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April 4, 2019

ENGROSSED HOUSE
BILL NO. 2097

By: O'Donnell of the House

and

Allen of the Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Sections 142.2, as last amended by Section 1, Chapter 136, O.S.L. 2018 and 142.6, as amended by Section 2, Chapter 151, O.S.L. 2016 (63 O.S. Supp. 2018, Sections 142.2 and 142.6), which relate to the Oklahoma Underground Facilities Damage Prevention Act; modifying definitions; modifying certain notice requirements; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 142.2, as last amended by Section 1, Chapter 136, O.S.L. 2018 (63 O.S. Supp. 2018, Section 142.2), is amended to read as follows:

Section 142.2 As used in the Oklahoma Underground Facilities
Damage Prevention Act:

1. "Certified project" means a project where the public agency responsible for the public project, as part of its procedure, certifies that the project right-of-way is free and clear of underground facilities or wherein the public agency responsible for such project, as part of its procedure, notifies all persons

1 determined by the public agency to have underground facilities
2 located within the construction right-of-way and certifies that all
3 known underground facilities are duly located or noted on the
4 engineering drawings for the project;

5 2. "Damage" means any impact upon or removal of support from an
6 underground facility as a result of explosion, excavation or
7 demolition which according to the operating practices of the
8 operator of the underground facilities would necessitate the repair
9 thereof;

10 3. "Demolish" means to wreck, raze, render, move or remove a
11 structure by means of any equipment or explosive;

12 4. "Demolition" means the act or operation of demolishing a
13 structure;

14 5. "Excavate" means to dig, compress or remove earth, rock or
15 other materials in or on the ground by use of mechanized equipment
16 or blasting, including, but not necessarily limited to, augering,
17 boring, backfilling, drilling, grading, pile driving, plowing in,
18 pulling in, trenching, tunneling and plowing; provided, however,
19 that neither:

- 20 a. the moving of earth by tools manipulated only by human
21 or animal power, except in a private or public
22 easement or right-of-way, nor
23 b. any form of cultivation for agricultural purposes, nor
24 any augering, dozing by noncommercial dozer operators

- 1 or digging for postholes, farm ponds, land clearing or
2 other normal agricultural purposes, nor
3 c. routine maintenance, nor
4 d. work by a public agency or its contractors on a
5 preengineered project, nor
6 e. work on a certified project, nor
7 f. work on a permitted project, nor
8 g. the opening of a grave in a cemetery, nor
9 h. a solid waste disposal site which is a preengineered
10 project, nor
11 i. any individual excavating on his or her own property
12 and who is not in the excavating business for hire,
13 except in a private or public easement or right-of-
14 way,

15 shall be deemed excavation;

16 6. "Excavation" means the act or operation of excavating;

17 7. "Excavator" means a person or public agency that intends to
18 excavate or demolish within the State of Oklahoma;

19 8. "Notification center" means the statewide center currently
20 known as the Oklahoma One-Call System, Inc., which has as one of its
21 purposes to receive notification of planned excavation and
22 demolition in a specified area from excavators, and to disseminate
23 such notification of planned excavation or demolition to operators
24 who are members and participants;

1 9. "Operator" shall mean and include any person or public
2 agency owning or operating underground facilities;

3 10. "Permitted project" means a project where a permit for the
4 work to be performed must be issued by a state or federal agency
5 and, as a prerequisite to receiving such permit, the applicant must
6 locate all underground facilities in the area of the work and in the
7 vicinity of any blasting and notify each owner of such underground
8 facilities;

9 11. "Person" includes any individual, partnership, corporation,
10 association, cooperative, trust or other entity, including a person
11 engaged as a contractor by a public agency, but not including a
12 public agency;

13 12. "Preengineered project" means a public project wherein the
14 public agency responsible for such project, as part of its
15 engineering and contract procedures, holds a meeting prior to the
16 commencement of any construction work on such project in which all
17 persons, determined by the public agency to have underground
18 facilities located within the construction area of the project, are
19 invited to attend and given an opportunity to verify or inform the
20 public agency of the location of their underground facilities, if
21 any, within the construction area and where the location of all
22 known underground facilities are duly located or noted on the
23 engineering drawing and specifications for the project;

1 13. "Public agency" means the state or any board, commission or
2 agency of the state;

3 14. "Routine maintenance" means the grading of roads and barrow
4 or drainage ditches, the removal and replacement of pavement,
5 including excavation relating thereto and the installation and
6 maintenance of drainage and bridge facilities, signs, guardrails,
7 and electrical and communications facilities in or on the public
8 rights-of-way by a public agency; and

9 15. "Underground facility" means any underground line, cable,
10 facility, system and appurtenances thereto, for producing, storing,
11 conveying, transmitting or distributing communication (including
12 voice, video, or data information), electricity, power, light, heat,
13 intrastate and interstate gas pipelines, as described in 49 CFR Part
14 192.1, intrastate and interstate hazardous liquid or carbon dioxide
15 pipelines, as described in 49 CFR Part 195.1, water (including storm
16 water), steam, sewage and other commodities and any oil and gas
17 pipeline located in a public right-of-way.

18 SECTION 2. AMENDATORY 63 O.S. 2011, Section 142.6, as
19 amended by Section 2, Chapter 151, O.S.L. 2016 (63 O.S. Supp. 2018,
20 Section 142.6), is amended to read as follows:

21 Section 142.6 A. Before an excavator shall demolish a
22 structure, discharge any explosive or commence to excavate in a
23 highway, street, alley or other public ground or way, on or near the
24 location of an operator's underground facilities, or a private

1 easement, such excavator shall first notify all operators in the
2 geographic area defined by the notification center who have on file
3 with the notification center a notice pursuant to Section 142.3 of
4 this title to determine whether any operators have underground
5 facilities in or near the proposed area of excavation or demolition.
6 When an excavator has knowledge that an operator does not have
7 underground facilities within the area of the proposed excavation,
8 the excavator need not notify the operator of the proposed
9 excavation. However, an excavator shall be responsible for damage
10 to the underground facilities of an operator if the notification
11 center was not notified. Notice shall be given no more than ten
12 (10) days nor less than forty-eight (48) hours, excluding the date
13 of notification, Saturdays, Sundays and legal holidays, prior to the
14 commencement of the excavation or demolition.

15 B. Each operator served with notice in accordance with
16 subsection A ~~above~~ of this section either directly or by notice to
17 the notification center shall, ~~within forty-eight (48) hours after~~
18 ~~receipt of verification from the notification center that the notice~~
19 ~~has been accepted and acknowledged, excluding Saturdays, Sundays and~~
20 ~~legal holidays~~ prior to the date and time work is scheduled to
21 begin, unless otherwise agreed to between the excavator and
22 operator, locate and mark or otherwise provide the approximate
23 location of the underground facilities of the operator in a manner
24 as to enable the excavator to employ hand-dug test holes to

1 determine the precise location of the underground facilities in
2 advance of excavation. For the purpose of this act, the approximate
3 location of the underground facilities shall be defined as a strip
4 of land two (2) feet on either side of such underground facilities.
5 Whenever an operator is served with notice of an excavation or
6 demolition and determines that the operator does not have
7 underground facilities located within the proposed area of
8 excavation or demolition, the operator shall communicate this
9 information to the excavator originating the notice prior to the
10 commencement of such excavation or demolition.

11 C. The only exception to subsection A of this section shall be
12 when an emergency exists that endangers life, health or property.
13 Under these conditions, excavation operations may begin immediately,
14 providing reasonable precautions are taken to protect underground
15 facilities. All operators of underground facilities within the area
16 of the emergency must be notified promptly when an emergency
17 requires excavation prior to the location of the underground
18 facilities being marked.

19 D. Every notice given by an excavator to an operator pursuant
20 to this section or to the notification center pursuant to Section
21 142.3 of this title shall contain at least the following
22 information:

23 1. The name of the individual serving such notice;
24

1 2. The location of the proposed area of excavation or
2 demolition;

3 3. The name, address and telephone number of the excavator or
4 excavator's company;

5 4. The excavator's field telephone number, if one is available;

6 5. The type and the extent of the proposed work;

7 6. Whether or not the discharging of explosives is anticipated;
8 and

9 7. The date and time when work is to begin.

10 E. In marking the approximate location of underground
11 facilities, an operator shall follow the standard color coding
12 described herein:

13 OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
14 Electric Power Distribution	
15 and Transmission	Safety Red
16 Municipal Electric Systems	Safety Red
17 Gas Distribution and	
18 Transmission	High Visibility Safety Yellow
19 Oil Distribution and	
20 Transmission	High Visibility Safety Yellow
21 Dangerous Materials, Product	
22 Lines, Steam Lines	High Visibility Safety Yellow
23 Telephone and Telegraph	
24 Systems	Safety Alert Orange

1	Police and Fire	
2	Communications	Safety Alert Orange
3	Cable Television	Safety Alert Orange
4	Water Systems	Safety Precaution Blue
5	Slurry Systems	Safety Precaution Blue
6	Sewer Systems	Safety Green

7 SECTION 3. This act shall become effective November 1, 2019.

8 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
9 April 4, 2019 - DO PASS

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