

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2028

By: O'Donnell of the House

and

7 **Allen** of the Senate

8
9
10 COMMITTEE SUBSTITUTE

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

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
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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 COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 02/17/2021 - DO
20 PASS, As Amended and Coauthored.