

1 HB62
2 164367-2
3 By Representative Greer
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 03-MAR-15

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ENROLLED, An Act,

To amend Section 37-15-2 of the Code of Alabama 1975, relating to the One-Call Notification System; to further define the term excavate or excavation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 37-15-2 of the Code of Alabama 1975, is amended to read as follows:

"§37-15-2.

"As used in this chapter the following words have the following meanings:

"(1) APPROXIMATE LOCATION OF UNDERGROUND FACILITIES. Information about an operator's underground facilities which is provided to a person by an operator and must be accurate to within 18 inches measured horizontally from the outside edge of each side of such operator's facility, or a strip of land 18 inches either side of the operator's field mark or the marked width of the facility plus 18 inches on each side of the marked width of the facility.

"(2) BLASTING. The use of an explosive device for the excavation of earth, rock, or other material or the demolition of a structure.

"(3) CONTRACT LOCATOR. Any person contracted with an operator specifically to determine and mark the approximate location of the operator's utility lines that exist within the

1 area specified by a notice served on the "One-Call
2 Notification System."

3 "(4) DAMAGE. Includes, but is not limited to, the
4 substantial weakening of structural or lateral support of an
5 underground facility, penetration or destruction of any
6 underground facility's protective coating, housing, or other
7 protective device, and the severance (partial or complete) of
8 any underground facility, but does not apply to any operator's
9 abandoned underground facility.

10 "(5) DEMOLITION. Any operation by which a structure
11 or mass of material is wrecked, razed, rendered, moved, or
12 removed by means of any tools, equipment, or explosives.

13 "(6) DESIGN OR SURVEY LOCATE REQUEST. Any
14 communication to the "One-Call Notification System" or an
15 in-house program of an operator which meets the operational
16 requirements of receiving those excavation or demolition
17 notification described in subsection (a) of Section 37-15-5,
18 specifically to request existing underground facilities to be
19 located for bidding, predesign, or advance planning purposes.
20 A design locate request may not be used for excavation
21 purposes and an excavation locate request may not be used for
22 design or survey purposes.

23 "(7) EMERGENCY EXCAVATION OR DEMOLITION. An
24 excavation or demolition that is required to eliminate an
25 imminent danger to life, health, property, or the environment

1 or required for the repair or restoration of operator service
2 that is required to be performed before the notification and
3 response procedures required in Section 37-15-4 and 37-15-6
4 may be fully utilized.

5 "(8) EXCAVATE or EXCAVATION. Any operation for the
6 purpose of the movement or removal of earth, rock, or other
7 material by mechanized equipment or explosive device and
8 includes, but is not limited to, augering, backfilling,
9 blasting, boring, digging, ditching, drilling, grading,
10 pile-driving, plowing-in, pulling-in, ripping, scraping,
11 sub-soiling, trenching, and tunneling. Excavate or excavation
12 does not include routine roadway maintenance activities
13 carried out by ~~state or local government road maintenance~~
14 ~~employees or contractors~~ or for those responsible for
15 publicly-maintained roadways, provided that the activities
16 occur entirely within the right-of-way of a public road,
17 street, or highway; are carried out with reasonable care so as
18 to protect any utility facilities placed in the right-of-way
19 by permit; are carried out within the limits of any original
20 excavation on the traveled way, shoulder, or drainage ditches
21 of a public road, street, or highway; and, if involving the
22 replacement of existing structures, including traffic control
23 devices, replace such structures in their approximate previous
24 locations and at their approximate previous depth. Excavate or
25 excavation does not include routine railroad maintenance

1 activities conducted within the track structure and its
2 adjacent right-of-way, provided the activities are performed
3 by railroad employees or railroad contractors and are carried
4 out with reasonable care so as to protect any underground
5 facilities placed in the railroad right-of-way by agreement
6 with the railroad. Nothing in this chapter shall modify or
7 abrogate any contractual provision entered into between any
8 railroad and any other party owning or operating an
9 underground facility or underground utility lines within the
10 railroad's right-of-way.

11 "(9) EXCAVATOR. Any person who engages in
12 excavation.

13 "(10) IMPLIED EASEMENT. Any unwritten easement or
14 right-of-way on private property required to provide utility
15 or other services by means of underground facilities on
16 property of the owner requesting such service.

17 "(11) MARK or MARKING. The use of stakes, flags,
18 paint, buoys, or clearly identifiable materials placed on the
19 surface of the ground or water to show the approximate
20 location of underground facilities.

21 "(12) MECHANIZED EQUIPMENT. Equipment powered or
22 energized by any motor, engine, hydraulic, or pneumatic device
23 and is used for excavation or demolition work including, but
24 not limited to, tractors, trenchers, bulldozers, power
25 shovels, augers, backhoes, scrapers, pile drivers, drills,

1 cable and pipe plows, or other equipment used for plowing-in
2 or pulling-in cable or pipe.

3 "(13) MEMBER. A person who participates in the
4 "One-Call Notification System" to receive services and is in
5 good standing with the "One-Call Notification System" in
6 accordance with the guidelines set forth in the corporation's
7 bylaws.

8 "(14) NONINVASIVE METHOD OF EXCAVATION. A method of
9 excavation that does not compromise the integrity of the
10 underground facility. These methods include, but are not
11 limited to, hand digging, pot holing, soft digging, vacuum
12 excavation methods, or other methods approved by the operator.

13 "(15) NOTIFICATION AREA. An area or territory which
14 an operator designates as the area where the operator wishes
15 to receive notifications for any excavation in that area. The
16 notification area should encompass the underground
17 distribution system or network of the operator.

18 "(16) "ONE-CALL NOTIFICATION SYSTEM". A non-profit
19 corporation, a public corporation, or a governmental entity
20 which will provide a statewide notification service, for the
21 purpose of receiving statewide telephonic toll-free or
22 electronic notification of any planned excavation or
23 demolition activities by excavators or other persons as set
24 forth in Section 37-15-4 and distributing the required

1 excavation or demolition information to its affected member
2 operators as set forth in Section 37-15-5.

3 "(17) OPERATOR. Any person, governmental agency, or
4 political subdivision, or its agents, who owns or operates a
5 public or private underground facility which furnishes
6 services, information, or materials, or transports or
7 transmits electric energy, light, water, steam, oil, gases,
8 gas, mixture of gases, petroleum, petroleum products,
9 hazardous or flammable liquids, toxic or corrosive fluids and
10 gases, or items of like nature, and telecommunications, cable
11 television, water, drainage, sewage, or other systems of like
12 nature. The term operator does not apply to any entity listed
13 above if all of the underground facilities owned and operated
14 by the entity are for the sole use of the entity and are
15 located solely on the entity's own property or on property
16 over which the entity has rights of operation.

17 "(18) PERSON. An individual, joint venture,
18 partnership, association, authority, cooperative, firm,
19 corporation, governmental entity, or any subdivision or
20 instrumentality of that entity and its employees, agents, or
21 legal representatives.

22 "(19) ROUTINE ROADWAY MAINTENANCE. Maintenance work
23 on a roadway that is not done pursuant to a contract awarded
24 by a state or local government through a bid process for which

1 plan drawings have been developed in advance or work for which
2 detailed and specific scheduling is not possible or feasible.

3 "(20) TOLERANCE ZONE. The width of the underground
4 facility plus 18 inches on either side of the outside edge of
5 the underground facility on a horizontal plane.

6 "(21) UNDERGROUND FACILITY. Any cable, pipeline,
7 duct, wire, conduit, or other similar installation, installed
8 underground or underwater, by which an operator transports or
9 delivers materials, information, or services.

10 "(22) WORKING DAY. A 24-hour period commencing from
11 the time of receipt of the notification, excluding Saturday,
12 Sunday, and the following nine holidays: New Year's Day,
13 Memorial Day (observed), Independence Day, Labor Day, Veterans
14 Day, Thanksgiving Day, the Friday following Thanksgiving Day,
15 Christmas Eve, and Christmas Day. When any of these holidays
16 occur on a Saturday, it will be observed on the preceding
17 Friday and when any of these holidays occur on a Sunday, it
18 will be observed on the following Monday."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 17-MAR-15.

Jeff Woodard
Clerk

Senate

03-JUN-15

Passed