

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

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8 SYNOPSIS: Under existing law, any person conducting
9 excavation activities on a public street, highway,
10 or public easement is required to first notify the
11 One-Call Notification System to determine the
12 location of all underground facilities in the
13 location where excavation will occur.

14 Under existing law, the term "excavate or
15 excavation" for purposes of requiring notification
16 does not include routine roadway maintenance
17 activities carried out by state or local government
18 road maintenance employees or contractors.

19 This bill would revise the definition of the
20 term "excavate or excavation" to delete the
21 reference to state and local government maintenance
22 employees and to provide that excavation for
23 purposes of notification does not include routine
24 roadway maintenance activities that are carried out
25 by or for anyone responsible for maintaining public
26 roadways.

1 A BILL
2 TO BE ENTITLED
3 AN ACT

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5 To amend Section 37-15-2 of the Code of Alabama
6 1975, relating to the One-Call Notification System; to further
7 define the term excavate or excavation.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 37-15-2 of the Code of Alabama
10 1975, is amended to read as follows:

11 "§37-15-2.

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

14 "(1) APPROXIMATE LOCATION OF UNDERGROUND FACILITIES.
15 Information about an operator's underground facilities which
16 is provided to a person by an operator and must be accurate to
17 within 18 inches measured horizontally from the outside edge
18 of each side of such operator's facility, or a strip of land
19 18 inches either side of the operator's field mark or the
20 marked width of the facility plus 18 inches on each side of
21 the marked width of the facility.

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

25 "(3) CONTRACT LOCATOR. Any person contracted with an
26 operator specifically to determine and mark the approximate
27 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
26 or required for the repair or restoration of operator service
27 that is required to be performed before the notification and

1 response procedures required in Section 37-15-4 and 37-15-6
2 may be fully utilized.

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

1 facilities placed in the railroad right-of-way by agreement
2 with the railroad. Nothing in this chapter shall modify or
3 abrogate any contractual provision entered into between any
4 railroad and any other party owning or operating an
5 underground facility or underground utility lines within the
6 railroad's right-of-way.

7 "(9) EXCAVATOR. Any person who engages in
8 excavation.

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

13 "(11) MARK or MARKING. The use of stakes, flags,
14 paint, buoys, or clearly identifiable materials placed on the
15 surface of the ground or water to show the approximate
16 location of underground facilities.

17 "(12) MECHANIZED EQUIPMENT. Equipment powered or
18 energized by any motor, engine, hydraulic, or pneumatic device
19 and is used for excavation or demolition work including, but
20 not limited to, tractors, trenchers, bulldozers, power
21 shovels, augers, backhoes, scrapers, pile drivers, drills,
22 cable and pipe plows, or other equipment used for plowing-in
23 or pulling-in cable or pipe.

24 "(13) MEMBER. A person who participates in the
25 "One-Call Notification System" to receive services and is in
26 good standing with the "One-Call Notification System" in

1 accordance with the guidelines set forth in the corporation's
2 bylaws.

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

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

13 "(16) "ONE-CALL NOTIFICATION SYSTEM". A non-profit
14 corporation, a public corporation, or a governmental entity
15 which will provide a statewide notification service, for the
16 purpose of receiving statewide telephonic toll-free or
17 electronic notification of any planned excavation or
18 demolition activities by excavators or other persons as set
19 forth in Section 37-15-4 and distributing the required
20 excavation or demolition information to its affected member
21 operators as set forth in Section 37-15-5.

22 "(17) OPERATOR. Any person, governmental agency, or
23 political subdivision, or its agents, who owns or operates a
24 public or private underground facility which furnishes
25 services, information, or materials, or transports or
26 transmits electric energy, light, water, steam, oil, gases,
27 gas, mixture of gases, petroleum, petroleum products,

1 hazardous or flammable liquids, toxic or corrosive fluids and
2 gases, or items of like nature, and telecommunications, cable
3 television, water, drainage, sewage, or other systems of like
4 nature. The term operator does not apply to any entity listed
5 above if all of the underground facilities owned and operated
6 by the entity are for the sole use of the entity and are
7 located solely on the entity's own property or on property
8 over which the entity has rights of operation.

9 "(18) PERSON. An individual, joint venture,
10 partnership, association, authority, cooperative, firm,
11 corporation, governmental entity, or any subdivision or
12 instrumentality of that entity and its employees, agents, or
13 legal representatives.

14 "(19) ROUTINE ROADWAY MAINTENANCE. Maintenance work
15 on a roadway that is not done pursuant to a contract awarded
16 by a state or local government through a bid process for which
17 plan drawings have been developed in advance or work for which
18 detailed and specific scheduling is not possible or feasible.

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

22 "(21) UNDERGROUND FACILITY. Any cable, pipeline,
23 duct, wire, conduit, or other similar installation, installed
24 underground or underwater, by which an operator transports or
25 delivers materials, information, or services.

26 "(22) WORKING DAY. A 24-hour period commencing from
27 the time of receipt of the notification, excluding Saturday,

1 Sunday, and the following nine holidays: New Year's Day,
2 Memorial Day (observed), Independence Day, Labor Day, Veterans
3 Day, Thanksgiving Day, the Friday following Thanksgiving Day,
4 Christmas Eve, and Christmas Day. When any of these holidays
5 occur on a Saturday, it will be observed on the preceding
6 Friday and when any of these holidays occur on a Sunday, it
7 will be observed on the following Monday."

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