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SB133 – Underground Facilities Protection Act

Bill Title: Underground Facilities Protection Act

Bill Number: SB133

Session: 103rd General Assembly, Missouri

Purpose and Scope

SB133 updates Missouri's laws governing the protection of underground facilities (e.g., pipes, cables) during excavation activities. It repeals and replaces several sections of Chapter 319, RSMo, with eleven new sections (319.015 to 319.035) to modernize procedures for notifying facility owners, marking facility locations, and ensuring safe excavation practices. The bill aims to enhance public safety, reduce the risk of damage to underground infrastructure, and clarify responsibilities for excavators and facility owners.

Key Provisions and Locations in the Bill

1. Definitions and Scope

- **Section 319.015:** Defines key terms such as “excavation,” “underground facility,” “electronic white lining” (a GIS-based marking method), and “detectable underground location device.” These definitions clarify the scope of the law and introduce modern excavation technologies.
- *Key Update:* Expands the definition of “excavation” to exclude certain activities like routine road maintenance and agricultural tilling, while including new technologies like trenchless excavation.

2. Detectable Devices for New Facilities

- **Section 319.019:** Mandates that all new and active underground facilities installed after August 28, 2025, must include detectable devices (e.g., locator wires or strips) unless the facility is already detectable electronically. This requirement enhances future safety by making facilities easier to locate.
- *Exemption:* Storm sewers and sanitary sewer mains installed deeper than six feet are exempt.

3. Notification Center Participation

- **Section 319.022:** Requires all underground facility owners (except railroads under federal regulation) to join and maintain participation in a statewide notification center. The center serves as a centralized system for receiving and distributing excavation notices.

- *Governance Update:* The notification center’s board now includes four additional voting directors from the construction industry, ensuring broader representation.
 - 4. **Notice of Intent to Excavate**
 - **Section 319.025:** Excavators must notify the notification center at least two working days (but no more than ten) before beginning excavation. The notice expires after 21 consecutive calendar days.
 - *Key Requirement:* Excavators must provide detailed information, including the excavation site’s location, depth, and whether trenchless technology or explosives will be used.
 - *Modernization:* Allows for electronic white lining to identify excavation areas via GIS mapping.
 - 5. **Facility Owner Responsibilities**
 - **Section 319.030:** Upon receiving notice, facility owners must mark the approximate location of their facilities or provide location information within two working days. If the owner has no facilities in the area, they must inform the excavator within the same timeframe.
 - *Response Options:* Owners can mark the site, contact the excavator, or use a locate status system to confirm the status of the request.
 - *Penalty for Non-Compliance:* If an owner fails to respond, the excavator can proceed after a second notice, but must still exercise care.
 - 6. **Liability and Compliance**
 - **Section 319.034:** Protects excavators from liability if facility owners provide incorrect location information, provided the excavator followed notification procedures and there was no visible evidence of mismarking.
 - **Section 319.035:** Emphasizes that excavators must still exercise “careful and prudent” digging practices, even after receiving location information. Failure to notify or careless excavation can result in liability.
 - *Key Clarification:* Facility owners and excavators share responsibility for accurate information and safe practices.
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Significant Changes and Updates

- **Modernized Notification Procedures:** Introduces electronic white lining and GIS mapping for more precise excavation site identification (Section 319.015).
 - **Detectable Devices Mandate:** Requires new facilities to be detectable, improving long-term safety and reducing future excavation risks (Section 319.019).
 - **Expanded Notification Center Governance:** Adds construction industry representatives to the notification center’s board, enhancing oversight and input (Section 319.022).
 - **Clearer Liability Standards:** Provides liability protection for excavators when facility owners provide incorrect information, while maintaining excavator responsibility for safe practices (Sections 319.034 and 319.035).
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Impacts

- **Property Owners and Excavators:** Must comply with notification requirements before digging, which may add time and costs but reduces the risk of damaging utilities and incurring larger expenses.
 - **Small Businesses (Excavation Contractors):** Face increased compliance costs (e.g., waiting for markings), but benefit from clearer processes and liability protections if rules are followed.
 - **Facility Owners:** Required to participate in the notification center and respond promptly to excavation notices, ensuring their facilities are protected.
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Constitutional and Regulatory Considerations

- **Property Rights:** The bill regulates excavation on private property but is justified under the state's police power to protect public safety and infrastructure.
 - **State Authority:** As a state law, SB133 aligns with Missouri's rights under the 10th Amendment to regulate activities within its borders.
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Potential Concerns or Controversies

- **Increased Regulation:** Some may view the bill as expanding government oversight of private property use.
 - **Compliance Costs:** Excavators and facility owners may face higher costs due to new requirements, such as installing detectable devices or participating in the notification center.
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Conclusion

SB133 is an effort to modernize Missouri's excavation laws to enhance safety and protect underground infrastructure. By clarifying responsibilities, introducing new technologies, and ensuring compliance, the bill attempts to balance the needs of excavators, facility owners, and public safety. While it introduces some regulatory burdens, the long-term benefits of reduced utility damage and clearer liability standards make it a practical update to existing law.