

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2574:

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AS INTRODUCED

An Act relating to utilities; amending 63 O.S. 2001, Section 142.2, as last amended by Section 1, Chapter 362, O.S.L. 2003 (63 O.S. Supp. 2003, Section 142.2), which relates to the Underground Facilities Damage Prevention Act; modifying definition of underground facility; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 142.2, as last amended by Section 1, Chapter 362, O.S.L. 2003 (63 O.S. Supp. 2003, 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 determined by the public agency to have underground facilities located within the construction right-of-way and certifies that all known underground facilities are duly located or noted on the engineering drawings for the project;

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

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

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

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

- a. the moving of earth by tools manipulated only by human or animal power, nor
- b. any form of cultivation for agricultural purposes, nor any augering, dozing by noncommercial dozer operators or digging for postholes, farm ponds, land clearing or other normal agricultural purposes, nor
- c. routine maintenance, nor
- d. work by a public agency or its contractors on a preengineered project, nor
- e. work on a certified project, nor
- f. work on a permitted project, nor
- g. the opening of a grave in a cemetery, nor
- h. a solid waste disposal site which is a preengineered project, nor
- i. any individual excavating on his own property and who is not in the excavating business for hire,

shall be deemed excavation;

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

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

8. "Notification center" means the statewide center currently known as the Oklahoma One-Call System, Inc., which has as one of its

purposes to receive notification of planned excavation and demolition in a specified area from excavators, and to disseminate such notification of planned excavation or demolition to operators who are members and participants;

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

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

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

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

13. "Public agency" means the state or any board, commission or agency of the state, and any city, town, county, subdivision thereof or other governmental entity;

14. "Routine maintenance" means the grading of roads and barrow or drainage ditches, the removal and replacement of pavement,

including excavation relating thereto and the installation and maintenance of drainage and bridge facilities, signs, guardrails, and electrical and communications facilities in or on the public rights-of-way by a public agency; and

15. "Underground facility" means any underground line, cable, facility, system and appurtenances thereto, for producing, storing, conveying, transmitting or distributing communication (including voice, video, or data information), electricity, power, light, heat, ~~gas, oil,~~ refined petroleum products, water (including storm water), steam, sewage and other commodities. Underground facilities shall also mean oil and natural gas pipelines that are subject to the Hazardous Liquid Transportation System Safety Act and natural gas pipelines subject to the jurisdiction of the Oklahoma Corporation Commission.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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