

(g) ~~No~~ A claim for breach of the warranty in subsection (a)(4) is available against a person to ~~which an item was transferred~~ previous transferor of the item only to the extent that under applicable law (including the applicable choice-of-law principle) the person that transferred all previous transferors of the item to that person did not make the warranty in subsection (a)(4).

Presented to the governor April 22, 2004

Signed by the governor April 26, 2004, 3:30 p.m.

CHAPTER 163—H.F.No. 995

An act relating to utilities; modifying notice and plan requirements before excavating around utility facilities; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 216D.01, by adding a subdivision; 216D.04, subdivisions 1, 1a, 2, 3, 4; 216D.05.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 216D.01, is amended by adding a subdivision to read:

Subd. 12. **UTILITY QUALITY LEVEL.** "Utility quality level" means a professional opinion about the quality and reliability of utility information. There are four levels of utility quality information, ranging from the most precise and reliable, level A, to the least precise and reliable, level D. The utility quality level must be determined in accordance with guidelines established by the Construction Institute of the American Society of Civil Engineers in document CI/ASCE 38-02 entitled "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data."

Sec. 2. Minnesota Statutes 2002, section 216D.04, subdivision 1, is amended to read:

Subdivision 1. **NOTICE REQUIRED; CONTENTS.** (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide an ~~excavation or location~~ notice at least 48 hours, excluding Saturdays, Sundays, and holidays and not more than 14 calendar days before beginning any excavation or boundary survey, excluding Saturdays, Sundays, and holidays. An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not previously identified by the excavator or land surveyor in an ~~excavation or boundary survey~~ notice.

(b) The ~~excavation~~ notice may be oral or written, and must contain the following information:

(1) the name of the individual providing the ~~excavation~~ notice;

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) the precise location of the proposed area of excavation or survey;
 - (3) the name, address, and telephone number of the excavator individual or excavator's individual's company;
 - (4) the excavator's field telephone number, if one is available;
 - (5) the type and the extent of the proposed excavation activity;
 - (6) whether or not the discharge of explosives is anticipated;
 - (7) the date and time when the excavation or survey is to commence; and
 - (8) the estimated duration of the excavation activity.
- (e) The boundary survey notice may be oral or written, and must contain the following information:
- (1) the name of the individual providing the boundary survey;
 - (2) the precise location of the proposed area of the boundary survey;
 - (3) the name, address, and telephone number of the land surveyor or the land surveyor's company;
 - (4) the land surveyor's field telephone number, if available;
 - (5) the extent of the proposed boundary survey;
 - (6) the date and time when the boundary survey is to commence.

Sec. 3. Minnesota Statutes 2002, section 216D.04, subdivision 1a, is amended to read:

Subd. 1a. **PLANS FOR EXCAVATION.** (a) Any person, prior to soliciting bids or entering into a contract for excavation, shall provide a proposed excavation request notice to the notification center to obtain from the affected operators of underground facilities the type, size, and general location of underground facilities. Affected operators shall provide the information within 15 working days. An operator who provides information to a person who is not a unit of government may indicate any portions of the information which are proprietary and may require the person to provide appropriate confidentiality protection. The information obtained from affected operators must be submitted with on the final drawing used for the bid or contract and must depict the utility quality level of that information. This information must be obtained updated not more than 90 days before completion of the final drawing used for the bid or contract.

(b) This subdivision does not apply to bids and contracts for:

- (1) routine maintenance of underground facilities or installation, maintenance, or repair of service lines;
- (2) excavation for operators of underground facilities performed on a unit of work or similar basis; or
- (3) excavation for home construction and projects by home owners.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) A person required by this section to show existing underground facilities on its drawings shall conduct one or more preliminary design meetings during the design phase to communicate the project design and coordinate utility relocation. Affected facility operators shall attend these meetings or make other arrangements to provide information.

(d) A person required by this section to show existing underground facilities on its drawings shall conduct one or more preconstruction meetings to communicate the project design and coordinate utility relocation. Affected facility operators and contractors shall attend these meetings or make other arrangements to provide information.

(e) This subdivision does not affect the obligation to provide a notice of excavation as required under subdivision 1.

Sec. 4. Minnesota Statutes 2002, section 216D.04, subdivision 2, is amended to read:

Subd. 2. **DUTIES OF NOTIFICATION CENTER.** The notification center shall assign an inquiry identification number to each ~~excavation or location~~ notice and retain a record of all ~~excavation or location~~ notices received for at least six years. The center shall immediately transmit the information contained in an ~~excavation or location~~ a notice to every operator that has an underground facility in the area of the proposed excavation or boundary survey.

Sec. 5. Minnesota Statutes 2002, section 216D.04, subdivision 3, is amended to read:

Subd. 3. **LOCATING UNDERGROUND FACILITY; OPERATOR.** (a) Prior to the excavation start time on the notice, an operator shall, within 48 hours after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business, without cost to the excavator. The excavator shall determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility.

An operator shall, (b) Within 96 hours or the time specified in the notice, whichever is later, after receiving a location notice for boundary survey from the notification center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, an operator shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the land surveyor.

(b) (c) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) (d) Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American Public Works Association.

(d) (e) If the operator cannot complete marking of the excavation or boundary survey area before the excavation or boundary survey commencement start time stated in the excavation or location notice, the operator shall promptly contact the excavator or land surveyor.

(e) Effective January 1, 1999 (f) After December 31, 1998, operators shall maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

(f) (g) An operator or other person providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided in good faith regarding abandoned or out-of-service, or private or customer-owned underground facilities.

Sec. 6. Minnesota Statutes 2002, section 216D.04, subdivision 4, is amended to read:

Subd. 4. **LOCATING UNDERGROUND FACILITY; EXCAVATOR OR LAND SURVEYOR.** (a) The excavator or land surveyor shall determine the precise location of the underground facility, without damage, before excavating within two feet on either side of the marked location of the underground facility.

(b) If the excavator or land surveyor postpones the excavation or boundary survey commencement time stated in the excavation or location notice by more than 96 hours, or cancels the excavation or boundary survey, the excavator or land surveyor shall notify cancel the notice through the notification center.

(c) The notification center excavation or location notice will be void six months from the issue date on the notice. A new notice will need to be issued to continue excavation. is valid for 14 calendar days from the start time stated on the notice. If the activity will continue after the expiration time, then the person responsible for the activity shall serve an additional notice at least 48 hours, excluding Saturdays, Sundays, and holidays, before the expiration time of the original notice, unless the excavator makes arrangements with the operators affected to periodically verify or refresh the marks, in which case the notice is valid for six months from the start time stated on the notice.

(d) The excavator is responsible for reasonably protecting and preserving the marks until no longer required for proper and safe excavation near the underground facility. If the excavator has reason to believe the marks are obliterated, obscured, missing, or incorrect, the excavator shall notify the facility operator or notification center in order to have an operator verify or refresh the marks.

Sec. 7. Minnesota Statutes 2002, section 216D.05, is amended to read:

216D.05 PRECAUTIONS TO AVOID DAMAGE.

New language is indicated by underline, deletions by strikeout.

An excavator shall:

(1) plan the excavation to avoid damage to and minimize interference with underground facilities in and near the construction area; ~~using;~~

(2) use white markings for proposed excavations except where it can be shown that it is not practical;

(2) (3) maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility;

(3) (4) provide support for underground facilities in and near the construction area, including during backfill operations, to protect the facilities; and

(4) (5) conduct the excavation in a careful and prudent manner.

Presented to the governor April 22, 2004

Signed by the governor April 26, 2004, 3:00 p.m.

CHAPTER 164—H.F.No. 1944

An act relating to domestic abuse; providing another ground for extending an order for protection; amending Minnesota Statutes 2002, section 518B.01.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 518B.01, subdivision 6a, is amended to read:

Subd. 6a. **SUBSEQUENT ORDERS AND EXTENSIONS.** Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent; ~~or~~

(3) the respondent has engaged in acts of harassment or stalking within the meaning of section 609.749, subdivision 2; ~~or~~

(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.