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April 11, 2017

ENGROSSED HOUSE
BILL NO. 1376

By: Watson of the House

and

Marlatt of the Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Sections 142.2 and 142.9, which relate to the Oklahoma Underground Facilities Damage Prevention Act; redefining certain term; modifying application of certain required notification; 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, 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

1 known underground facilities are duly located or noted on the
2 engineering drawings for the project;

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

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

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

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

18 a. the moving of earth by tools manipulated only by human
19 or animal power, nor

20 b. any form of cultivation for agricultural purposes, nor
21 any augering, dozing by noncommercial dozer operators
22 or digging for postholes, farm ponds, land clearing or
23 other normal agricultural purposes, nor

24 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

1 locate all underground facilities in the area of the work and in the
2 vicinity of any blasting and notify each owner of such underground
3 facilities;

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

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

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

22 14. "Routine maintenance" means the grading of roads and barrow
23 or drainage ditches, the removal and replacement of pavement,
24 including excavation relating thereto and the installation and

1 maintenance of drainage and bridge facilities, signs, guardrails,
2 and electrical and communications facilities in or on the public
3 rights-of-way by a public agency; and

4 15. "Underground facility" means any underground line, cable,
5 facility, system and appurtenances thereto, for producing, storing,
6 conveying, transmitting or distributing communication (including
7 voice, video, or data information), electricity, power, light, heat,
8 refined petroleum products, water (including storm water), steam,
9 sewage and other commodities. Underground facilities shall also
10 mean oil and natural gas pipelines that are subject to the Hazardous
11 Liquid Transportation System Safety Act and natural gas pipelines
12 subject to the jurisdiction of the Oklahoma Corporation Commission
13 Pipeline Safety Department, and any oil and gas pipeline located in
14 a public right-of-way.

15 SECTION 2. AMENDATORY 63 O.S. 2011, Section 142.9, is
16 amended to read as follows:

17 Section 142.9 A. When any damage occurs to an underground
18 facility or its protective covering, the operator thereof shall be
19 notified immediately by ~~the excavator~~ any person who caused the
20 damage.

21 B. Upon receiving notice of such damage, the operator shall
22 promptly dispatch personnel to the location to effect temporary or
23 permanent repairs.
24

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

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

13 SECTION 3. This act shall become effective November 1, 2017.

14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
15 April 11, 2017 - DO PASS
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