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February 23, 2023

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 497

By: Paxton

An Act relating to the Oklahoma Underground Facilities Damage Prevention Act; amending 63 O.S. 2021, Sections 142.2 and 142.8, which relate to definitions and required notice; modifying definition; updating statutory language; requiring certain information be provided within certain timeframe to underground facilities; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, 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, in consultation with the statewide one-call notification center, 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 determined by the public agency to have underground facilities

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

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

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

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

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

19 a. the moving of earth by tools manipulated only by human
20 or animal power, except in a private or public
21 easement or right-of-way, ~~nor~~

22 b. the moving of earth by tools manipulated only by human
23 power for burying communication lines of a
24 communications provider in a private or public

1 easement or right-of-way when depth is not greater
2 than twelve (12) inches and within twelve (12) inches
3 of a communications provider terminal,

4 c. any form of cultivation for agricultural purposes, nor
5 any augering, dozing by noncommercial dozer operators
6 or digging for postholes, farm ponds, land clearing or
7 other normal agricultural purposes, ~~nor~~

8 ~~e.~~ d. routine maintenance, ~~nor~~

9 ~~d.~~ e. work by a public agency or its contractors on a
10 preengineered project, ~~nor~~

11 ~~e.~~ f. work on a certified project, ~~nor~~

12 ~~f.~~ g. work on a permitted project, ~~nor~~

13 ~~g.~~ h. the opening of a grave in a cemetery, ~~nor~~

14 ~~h.~~ i. a solid waste disposal site which is a preengineered
15 project, nor

16 ~~i.~~ j. any individual excavating on his or her own property
17 and who is not in the excavating business for hire,
18 except in a private or public easement or right-of-
19 way,

20 shall be deemed excavation;

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

22 7. "Excavator" means a person or public agency that intends to
23 excavate or demolish within the ~~State of Oklahoma~~ this state;

1 8. "Notification center" means the statewide center currently
2 known as the Oklahoma One-Call System, Inc., which has as one of its
3 purposes to receive notification of planned excavation and
4 demolition in a specified area from excavators, and to disseminate
5 such notification of planned excavation or demolition to operators
6 who are members and participants;

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

9 10. "Permitted project" means a project where a permit for the
10 work to be performed must be issued by a state or federal agency
11 and, as a prerequisite to receiving such permit, the applicant must
12 locate all underground facilities in the area of the work and in the
13 vicinity of any blasting and notify each owner of such underground
14 facilities;

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

19 12. "Preengineered project" means a public project wherein the
20 public agency responsible for such project, as part of its
21 engineering and contract procedures, holds a meeting prior to the
22 commencement of any construction work on such project in which all
23 persons, determined by the public agency, in consultation with the
24 statewide one-call notification center, to have underground

1 facilities located within the construction area of the project are
2 invited to attend and given an opportunity to verify or inform the
3 public agency of the location of their underground facilities, if
4 any, within the construction area and where the location of all
5 known underground facilities are duly located or noted on the
6 engineering drawing and specifications for the project;

7 13. "Public agency" means the state or any board, commission or
8 agency of the state;

9 14. "Routine maintenance" means the grading of roads and barrow
10 or drainage ditches, the removal and replacement of pavement,
11 including excavation relating thereto and the installation and
12 maintenance of drainage and bridge facilities, signs, guardrails,
13 and electrical and communications facilities in or on the public
14 rights-of-way by a public agency; ~~and~~

15 15. "Underground facility" means any underground line, cable,
16 facility, system and appurtenances thereto, for producing, storing,
17 conveying, transmitting or distributing communication (including
18 voice, video, or data information), electricity, power, light, heat,
19 intrastate and interstate gas pipelines, as described in 49 CFR Part
20 192.1, intrastate and interstate hazardous liquid or carbon dioxide
21 pipelines, as described in 49 CFR Part 195.1, water (including storm
22 water), steam, sewage and other commodities and any oil and gas
23 pipeline located in a public right-of-way; and

1 16. "Design" or "survey" means a notice to facility operators
2 to provide underground facility information during the design or
3 engineering phase of a project to mitigate potential impact to
4 existing underground facilities.

5 SECTION 2. AMENDATORY 63 O.S. 2021, Section 142.8, is
6 amended to read as follows:

7 Section 142.8. A. In addition to the notice required by
8 Section 142.6 of this title, whenever the demolition of a structure
9 is proposed, operators in the geographic area defined by the
10 notification center who have a notice on file with the notification
11 center pursuant to Section 142.3 of this title shall be given at
12 least seven (7) business days' notice of the proposed demolition
13 before the demolition work begins. Such notice shall be initiated
14 by the notification center after the excavator has met local code
15 requirements for a demolition permit. When an operator is served
16 with notice and determines that underground facilities are within
17 the proposed area of demolition and such facilities require
18 additional protection, service removal or termination, the operator
19 shall communicate this information to the excavator and by mutual
20 agreement the operator and excavator shall determine a date to begin
21 the demolition which shall not exceed sixty (60) business days from
22 the original demolition notice. If a public agency determines that
23 the structure endangers the public health or safety, then the public

1 agency may, in the manner provided by law, order the immediate
2 demolition of the structure.

3 B. When a design or survey notice is received, operators or
4 their designee shall provide underground facilities information
5 within fourteen (14) calendar days from the time of the request
6 which may include physical markings at the project site, facility
7 mapping, or both. No excavation may take place on a design or
8 survey notice. Operators shall provide the one-call notification
9 center with the necessary information for notices to be sent to the
10 appropriate person within their company or organization.

11 SECTION 3. This act shall become effective November 1, 2023.

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS
13 February 23, 2023 - DO PASS AS AMENDED BY CS
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