

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1166

Introduced by Sanders, 45.

Read first time January 19, 2022

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to the One-Call Notification System Act; to
- 2 amend sections 76-2324 and 76-2329, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to liability for damage by
- 4 an excavator; to harmonize provisions; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-2324, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-2324 (1) An excavator who fails to give notice of an excavation
4 pursuant to section 76-2321 or who fails to comply with section 76-2331
5 and who damages an underground facility by such excavation shall be
6 strictly liable to the operator of the underground facility for the cost
7 of all repairs to the underground facility, except that such excavator
8 shall not be strictly liable to the operator for the cost of all repairs
9 to any underground facility that is a telecommunications line on
10 residential property buried at a distance of twelve inches or more from a
11 building and at a depth of less than ten inches. An excavator who gives
12 the notice and who damages an underground facility shall be liable to the
13 operator for the cost of all repairs to the underground facility unless
14 the damage to the underground facility was due to the operator's failure
15 to comply with section 76-2323. An excavator who fails to give notice of
16 an excavation pursuant to section 76-2321 and who damages an underground
17 facility that is operated by the excavator shall not be in violation of
18 the One-Call Notification System Act. For purposes of this subsection,
19 telecommunications line means any electronic communications, telephonic
20 communications, telegraphic communications, or cable television
21 underground facility, including, but not limited to, fiber optic cables.

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

25 Sec. 2. Section 76-2329, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 76-2329 (1) Sections 76-2321 and 76-2323 shall not apply to an
28 excavation made under an emergency condition if all reasonable
29 precautions are taken to protect the underground facilities. If an
30 emergency condition exists, the excavator shall give notification in
31 substantial compliance with section 76-2321 as soon as practical. Upon

1 being notified that an emergency condition exists, each operator shall
2 provide all reasonably available location information to the excavator as
3 soon as possible. If the emergency condition has arisen through no fault
4 of the excavator, sections 76-2324 and 76-2325 shall not apply and the
5 excavator shall be liable for damage to any underground facility located
6 in the area, except for damage to any telecommunications line buried on
7 residential property as described in subsection (1) of section 76-2324,
8 if the damage occurs because of the negligent acts or omissions of the
9 excavator.

10 (2) Sections 76-2321 and 76-2323 shall not apply to a bar test
11 survey deemed necessary to address an emergency condition performed by
12 the operator of the gas or hazardous liquid underground pipeline facility
13 or a qualified excavator who has been engaged to work on behalf of the
14 operator in response to a reported or suspected leak of natural gas,
15 propane, or other combustible liquid or gas. If the emergency condition
16 has arisen through no fault of the excavating operator, section 76-2325
17 shall not apply.

18 (3) Sections 76-2321 and 76-2323 shall not apply to an excavation
19 deemed necessary to address an emergency condition performed by the
20 operator of the gas or hazardous liquid underground pipeline facility or
21 a qualified excavator who has been engaged to work on behalf of the
22 operator to address a leak of natural gas, propane, or other combustible
23 liquid or gas. In such event, the operator shall give notification in
24 substantial compliance with section 76-2321 prior to the excavation
25 undertaken by the operator to address the emergency condition. Upon being
26 notified that an emergency condition exists, each operator shall provide
27 all reasonably available location information to the excavating operator
28 as soon as possible, but the excavating operator need not wait for such
29 location information prior to excavation or continuing excavation. If the
30 emergency condition has arisen through no fault of the excavating
31 operator, section 76-2325 shall not apply.

1 Sec. 3. Original sections 76-2324 and 76-2329, Reissue Revised
2 Statutes of Nebraska, are repealed.