

# An Act

ENROLLED HOUSE  
BILL NO. 2028

By: O'Donnell of the House

and

Allen and Taylor of the  
Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Section 142.6, as last amended by Section 2, Chapter 65, O.S.L. 2020 (63 O.S. Supp. 2020, Section 142.6), which relates to notice of proposed demolition, explosion or excavation; prohibiting excavation or demolition in certain circumstance; requiring notice and marking of facilities in certain situations; defining term; requiring maintenance and preservation of marks; requiring certain notice if marks become invisible or are removed; providing time limits for certain notice; providing for states of emergency; providing for liability in certain situations; amending 63 O.S. 2011, Section 142.9, as amended by Section 2, Chapter 192, O.S.L. 2017 (63 O.S. Supp. 2020, Section 142.9), which relates to damage to underground facilities; requiring certain notice when 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.

SUBJECT: Public health and safety

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

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

Section 142.6 A. Before an excavator shall demolish a structure, discharge any explosive or commence to excavate in a highway, street, alley or other public ground or way, on or near the location of an operator's underground facilities, or a private easement, such excavator shall first notify all operators in the geographic area defined by the notification center who have on file with the notification center a notice pursuant to Section 142.3 of this title to determine whether any operators have underground facilities in or near the proposed area of excavation or demolition. When an excavator has knowledge that an operator does not have underground facilities within the area of the proposed excavation, the excavator need not notify the operator of the proposed excavation. However, an excavator shall be responsible for damage to the underground facilities of an operator if the notification center was not notified. When an excavator has actual knowledge that an operator has unmarked hydrocarbon and hazardous liquid underground facilities within the area of proposed excavation, the excavator shall not commence excavation or demolition until notice has been given and such facilities have been marked. For purposes of this section, "actual knowledge" shall mean direct and clear knowledge; provided, however, actual knowledge may be demonstrated through circumstantial evidence and if the circumstances are such that a defendant must have known, an inference of actual knowledge is permitted. The excavator shall maintain and preserve all hydrocarbon and hazardous liquid markings for the duration of the excavation or demolition and shall notify the notification center if such marks are no longer visible or are removed and underground facilities have not been exposed. An excavator must check for positive response at the notification center prior to excavating or demolishing to ensure that all operators have responded and that all facilities that may be affected by the proposed excavation or demolition have been marked. Notice shall be given no more than ten (10) days nor less than forty-eight (48) hours, excluding the date of notification, Saturdays, Sundays and legal holidays, prior to the commencement of the excavation or demolition. Notice shall expire fourteen (14) calendar days from the excavation start date. No excavation may continue after the fourteenth day unless subsequent notice has been submitted pursuant to notice requirements. If excessive and unreasonable requests for marking are made by an excavator when no excavation is taking place within fourteen (14) calendar days, the excavator may be liable to the owner or operator for the reasonable cost of such marking.

B. Each operator served with notice in accordance with subsection A of this section either directly or by notice to the notification center shall, prior to the date and time work is scheduled to begin, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate location of the underground facilities of the operator in a manner as to enable the excavator to employ hand-dug test holes to determine the precise location of the underground facilities in advance of excavation. However, during any state of emergency declared by the Governor or Legislature that impacts the area of excavation or demolition, the time limitations of this subsection shall be inapplicable. Each operator shall provide a positive response to the notification center prior to the expiration of the required notice period. This response shall indicate the status of the required activities of the operator or designated representative in regard to the proposed excavation or demolition. For the purpose of the Oklahoma Underground Facilities Damage Prevention Act, the approximate location of the underground facilities shall be defined as a strip of land two (2) feet on either side of such underground facilities. Whenever an operator is served with notice of an excavation or demolition and determines that the operator does not have underground facilities located within the proposed area of excavation or demolition, the operator shall communicate this information to the excavator originating the notice prior to the commencement of such excavation or demolition.

C. The only exception to subsection A of this section shall be when an emergency exists that endangers life, health or property. Under these conditions, excavation operations may begin immediately, providing reasonable precautions are taken to protect underground facilities. All operators of underground facilities within the area of the emergency must be notified promptly when an emergency requires excavation prior to the location of the underground facilities being marked. If requests for emergency locates are made by an excavator when there is no emergency, the excavator may be liable to the owner or operator for the reasonable cost of emergency response.

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

1. The name of the individual serving such notice;

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

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

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

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

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

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

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

OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
Electric Power Distribution and Transmission.....	Safety Red
Municipal Electric Systems.....	Safety Red
Gas Distribution and Transmission.....	High Visibility Safety Yellow
Oil Distribution and Transmission.....	High Visibility Safety Yellow
Dangerous Materials, Product Lines, Steam Lines.....	High Visibility Safety Yellow
Telephone and Telegraph Systems.....	Safety Alert Orange
Police and Fire Communications.....	Safety Alert Orange
Cable Television.....	Safety Alert Orange

Water Systems.....Safety Precaution Blue  
Slurry Systems.....Safety Precaution Blue  
Sewer Systems.....Safety Green

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

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

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

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

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

SECTION 3. AMENDATORY 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), is amended to read as follows:

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

B. Upon establishment, the notification center shall operate twenty-four (24) hours a day, seven (7) days a week. Notification, as required by Section 142.6 of this title, to operators who are members of or participants in the notification center, shall be

given by notifying the notification center by telephone or other acceptable means of communication, the content of such notification to conform to Section 142.6 of this title.

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

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

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

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

Passed the House of Representatives the 4th day of May, 2021.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 19th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_