

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2028 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Terry ODonnell  
\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2028

By: O'Donnell

7  
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending  
10 63 O.S. 2011, Section 142.6, as last amended by  
11 Section 2, Chapter 65, O.S.L. 2020 (63 O.S. Supp.  
12 2020, Section 142.6), which relates to notice of  
13 proposed demolition, explosion or excavation;  
14 requiring notice and marking of facilities in certain  
15 situations; requiring maintenance and preservation of  
16 marks; requiring certain notice if marks become  
17 invisible or are removed; providing time limits for  
18 certain notice; providing for states of emergency;  
19 providing for liability in certain situations;  
20 amending 63 O.S. 2011, Section 142.9, as amended by  
21 Section 2, Chapter 192, O.S.L. 2017 (63 O.S. Supp.  
22 2020, Section 142.9), which relates to damage to  
23 underground facilities; requiring certain notice when  
24 damage occurs; amending 63 O.S. 2011, Section 142.10,  
as amended by Section 3, Chapter 65, O.S.L. 2020 (63  
O.S. Supp. 2020, Section 142.10), which relates to  
the statewide notification center; requiring  
participation by certain entities; requiring certain  
documentation; and providing an effective date.

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

1 SECTION 1. AMENDATORY 63 O.S. 2011, Section 142.6, as  
2 last amended by Section 2, Chapter 65, O.S.L. 2020 (63 O.S. Supp.  
3 2020, Section 142.6), is amended to read as follows:

4 Section 142.6 A. Before an excavator shall demolish a  
5 structure, discharge any explosive or commence to excavate in a  
6 highway, street, alley or other public ground or way, on or near the  
7 location of an operator's underground facilities, or a private  
8 easement, such excavator shall first notify all operators in the  
9 geographic area defined by the notification center who have on file  
10 with the notification center a notice pursuant to Section 142.3 of  
11 this title to determine whether any operators have underground  
12 facilities in or near the proposed area of excavation or demolition.  
13 When an excavator has knowledge that an operator does not have  
14 underground facilities within the area of the proposed excavation,  
15 the excavator need not notify the operator of the proposed  
16 excavation. However, an excavator shall be responsible for damage  
17 to the underground facilities of an operator if the notification  
18 center was not notified. When an excavator has knowledge that an  
19 operator has unmarked underground facilities within the area of  
20 proposed excavation, the excavator shall not commence excavation or  
21 demolition until notice has been given and such facilities have been  
22 marked. The excavator shall maintain and preserve all marks for the  
23 duration of the excavation or demolition and shall notify the  
24 notification center if such marks are no longer visible or are

1 removed and underground facilities have not been exposed. An  
2 excavator must check for positive response at the notification  
3 center prior to excavating or demolishing to ensure that all  
4 operators have responded and that all facilities that may be  
5 affected by the proposed excavation or demolition have been marked.  
6 Notice shall be given no ~~more than ten (10) days nor~~ less than  
7 forty-eight (48) hours, excluding the date of notification,  
8 Saturdays, Sundays and legal holidays, prior to the commencement of  
9 the excavation or demolition. Notice shall expire fourteen (14)  
10 calendar days from the excavation start date. No excavation may  
11 continue after the fourteenth day unless subsequent notice has been  
12 submitted pursuant to notice requirements. If excessive requests  
13 for marking are made by an excavator when no excavation is taking  
14 place within fourteen (14) calendar days, the excavator may be  
15 liable to the owner or operator for the reasonable cost of such  
16 marking.

17 B. Each operator served with notice in accordance with  
18 subsection A of this section either directly or by notice to the  
19 notification center shall, prior to the date and time work is  
20 scheduled to begin, unless otherwise agreed to between the excavator  
21 and operator, locate and mark or otherwise provide the approximate  
22 location of the underground facilities of the operator in a manner  
23 as to enable the excavator to employ hand-dug test holes to  
24 determine the precise location of the underground facilities in

1 advance of excavation. However, during any state of emergency  
2 declared by the Governor or Legislature that encompasses the area of  
3 excavation or demolition, the time limitations of this subsection  
4 shall be inapplicable. Each operator must provide a positive  
5 response to the notification center prior to the expiration of the  
6 required notice period. This response shall indicate the status of  
7 the required activities of the operator or designated representative  
8 in regard to the proposed excavation or demolition. For the purpose  
9 of the Oklahoma Underground Facilities Damage Prevention Act, the  
10 approximate location of the underground facilities shall be defined  
11 as a strip of land two (2) feet on either side of such underground  
12 facilities. Whenever an operator is served with notice of an  
13 excavation or demolition and determines that the operator does not  
14 have underground facilities located within the proposed area of  
15 excavation or demolition, the operator shall communicate this  
16 information to the excavator originating the notice prior to the  
17 commencement of such excavation or demolition.

18 C. The only exception to subsection A of this section shall be  
19 when an emergency exists that endangers life, health or property.  
20 Under these conditions, excavation operations may begin immediately,  
21 providing reasonable precautions are taken to protect underground  
22 facilities. All operators of underground facilities within the area  
23 of the emergency must be notified promptly when an emergency  
24 requires excavation prior to the location of the underground

1 facilities being marked. If requests for emergency locates are made  
2 by an excavator when there is no emergency, the excavator may be  
3 liable to the owner or operator for the reasonable cost of emergency  
4 response.

5 D. Every notice given by an excavator to an operator pursuant  
6 to this section or to the notification center pursuant to Section  
7 142.3 of this title shall contain at least the following  
8 information:

9 1. The name of the individual serving such notice;

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

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

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

15 5. The type and the extent, not to exceed five hundred (500)  
16 linear feet in incorporated areas or one (1) linear mile in  
17 unincorporated areas, of the proposed work;

18 6. Whether or not the discharging of explosives is anticipated;  
19 and

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

21 E. In marking the approximate location of underground  
22 facilities, an operator shall follow the standard color coding  
23 described herein:

24 OPERATOR AND TYPE OF PRODUCT                      SPECIFIC GROUP IDENTIFYING COLOR

1	Electric Power	
2	Distribution and	
3	Transmission.....	Safety Red
4	Municipal Electric Systems.....	Safety Red
5	Gas Distribution and	
6	Transmission.....	High Visibility Safety Yellow
7	Oil Distribution and	
8	Transmission.....	High Visibility Safety Yellow
9	Dangerous Materials, Product	
10	Lines, Steam Lines.....	High Visibility Safety Yellow
11	Telephone and Telegraph	
12	Systems.....	Safety Alert Orange
13	Police and Fire	
14	Communications.....	Safety Alert Orange
15	Cable Television.....	Safety Alert Orange
16	Water Systems.....	Safety Precaution Blue
17	Slurry Systems.....	Safety Precaution Blue
18	Sewer Systems.....	Safety Green

19       SECTION 2.       AMENDATORY       63 O.S. 2011, Section 142.9, as  
20 amended by Section 2, Chapter 192, O.S.L. 2017 (63 O.S. Supp. 2020,  
21 Section 142.9), is amended to read as follows:

22       Section 142.9 A. When any damage occurs to an underground  
23 facility or its protective covering, the operator thereof and the  
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1 notification center shall be notified immediately by any person who  
2 caused the damage.

3 B. Upon receiving notice of such damage, the operator shall  
4 promptly dispatch personnel to the location to effect temporary or  
5 permanent repairs.

6 C. Should damage occur that endangers life, health or property,  
7 the excavator responsible for the work shall keep all sources of  
8 ignition away from the damaged area and shall take immediate action  
9 to protect the public and property and to minimize the hazard until  
10 arrival of the operator's personnel or until the appropriate police  
11 or fire officials shall have arrived and taken charge of the damaged  
12 area.

13 D. An excavator shall delay any backfilling in the immediate  
14 area of the damaged underground facilities until the damage has been  
15 repaired, unless the operator authorizes otherwise. The repair of  
16 such damage must be performed by the operator or by qualified  
17 personnel authorized by the operator.

18 SECTION 3. AMENDATORY 63 O.S. 2011, Section 142.10, as  
19 amended by Section 3, Chapter 65, O.S.L. 2020 (63 O.S. Supp. 2020,  
20 Section 142.10), is amended to read as follows:

21 Section 142.10 A. This act recognizes the value of and  
22 authorizes the establishment of a statewide notification center.

23 B. Upon establishment, the notification center shall operate  
24 twenty-four (24) hours a day, seven (7) days a week. Notification,



1 as required by Section 142.6 of this title, to operators who are  
2 members of or participants in the notification center, shall be  
3 given by notifying the notification center by telephone or other  
4 acceptable means of communication, the content of such notification  
5 to conform to Section 142.6 of this title.

6 C. All operators who have underground facilities within the  
7 defined geographical boundary of the notification center shall be  
8 ~~afforded the opportunity to become a member~~ required to be members  
9 in good standing of the notification center ~~on the same terms as the~~  
10 ~~original members. Others may participate as nonmembers on terms and~~  
11 ~~conditions as the members deem appropriate.~~

12 D. A suitable record shall be maintained by the notification  
13 center to document the receipt of the notices from excavators and  
14 positive responses from operators as required by this act.

15 Public agencies, as defined in this act, shall have access to  
16 the record of underground facilities.

17 SECTION 4. This act shall become effective November 1, 2021.

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19 58-1-7339 AB 02/02/21

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