enforce the provisions of this act, nor shall this act  
14 determine the level of damages or injunctive relief in any such  
15 civil action. This section does not affect or limit the  
16 availability of any contractual or legal remedy that may be  
17 available to an excavator, facility owner, or facility operator  
18 arising under any contract to which they may be a party.

19 Sec. 9. (1) The notification system and its officers, agents,  
20 or employees are not liable for any damages, including damages for  
21 injuries or death to persons or damage to property, caused by its  
22 acts or omissions in carrying out the provisions of this act. The  
23 notification system is not responsible for assuring performance by  
24 a facility owner or facility operator of its obligation to  
25 participate in the notification system under section 4(4).

26 (2) An excavator or a farmer engaged in farming operations  
27 that complies with this act is not responsible for damages that



1 occur to a facility that is improperly marked, not marked, or  
2 determined to be within the safe zone.

3 (3) An owner of a farm who complies with this act is not  
4 liable for any damages to a facility if the damage occurred in the  
5 course of farming operations, except in those lands within the  
6 public right-of-way, unless the owner intentionally damaged the  
7 underground facility or acted with wanton disregard or recklessness  
8 in damaging the facility. As used in this subsection, "owner"  
9 includes a family member, employee, or tenant of the owner.

10 Sec. 10. This act does not authorize, affect, or impair local  
11 ordinances, charters, or other provisions of law requiring permits  
12 to be obtained before excavating or tunneling in a public street or  
13 highway or to construct or demolish buildings or other structures  
14 on private property. A permit issued by a governmental agency does  
15 not relieve a person from the responsibility of complying with this  
16 act. The failure of any person who has been granted a permit to  
17 comply with this act does not impose any liability upon the  
18 governmental agency issuing the permit.

19 Sec. 11. (1) A person who engages in any of the following  
20 conduct is guilty of a misdemeanor punishable by imprisonment for  
21 not more than 1 year or a fine of not more than \$5,000.00, or both:

22 (a) Knowingly damages an underground facility and fails to  
23 promptly notify the facility owner or facility operator.

24 (b) Knowingly damages an underground facility and backfills  
25 the excavation or otherwise acts to conceal the damage.

26 (c) Willfully removes or otherwise destroys stakes or other  
27 physical markings used to mark the approximate location of

1 underground facilities unless that removal or destruction occurs  
2 after the excavation or blasting is completed or as an expected  
3 consequence of the excavation or blasting activity.

4 (2) Upon complaint filed with the commission or upon the  
5 commission's own motion, following notice and hearing, a person,  
6 other than a governmental agency, who violates any of the  
7 provisions of this act may be ordered to pay a civil fine of not  
8 more than \$5,000.00 for each violation. In addition to or as an  
9 alternative to any fine, the commission may require the person to  
10 obtain reasonable training to assure future compliance with this  
11 act. Before filing a complaint under this subsection, a person  
12 shall attempt to settle the dispute with the adverse party or  
13 parties using any reasonable means of attempted resolution  
14 acceptable to the involved parties. In determining the amount of  
15 any fine, the commission shall consider all of the following:

16 (a) The ability of the person charged to pay or continue in  
17 business.

18 (b) The nature, circumstances, and gravity of the violation.

19 (c) Good-faith efforts by the person charged to comply with  
20 this act.

21 (d) The degree of culpability of the person charged and of the  
22 complainant.

23 (e) The history of prior violations of the person charged.

24 (3) A commission determination under subsection (2) shall not  
25 be used against a party in any action or proceeding before any  
26 court. A complaint filed under subsection (2) does not limit a  
27 person's right to bring a civil action to recover damages that

1 person incurred arising out of a violation of the requirements of  
2 this act.

3 (4) The commission shall develop forms with instructions and  
4 may promulgate administrative rules for processing complaints under  
5 this act, pursuant to the administrative procedures act of 1969,  
6 1969 PA 306, MCL 24.201 to 24.328.

7 (5) Not later than October 1, 2014, the commission shall  
8 establish requirements for reporting incidents involving damage to  
9 underground facilities.

10 Sec. 12. (1) Except as provided in this section, this act does  
11 not affect the liability of a governmental agency for damages for  
12 tort or the application of 1964 PA 170, MCL 691.1401 to 691.1419.

13 (2) A facility owner or a facility operator may file a  
14 complaint with the commission seeking a civil fine and, if  
15 applicable, damages from a governmental agency under this section  
16 for any violation of this act.

17 (3) After notice and a hearing on a complaint under subsection  
18 (2), the commission may order the following, as applicable:

19 (a) If the commission has not issued an order against the  
20 governmental agency under this section within the preceding 12  
21 months, a civil fine of not more than \$5,000.00. In determining the  
22 amount of the fine, the commission shall consider the factors in  
23 section 11(2).

24 (b) If the commission has issued an order under subdivision  
25 (a) against the governmental agency within the preceding 12 months,  
26 both of the following:

27 (i) A civil fine of not more than \$10,000.00. In determining

1 the amount of the fine, the commission shall consider the factors  
2 in section 11(2).

3 (ii) That the governmental agency provide at its expense  
4 underground facility safety training to all its personnel involved  
5 in underground utility work or excavating.

6 (c) If the commission has issued an order under subdivision  
7 (b) against the governmental agency within the preceding 12 months,  
8 both of the following:

9 (i) A civil fine of not more than \$15,000.00. In determining  
10 the amount of the fine, the commission shall consider the factors  
11 in section 11(2).

12 (ii) If the violation of this act by the governmental agency  
13 caused damage to the facilities of the facility owner or facility  
14 operator, that the governmental agency pay to the owner or operator  
15 the cost of repair of the facilities.

16 (4) A party to a complaint filed under this section or section  
17 11 may file an appeal of a commission order issued under this  
18 section or section 11 in the Ingham county circuit court.

19 (5) This section does not apply if the violation of this act  
20 was a result of action taken in response to an emergency.

21 (6) A finding by the commission under this section is not  
22 admissible in any other proceeding or action.

23 (7) A civil fine ordered under this act shall be paid to the  
24 commission and used for underground facilities safety education and  
25 training.

26 (8) Each day upon which a violation described in this act  
27 occurs is a separate offense.

1       Sec. 13. An individual engaged in a farming operation on a  
2 farm shall comply with this act beginning May 1, 2014.

3       Enacting section 1. 1974 PA 53, MCL 460.701 to 460.718, is  
4 repealed.

5       Enacting section 2. This act takes effect 90 days after the  
6 date it is enacted into law.

7       Enacting section 3. This act does not take effect unless  
8 Senate Bill No. 539 of the 97th Legislature is enacted into law.