

**SB295 INTRODUCED**



1 SB295  
2 4UPZF33-1  
3 By Senator Allen  
4 RFD: Transportation and Energy  
5 First Read: 03-Apr-25



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SYNOPSIS:

Under existing law, the Underground Damage Prevention Program exists to administer the One-Call Notification System to safeguard against injury and loss of life due to excavation or demolition and to protect underground facilities from costly damage and the interruption of utility or other services to the general public.

This bill would establish various procedures for excavators to follow prior to commencing complex or large projects and would delete certain statutory sunset clauses pertaining to the program.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Underground Damage Prevention Program; to amend Sections 37-15-2, 37-15-4, 37-15-4.1, 37-15-5, 37-15-6, 37-15-8, 37-15-9, 37-15-10, 37-15-10.1, and 37-15-10.2, Code of Alabama 1975; and to add Section 37-15-4.2 to the Code of Alabama 1975, to provide various underground damage prevention requirements for excavators before commencing complex or large projects; to delete a statutory



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29 sunset clause related to the program; and to further provide  
30 for hearing procedures.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. Sections 37-15-2, 37-15-4, 37-15-4.1,  
33 37-15-5, 37-15-6, 37-15-8, 37-15-9, 37-15-10, 37-15-10.1, and  
34 37-15-10.2, Code of Alabama 1975, are amended to read as  
35 follows:

36 "§37-15-2

37 As used in this chapter the following words have the  
38 following meanings:

39 (1) APPROXIMATE LOCATION OF UNDERGROUND FACILITIES.

40 Information about an operator's underground facilities which  
41 is provided to a person by an operator and must be accurate to  
42 within 18 inches measured horizontally from the outside edge  
43 of each side of such operator's facility, or a strip of land  
44 18 inches either side of the operator's field mark or the  
45 marked width of the facility plus 18 inches on each side of  
46 the marked width of the facility. The term does not include a  
47 designation of location as to the depth below the surface of  
48 the ground.

49 (2) AUTHORITY. The Underground Damage Prevention  
50 Authority created under Section 37-15-10.1.

51 (3) AUTHORITY BOARD. The Underground Damage Prevention  
52 Board created under Section 37-15-10.1.

53 (4) BLASTING. The use of an explosive device for the  
54 excavation of earth, rock, or other material or the demolition  
55 of a structure.

56 (5) COMPLEX OR LARGE PROJECT. Any excavation activity



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57 that meets one or more of the following criteria:

58 a. The activity is initially planned to extend beyond a  
59 standard 40 working day notification period.

60 b. The project will involve five or more consecutive  
61 work crews operating simultaneously.

62 c. The project requires multiple locate requests for  
63 the same activity within the same geographic area, submitted  
64 within a single working day notification period, with all  
65 activity occurring within the initial life of a single locate  
66 request.

67 ~~(5)~~ (6) CONTRACT LOCATOR. Any person contracted with an  
68 operator specifically to determine and mark the approximate  
69 location of the operator's utility lines that exist within the  
70 area specified by a notice served on the "One-Call  
71 Notification System."

72 ~~(6)~~ (7) DAMAGE. Includes, but is not limited to, the  
73 substantial weakening of structural or lateral support of an  
74 underground facility, penetration or destruction of any  
75 underground facility's protective coating, housing, or other  
76 protective device, and the partial or complete severance  
77 ~~(partial or complete)~~ of any underground facility, but does  
78 not apply to any operator's abandoned underground facility.

79 ~~(7)~~ (8) DEMOLITION. Any operation by which a structure  
80 or mass of material is wrecked, razed, rendered, moved, or  
81 removed by means of any tools, equipment, or explosives.

82 ~~(8)~~ (9) DESIGN OR SURVEY LOCATE REQUEST. Any  
83 communication to the "One-Call Notification System,"  
84 specifically to request existing underground facilities to be



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85 located for bidding, predesign, or advance planning purposes.  
86 A design locate request may not be made or used for excavation  
87 purposes, and an excavation locate request may not be made or  
88 used for design or survey purposes.

89 ~~(9)~~ (10) EMERGENCY EXCAVATION OR DEMOLITION. An  
90 excavation or demolition that is required to eliminate an  
91 imminent danger to life, health, property, or the environment  
92 or required for the repair or restoration of operator service  
93 that is required to be performed before the notification and  
94 response procedures required in Section 37-15-4 and 37-15-6  
95 may be fully utilized.

96 ~~(10)~~ (11) EXCAVATE or EXCAVATION. Any operation for the  
97 purpose of the movement or removal of earth, rock, or other  
98 material by mechanized equipment, ~~or explosive device,~~ or hand  
99 digging. ~~and~~

100 a. The term includes, but is not limited to, augering,  
101 backfilling, blasting, boring, digging, ditching, dredging,  
102 drilling, grading, pile-driving, plowing-in, pulling-in,  
103 ripping, scraping, sub-soiling, trenching, and tunneling.

104 ~~Excavate or excavation~~

105 b. The term does not include ~~routine~~ any of the  
106 following:

107 1. Routine roadway maintenance activities carried out  
108 by or for those responsible for ~~publicly-maintained~~ publicly  
109 maintained roadways, provided that the activities meet all of  
110 the following requirements: (i) occur entirely within the  
111 right-of-way of a public road, street, or highway; (ii) are  
112 carried out with reasonable care so as to protect any utility



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113 facilities placed in the right-of-way by permit; (iii) are  
114 carried out within the limits of any original excavation on  
115 the traveled way, shoulder, or drainage ditches of a public  
116 road, street, or highway; and, (iv) if involving the  
117 replacement of existing structures, including traffic control  
118 devices, replace such structures in their approximate previous  
119 locations and at their approximate previous depth. ~~Excavate or~~  
120 ~~excavation does not include routine~~

121 2. Routine railroad maintenance activities conducted  
122 within the track structure and its adjacent right-of-way,  
123 provided the activities are performed by railroad employees or  
124 railroad contractors and are carried out with reasonable care  
125 so as to protect any underground facilities placed in the  
126 railroad right-of-way by agreement with the railroad. Nothing  
127 in this chapter shall modify or abrogate any contractual  
128 provision entered into between any railroad and any other  
129 party owning or operating an underground facility or  
130 underground utility lines within the railroad's right-of-way.

131 3. Activities carried out by those responsible for  
132 publicly maintained roadways when utilizing non-mechanized  
133 tools or equipment on its property or on its right-of-way.

134 ~~(11)~~ (12) EXCAVATOR. Any person who engages in  
135 excavation.

136 ~~(12)~~ (13) EXECUTIVE COMMITTEE. The executive committee  
137 created under Section 37-15-10.1.

138 (14) HAND DIGGING. Any movement, placement, or removal  
139 of earth, rock, or other materials in or on the ground by use  
140 of non-mechanized tools or equipment, including, but not



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141 limited to, shovels, picks, post hole diggers, vacuum  
142 excavation, or soft digging. The term does not include either  
143 of the following:

144 a. A property owner utilizing non-mechanized tools or  
145 equipment on their own property.

146 b. The use of non-mechanized tools or equipment by or  
147 on behalf of a member operator to a depth not greater than 18  
148 inches for locating, repairing, connecting, protecting, or  
149 routine maintenance of the member operator's underground  
150 facilities.

151 ~~(13)~~ (15) IMPLIED EASEMENT. Any unwritten easement or  
152 right-of-way on private property required to provide utility  
153 or other services by means of underground facilities on  
154 property of the owner requesting such service.

155 ~~(14)~~ (16) MARK or MARKING. The use of stakes, flags,  
156 paint, buoys, or clearly identifiable materials placed on the  
157 surface of the ground or water to show the approximate  
158 location of underground facilities.

159 ~~(15)~~ (17) MECHANIZED EQUIPMENT. Equipment powered or  
160 energized by any motor, engine, hydraulic, or pneumatic device  
161 and is used for excavation or demolition work, including, but  
162 not limited to, tractors, trenchers, bulldozers, power  
163 shovels, augers, backhoes, scrapers, pile drivers, drills,  
164 cable and pipe plows, or other equipment used for plowing-in  
165 or pulling-in cable or pipe.

166 ~~(16)~~ (18) MEMBER. A person who participates in the  
167 "One-Call Notification System" to receive services and is in  
168 good standing with the "One-Call Notification System" in



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169 accordance with the guidelines set forth in the corporation's  
170 bylaws.

171 ~~(17)~~ (19) NEAR MISS. An event where damage did not  
172 occur, but a clear potential for damage was identified.

173 ~~(18)~~ (20) NONINVASIVE METHOD OF EXCAVATION. A method of  
174 excavation that does not compromise the integrity of the  
175 underground facility. These methods include, but are not  
176 limited to, hand digging, pot holing, soft digging, vacuum  
177 excavation methods, or other methods approved by the operator.

178 ~~(19)~~ (21) NOTIFICATION AREA. An area or territory which  
179 an operator designates as the area where the operator wishes  
180 to receive notifications for any excavation in that area. The  
181 notification area should encompass the underground  
182 distribution system or network of the operator.

183 ~~(20)~~ (22) ONE-CALL NOTIFICATION SYSTEM. A  
184 ~~non-profit~~ nonprofit corporation, a public corporation, or a  
185 governmental entity which will provide a statewide  
186 notification service, for the purpose of receiving statewide  
187 telephonic toll-free or electronic notification of any planned  
188 excavation or demolition activities by excavators or other  
189 persons as set forth in Section 37-15-4 and distributing the  
190 required excavation or demolition information to its affected  
191 member operators as set forth in Section 37-15-5.

192 ~~(21)~~ (23) OPERATOR. Any person, governmental agency, or  
193 political subdivision, or its agents, who owns or operates a  
194 public or private underground facility which furnishes  
195 services, information, or materials, or transports or  
196 transmits electric energy, light, water, steam, oil, gases,





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197 gas, mixture of gases, petroleum, petroleum products,  
198 hazardous or flammable liquids, toxic or corrosive fluids and  
199 gases, or items of like nature, and telecommunications, cable  
200 television, water, drainage, sewage, or other systems of like  
201 nature. The term "operator" does not apply to any entity  
202 ~~listed above~~described in this subdivision if all of the  
203 underground facilities owned and operated by the entity are  
204 for the sole use of the entity and are located solely on the  
205 entity's own property or on property over which the entity has  
206 rights of operation.

207 ~~(22)~~ (24) PERSON. An individual, joint venture,  
208 partnership, association, authority, cooperative, firm,  
209 corporation, governmental entity, or any subdivision or  
210 instrumentality of that entity and its employees, agents, or  
211 legal representatives.

212 ~~(23)~~ (25) POSITIVE RESPONSE. The communication among  
213 member operators, persons excavating, and the "One-Call  
214 Notification System" concerning the status of locating an  
215 underground facility.

216 ~~(24)~~ (26) PREMARK. To delineate the general scope of the  
217 excavation on the surface of the ground using white paint,  
218 white stakes, or other similar white markings.

219 ~~(25)~~ (27) ROUTINE ROADWAY MAINTENANCE. Maintenance work  
220 on a roadway that is not done pursuant to a contract awarded  
221 by a state or local government through a bid process for which  
222 plan drawings have been developed in advance or work for which  
223 detailed and specific scheduling is not possible or feasible.

224 ~~(26)~~ (28) TOLERANCE ZONE. The width of the underground



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225 facility plus 18 inches on either side of the outside edge of  
226 the underground facility on a horizontal plane.

227 ~~(27)~~ (29) UNDERGROUND FACILITY. Any cable, pipeline,  
228 duct, wire, conduit, or other similar installation, installed  
229 underground or underwater, by which an operator transports or  
230 delivers materials, information, or services.

231 ~~(28)~~ (30) WILLFUL NONCOMPLIANCE. The intentional refusal  
232 or failure to perform, or comply with, a duty created or  
233 imposed by this chapter or by the rules adopted pursuant to  
234 this chapter.

235 (31) WORKING AGREEMENT. An agreement established as  
236 part of the complex or large project process.

237 ~~(29)~~ (32) WORKING DAY. A 24-hour period commencing the  
238 beginning of the start of the next working day from the time  
239 of receipt of the notification, excluding Saturday, Sunday,  
240 and the following ~~nine~~ holidays: New Year's Day, Memorial Day  
241 (observed), Independence Day, Labor Day, Veterans Day,  
242 Thanksgiving Day, the Friday following Thanksgiving Day,  
243 Christmas Eve, and Christmas Day. When any of these holidays  
244 occur on a Saturday, it will be observed on the preceding  
245 Friday, and when any of these holidays occur on a Sunday, it  
246 will be observed on the following Monday.

247 ~~(30)~~ (33) WORKING DAY HOURS. The time from 7:00 a.m. to  
248 5:00 p.m. local time on working days."

249 "§37-15-4

250 (a) A permit issued pursuant to law authorizing  
251 excavation or demolition operations shall not be deemed to  
252 relieve a person from the responsibility for complying with



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253 this chapter. Any public agency issuing such permit shall  
254 notify the person receiving the permit of the notification  
255 requirements of this chapter; however, failure to provide such  
256 notification shall not make the State Department of  
257 Transportation subject to the penalties provided for in  
258 Section 37-15-10.

259 (b) Before commencing any excavation or demolition  
260 operation prohibited by Section 37-15-3, each person  
261 responsible for the excavation or demolition shall give  
262 telephonic or electronic notice of the intent to excavate or  
263 demolish to the underground facility operator or the "One-Call  
264 Notification System" acting on behalf of the operator at least  
265 two but not more than 10 working days prior to the start of  
266 the proposed excavation, not including the day of  
267 notification, and at least two working days but not more than  
268 30 calendar days, not including the day of notification, prior  
269 to the start of demolition or any blasting operations for  
270 either excavation or demolition.

271 (c) The notice required by subsection (b) must contain  
272 the name, address, and telephone number of the person  
273 responsible for the excavation or the demolition and the  
274 person giving notice, the proposed starting date and time, the  
275 type of excavation or demolition operation to be conducted,  
276 the location of the proposed excavation or demolition with  
277 sufficient details to enable the operator to locate same with  
278 reasonable certainty, and whether or not explosives are to be  
279 used. In the event the location requirements of this  
280 subsection cannot be met, the excavator shall premark the



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281 route or boundaries of the site of proposed excavation or  
282 demolition by means of white as the identifying color on  
283 stakes, flags, paint, buoys, or clearly identifiable materials  
284 placed on the surface of the ground or water prior to the  
285 notification to the One-Call Notification System. However,  
286 premarking is not required when the premarking could  
287 reasonably interfere with traffic or pedestrian control.

288 (d) Notification to the One-Call Notification System of  
289 an intent to excavate shall be valid for a period of 20  
290 working days from the proposed starting date given for  
291 excavation, and the notice to demolish shall be valid for a  
292 period of 30 working days from the starting date given. Each  
293 person responsible for excavation or demolition shall renew  
294 with the One-Call Notification System each notice of intent to  
295 excavate or demolish at least two working days, not  
296 ~~counting~~ including the day of notification, prior to the  
297 expiration date of the notice if the excavation or demolition  
298 has not been completed.

299 ~~(e) When engaged in an extensive and contiguous~~  
300 ~~construction, demolition, or excavation activity, working~~  
301 ~~agreements may be established to accomplish the intent and~~  
302 ~~purpose of this chapter between operators, public agencies,~~  
303 ~~and contractors after initial compliance with the notification~~  
304 ~~provisions of this chapter.~~

305 ~~(f)~~ (e) Compliance with the notice requirements of this  
306 section is not required of persons plowing less than 12 inches  
307 in depth for agricultural purposes.

308 ~~(g)~~ (f) Compliance with the notice requirements of this



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309 section is not required by persons or operators excavating on  
310 their own property or easement when no other persons or  
311 operators have underground facilities on the property or  
312 easement.

313 ~~(h)~~ (g) Except for those persons submitting design or  
314 survey locate requests, no person, including an operator,  
315 shall request markings of a site through the One-Call  
316 Notification System that meets the operational requirements as  
317 described in ~~subsection (a) of~~ Section 37-15-5 (a), unless  
318 excavation is scheduled to commence. In addition, no person  
319 shall make repeated requests for remarking, unless the  
320 repeated request is required for excavating to continue or due  
321 to circumstances not reasonably within the control of the  
322 person.

323 ~~(i)~~ (h) Any person who complies with the notification  
324 requirements of this chapter is not liable for damage to an  
325 operator's underground facility if all of the following are  
326 satisfied:

327 (1) The operator received the notification required by  
328 this section.

329 (2) The operator failed to locate its underground  
330 facilities as required by Section 37-15-6.

331 (3) The damage is a proximate result of the operator's  
332 failure to locate its underground facilities as required by  
333 Section 37-15-6."

334 "§37-15-4.1

335 (a) Any person may submit a design or survey locate  
336 request to the One-Call Notification System. The design or



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337 survey locate request shall describe the tract or parcel of  
338 land for which the design or survey locate request has been  
339 submitted with sufficient particularity as defined by policies  
340 developed ~~and promulgated~~ by the One-Call Notification System  
341 to enable the facility operator to ascertain the precise tract  
342 or parcel of land involved ~~and~~. The request shall state the  
343 name, address, and telephone number, ~~and facsimile number~~ of  
344 the person who has submitted the design or survey locate  
345 request and the company name of the project owner.

346 (b) Within five working days after a design or survey  
347 locate request has been submitted to the One-Call Notification  
348 System for a proposed project, the operator shall respond by  
349 one of the following methods:

350 (1) Marking the approximate location of all underground  
351 facilities in the area of proposed excavation.

352 (2) Providing to the person submitting the design or  
353 survey locate request the best available description of all  
354 underground facilities in the area of proposed excavation  
355 which may include drawings of underground facilities already  
356 built in the area or other facility records that are  
357 maintained by the facility operator.

358 (3) Allowing the person submitting the design or survey  
359 locate request or any other authorized person to inspect or  
360 copy the drawings or other records for all underground  
361 facilities within the proposed area of excavation.

362 (4) The complex or large project process as provided in  
363 Section 37-15-4.2 may be used for complex or large survey or  
364 design projects."



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365 "§37-15-5

366 ~~(a) Until January 1, 2027:~~

367 (a) (1) Operators who have underground facilities within  
368 this state shall participate in and utilize the services of  
369 the One-Call Notification System.

370 ~~(2) Operators that are members of the One-Call~~  
371 ~~Notification System on January 1, 2020, must remain members.~~

372 ~~(3) Operators with more than 25,000 customers or 500~~  
373 ~~miles of facilities, that are not members, must join the~~  
374 ~~One-Call Notification System by January 1, 2021.~~

375 ~~(4) Operators that do not meet the thresholds described~~  
376 ~~in subdivision (2) or (3), must join the One-Call Notification~~  
377 ~~System by January 1, 2022.~~

378 ~~(5)~~ (2) Operators of electrical underground facilities  
379 that join the One-Call Notification System ~~under the~~  
380 ~~requirements of subdivision (3) or (4)~~ having less than five  
381 percent underground trench miles compared to the total miles  
382 of line, are not subject to the membership costs until their  
383 underground trench miles exceed the trench mile exemption.  
384 These operators shall be required to report annually to the  
385 One-Call Notification System their percentage of underground  
386 trench miles by the end of each calendar year.

387 ~~(6)~~ (3) If an operator of an underground facility fails  
388 to become a member of the One-Call Notification System, as  
389 required by this chapter, and that failure is a cause of  
390 damage to that underground facility caused by a person who has  
391 complied with this chapter and ~~has~~ have exercised reasonable  
392 care in the performance of the excavations that has caused



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393 damage to the underground facility, the operator has no right  
394 of recovery against the person for the damage to that  
395 underground facility.

396 (b) ~~Between April 18, 1994, and January 1, 1995, or any~~  
397 ~~time thereafter, any~~Any nonprofit ~~non-profit~~ corporation,  
398 public corporation, or governmental entity desiring to become  
399 the One-Call Notification System shall apply to the Alabama  
400 Public Service Commission for a certificate of public  
401 convenience and necessity, verifying under oath that the  
402 applicant meets the requirements of this chapter. After a  
403 public hearing on the application, if the Alabama Public  
404 Service Commission deems that the applicant meets the  
405 requirements of this chapter, and if it is found that the  
406 applicant is fit, willing, and able to properly perform the  
407 services proposed and that the proposed service is or will be  
408 required by the present or future public convenience or  
409 necessity, then ~~in such event~~ the Alabama Public Service  
410 Commission may issue a certificate of public convenience and  
411 necessity authorizing the applicant to commence its operation  
412 as the One-Call Notification System. The Alabama Public  
413 Service Commission shall revoke a certificate if the  
414 ~~non-profit~~nonprofit corporation, public corporation, or  
415 governmental entity ceases to meet the requirements as set  
416 forth in this chapter. The One-Call Notification System must  
417 provide a report of operations and financial review or audit  
418 to the Alabama Public Service Commission annually.

419 (c) Subject to subsections (a) and (b), there shall be  
420 a statewide One-Call Notification System in accordance with





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421 this chapter to provide notice of all excavation or demolition  
422 near underground facilities.

423 (d) The One-Call Notification System shall be  
424 incorporated or operated as a ~~non-profit~~nonprofit corporation  
425 and governed by a board of directors representing its  
426 membership in accordance with the One-Call Notification System  
427 bylaws.

428 (e) Operators of underground natural gas or hazardous  
429 liquid pipeline facilities or the One-Call Notification System  
430 acting on their behalf shall develop and implement a public  
431 awareness and damage prevention program to educate the general  
432 public, excavators, and operators about the availability and  
433 use of the One-Call Notification System as required in  
434 applicable federal regulations and the requirements of this  
435 chapter.

436 (f) The person giving notice of intent to excavate or  
437 demolish shall be furnished an individual reference file  
438 number for each notification and upon request shall be  
439 furnished the names of the operators to whom the notification  
440 will be transmitted.

441 (g) An adequate record of notifications shall be  
442 maintained by the underground facility operator or the  
443 One-Call Notification System in order to document timely  
444 compliance with this chapter. These records shall be retained  
445 for a period of not less than three years and shall be made  
446 available at a reasonable cost upon proper and adequate  
447 advance request.

448 (h) The services of the One-Call Notification System



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449 should be provided on working days in accordance with the  
450 established working day hours.

451 (i) The One-Call Notification System should voice  
452 record the notification telephone calls, ~~and after~~  
453 ~~hours~~after-hours calls should at least reach a voice recording  
454 which explains emergency procedures.

455 (j) All members of the One-Call Notification System  
456 shall provide the One-Call Notification System with the  
457 following information:

458 (1) The notification area data in a format as required  
459 by the current database system utilized by the One-Call  
460 Notification System for the locations in which members have  
461 underground facilities or for other reasons wish to receive  
462 notifications of proposed excavations, demolitions, or  
463 blasting. This information shall be updated at least once a  
464 year.

465 (2) The name, address, and telephone number of a person  
466 to receive emergency notifications.

467 (k) The One-Call Notification System shall promptly  
468 transmit the information received from the excavator, as set  
469 forth in Section 37-15-4, to its appropriate member operators.

470 (l) All members of the One-Call Notification System who  
471 have changes, additions, or new installations of buried  
472 facilities within the boundaries of the State of Alabama shall  
473 notify the One-Call Notification System of changes in the  
474 information required in subdivision ~~(1) of subsection~~ (j) (1),  
475 within 30 days of the completion of such change, addition, or  
476 new installation."



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477           "§37-15-6

478           (a) (1) Each operator served with notice in accordance  
479 with Section 37-15-4, with underground facilities in the area,  
480 shall mark or cause to be marked or otherwise provide the  
481 approximate location of the operator's underground facilities  
482 by marking in a manner as prescribed herein prior to the  
483 proposed start of excavation, demolition, or blasting. If any  
484 underground facilities become damaged due to an operator  
485 furnishing inaccurate information as to the approximate  
486 location of the facilities, through no fault of the operator,  
487 then the civil liabilities imposed by this chapter do not  
488 apply.

489           (2) In lieu of such marking, the operator may request  
490 to be present at the site upon commencement of the excavation,  
491 demolition, or blasting.

492           (3) A member operator that states that it does not have  
493 accurate information concerning the exact location of its  
494 underground facilities is exempt from the requirements of this  
495 section, but shall provide the best available information to  
496 the person excavating in order to comply with the requirements  
497 of this section. A person excavating is not liable for any  
498 damage to an underground facility under the exemption in this  
499 subdivision if the excavation or demolition is performed with  
500 reasonable care as noted in Section 37-15-8, and the excavator  
501 uses detection equipment or other acceptable means to  
502 determine the location of the underground facilities.

503           (4) When an excavator encounters an unmarked  
504 underground facility on an excavation site where notice of



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505 intent to excavate has been made in accordance with the  
506 provisions of Section 37-15-4, and attempts a follow-up or  
507 second notice relative to revising the original notice to the  
508 One-Call Notification System or the operator, all operators  
509 thus notified must attempt to contact the excavator within  
510 four hours and provide a response relative to any of their  
511 known underground facilities, active or abandoned, at the site  
512 of the excavation.

513 (b) When marking the approximate location of  
514 underground facilities, the operator shall follow the color  
515 code designation in accordance with the latest edition of the  
516 American Public Works Association Uniform Color Code.

517 (c) The color code designation referenced in this  
518 section shall not be used by any operator or person to mark  
519 the boundary or location of any excavation or demolition area.  
520 If the excavator elects to mark the proposed excavation or  
521 demolition site, the boundary or location shall be identified  
522 using white as the identifying color or with natural color  
523 wood stakes. White flags or white stakes may have a thin  
524 stripe, one inch or less of the designated color code, to  
525 indicate the excavator's proposed type of facility, if  
526 applicable.

527 (d) Each operator, upon determining that no underground  
528 facility is present on the tract or parcel of land or upon  
529 completion of the marking of the location of any underground  
530 facilities on the tract or parcel of land, shall provide a  
531 positive response with information to the One-Call  
532 Notification System in accordance with the procedures



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533 developed by the One-Call Notification System.

534 (e) If all operators notified on the locate request  
535 have submitted a positive response that indicates a closed or  
536 completed response by the operator to the One-Call  
537 Notification System prior to the proposed excavation date, the  
538 excavator who made the request, upon verifying the closed or  
539 completed status in the positive response system, may begin  
540 work prior to the proposed date of excavation given, while  
541 following all requirements of Section 37-15-8 or other  
542 applicable portions of this chapter.~~The requirement for~~  
543 ~~providing a positive response shall become effective January~~  
544 ~~1, 2021.~~

545 (f) After the required notice of excavation is given  
546 and the operator has designated the facility as complete or  
547 cleared in the positive response system or has otherwise  
548 responded in accordance with this section, if the excavator  
549 observes or becomes aware of an unmarked underground facility  
550 in the area of proposed excavation, the excavator shall not  
551 begin excavating until an additional notice is made to the  
552 One-Call Notification System. The excavator may begin after  
553 the giving of the notice, but shall exercise reasonable care  
554 to avoid the underground facility that was observed.

555 ~~(f)~~ (g) Any contract locator acting on behalf of an  
556 operator is subject to this section."

557 "§37-15-8

558 In addition to the notification requirements of Section  
559 37-15-4, each person responsible for an excavation or  
560 demolition operation designated in Section 37-15-3, when



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561 performing excavation or demolition within the tolerance zone,  
562 shall do all of the following to avoid damage to or minimize  
563 interference with the underground facilities:

564 (1) Determine the location of any marked underground  
565 facility utilizing noninvasive methods of excavation. For  
566 parallel type excavations, the existing facility shall be  
567 exposed at intervals as often as necessary to avoid damages.

568 (2) Maintain a clearance of at least 18 inches between  
569 any underground facility and the cutting edge or point of  
570 mechanized equipment.

571 (3) When crossing the facility within the tolerance  
572 zone, use reasonable care to ascertain the depth of the  
573 underground utilities below the surface of the ground.

574 ~~(3)~~ (4) Provide such support for underground facilities  
575 in and near a construction area, including backfill  
576 operations, as may be reasonably required by the operator for  
577 the protection of the utilities.

578 ~~(4)~~ (5) Protect and preserve the markings of approximate  
579 locations of underground facilities until those markings are  
580 no longer required for proper and safe excavation or  
581 demolition."

582 "§37-15-9

583 (a) Each person responsible for any excavation or  
584 demolition operation that results in any damage to an  
585 underground facility, immediately upon discovery of such  
586 damage, shall notify the operator of such facility of the  
587 location of the damage or the One-Call Notification System  
588 operating on behalf of the underground facility owner and



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589 shall allow the operator reasonable time to accomplish any  
590 necessary repairs before completing the excavation or  
591 demolition in the immediate area of the damage to such  
592 facility.

593 (b) In addition to subsection (a), each person  
594 responsible for any excavation or demolition shall immediately  
595 report to the operator or the One-Call Notification System  
596 operating on behalf of the underground facility owner and  
597 appropriate law enforcement agencies and fire departments any  
598 damage to an underground facility that results in escaping  
599 flammable, corrosive, explosive, or toxic liquids or gas and  
600 shall take reasonable actions necessary to protect persons or  
601 property and to minimize safety hazards until those law  
602 enforcement agencies and fire departments and the operator  
603 arrive at the underground facility.

604 (c) If an event damages any pipe, cable, or its  
605 protective covering, or other underground facility, or there  
606 is a significant near miss that could have resulted in damage,  
607 the operator receiving the notice shall file a report with the  
608 One-Call Notification System. Reports must be submitted  
609 annually to the system, ~~no later than March 31~~ for the prior  
610 calendar year by the deadline date established for the prior  
611 year reporting, or more frequently at the option and sole  
612 discretion of the operator. Each report must describe, if  
613 known, the cause, nature, and location of the damage. The  
614 One-Call Notification System shall establish and maintain a  
615 process to facilitate submission of reports by operators or  
616 persons excavating."



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617           "§37-15-10

618           (a) Any person who violates this chapter, or the rules  
619 adopted under this chapter, shall be subject to a civil  
620 penalty as follows:

621           (1) For a first violation, the violator shall complete  
622 a course of training concerning compliance with this chapter  
623 or pay a civil penalty in an amount not to exceed five hundred  
624 dollars (\$500) per incident, or both.

625           (2) For a second or subsequent violation within a  
626 12-month period, the violator shall complete a course of  
627 training concerning compliance with this chapter or pay a  
628 civil penalty in an amount not to exceed one thousand dollars  
629 (\$1,000) per incident, or both.

630           (3) For a third or subsequent violation within a  
631 12-month period, the violator shall complete a course of  
632 training concerning compliance with this chapter and pay a  
633 civil penalty in an amount not to exceed three thousand  
634 dollars (\$3,000) per incident.

635           (4) Notwithstanding this subsection, if any violation  
636 was the result of gross negligence or willful noncompliance,  
637 the violator shall be required to complete a course of  
638 training concerning compliance with this chapter and pay a  
639 civil penalty in an amount not to exceed ten thousand dollars  
640 (\$10,000) per incident.

641           (b) Any person who is required to complete a course of  
642 training under this section shall be responsible for paying  
643 for the cost of the training. For those instances in which  
644 training is ordered, if the person is a firm, partnership,





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645 association, corporation, limited liability company, joint  
646 venture, department, or subdivision of the state or other  
647 governmental entity or any other body or organization, it may  
648 be required that at least one manager or supervisor thereof  
649 attend any training.

650 (c) The penalties provided under this section may be  
651 subject to periodic review by the authority board and revised,  
652 by rule, as needed to ensure enforcement penalties are deemed  
653 effective and are in compliance with federal law.

654 (d) The amount of such penalties shall be dependent  
655 upon the degree of non-compliance, the amount of injury or  
656 damage caused, the degree of threat to public safety, the  
657 degree of public inconvenience caused as a result of the  
658 violation, and the number of past violations. Mitigation of  
659 the penalty may be shown by good faith efforts of the violator  
660 to have complied with this chapter.

661 (e) The Underground Damage Prevention Fund is created  
662 within the State Treasury, to be administered by the  
663 authority. ~~All penalties recovered in actions brought by the~~  
664 ~~authority under this chapter shall be paid into the~~  
665 ~~Underground Damage Prevention Fund.~~ All sources of funds  
666 collected by the authority under this chapter, including, but  
667 not limited to, grants, assessments, and civil penalties,  
668 shall be deposited into the fund. Any monies remaining in the  
669 ~~Underground Damage Prevention Fund~~ fund at the end of the  
670 fiscal year shall not revert to the State General Fund, but  
671 shall remain in the Underground Damage Prevention Fund for the  
672 exclusive use of the authority. The expenditures of monies in



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673 the Underground Damage Prevention Fund shall be at the  
674 discretion of the authority board to carry out its duties  
675 under this chapter. Excess funds shall be used for purposes  
676 related to underground facility damage prevention, including,  
677 but not limited to, ~~support~~ public awareness programs and  
678 training and education of excavators, operators, locators, and  
679 other persons to reduce the number and severity of violations  
680 of this chapter.

681 (f) This chapter does not affect any civil remedies for  
682 personal injury or property damage or criminal sanctions  
683 except as otherwise specifically provided for in this chapter.

684 (g) Evidence of findings of fact, civil penalties, or  
685 any of the actions or proceedings pursuant to this chapter  
686 shall not be admissible in any other civil causes of actions  
687 related to the excavation or damage for which the penalty or  
688 fine was issued; however, these materials are discoverable in  
689 civil actions arising from the facts herein. This chapter does  
690 not limit any person's right to pursue any additional civil  
691 remedy otherwise allowed by law.

692 (h) No civil penalty may be imposed pursuant to this  
693 section against an excavator or operator who violates any  
694 provision of this chapter if the violation occurred while the  
695 excavator or operator was responding to an emergency.  
696 Notwithstanding the foregoing, the civil penalty shall be  
697 imposed if the violation was willful or malicious.

698 (i) This section shall not be construed to limit any  
699 provision of law granting governmental immunity to state or  
700 local entities or to impose any liability or duty of care not



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701 otherwise imposed by law upon any state or local entity.

702 (j) Any person who willfully or maliciously removes or  
703 otherwise destroys a marking used by an operator to mark the  
704 location of any underground facility, except in the ordinary  
705 course of excavation, is guilty of a Class C misdemeanor.

706 (k) Any monies received by the Underground Damage  
707 Prevention Authority prior to April 22, 2021, which were  
708 directed to be paid into the Underground Damage Prevention  
709 Fund, shall be deposited into the fund."

710 "§37-15-10.1

711 (a) The Underground Damage Prevention Authority is  
712 created for the purpose of enforcing this chapter and for  
713 reviewing penalty provisions and the adequacy of the  
714 enforcement process. It is the intent of the Legislature that  
715 the authority and its enforcement activities not be funded by  
716 appropriations from the state budget.

717 (b) The authority ~~shall~~ may utilize the services of the  
718 ~~Alabama~~ Public Service Commission to provide administrative  
719 support for the authority, subject to the concurrence by the  
720 authority board. The Alabama Public Service Commission shall  
721 charge the expenses associated with the administrative duties  
722 of the authority back to the authority, subject to the  
723 concurrence of the authority board. The administrative support  
724 provided by the ~~Alabama~~ Public Service Commission to the  
725 authority is in an administrative capacity only and nothing in  
726 this chapter shall expand the jurisdiction of the ~~Alabama~~  
727 Public Service Commission in any way.

728 (c) The authority shall be composed of a board of



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729 underground facility protection stakeholders. The board shall  
730 be composed of one subject matter expert representative from  
731 each of the following stakeholders and all board appointments  
732 shall be made by March 31, 2020, as follows:

- 733 (1) ~~Alabama~~ Attorney General's Office.
- 734 (2) ~~Alabama~~ Public Service Commission - gas pipeline  
735 safety.
- 736 (3) ~~Alabama~~ Department of Transportation.
- 737 (4) Alabama county engineers.
- 738 (5) Cable television industry.
- 739 (6) Electric utility industry.
- 740 (7) Municipal utility operator industry.
- 741 (8) Natural gas distribution industry.
- 742 (9) One-Call Notification System.
- 743 (10) Professional excavator industry.
- 744 (11) Professional road builder industry.
- 745 (12) Professional land surveyor industry.
- 746 (13) Telecommunications industry.
- 747 (14) Transmission pipeline industry.
- 748 (15) Utility facility locating industry.
- 749 (16) Water utility industry.
- 750 (17) Wastewater industry.

751 (d) The Governor shall appoint the stakeholder  
752 representatives selected from qualified persons as provided in  
753 subsection (c) with the exception of the stakeholder  
754 representatives from the ~~Alabama~~ Attorney General's office,  
755 the ~~Alabama~~ Public Service Commission - gas pipeline safety,  
756 and the ~~Alabama~~ Department of Transportation, who shall be



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757 appointed by the head of the respective agency. The initial  
758 authority board shall be appointed with staggered terms as  
759 determined by the Governor. After the initial appointment,  
760 each stakeholder representative shall serve a term of three  
761 years or until a replacement is appointed, whichever occurs  
762 later. No person shall be appointed for more than two full  
763 consecutive terms with the exception of the stakeholder  
764 representatives from the ~~Alabama~~ Attorney General's office,  
765 the ~~Alabama~~ Public Service Commission - gas pipeline safety,  
766 the ~~Alabama~~ Department of Transportation, and the One-Call  
767 Notification System.

768 (e) Membership of the authority board shall be  
769 inclusive and reflect the racial, gender, geographic,  
770 ~~urban/rural~~ urban, rural, and economic diversity of the state.

771 (f) The board shall elect an executive committee made  
772 up of five representatives from the authority board as  
773 provided in this section excluding those entities representing  
774 a state agency, who will be responsible for levying civil  
775 penalties and taking actions as described in Section 37-15-10,  
776 this section, and Section 37-15-10.2.

777 (g) Members of the authority board and executive  
778 committee may participate in a meeting of the board or  
779 committee by means of telephone conference, video conference,  
780 or similar communications equipment by means of which all  
781 persons participating in the meeting may hear each other at  
782 the same time and members of the public may simultaneously  
783 listen to the meeting. Participation by such means shall  
784 constitute presence in person at a meeting for all purposes.



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785 (h) The board may do all of the following:

786 (1) Adopt rules to conduct the affairs of the  
787 authority.

788 (2) Make and enter into contracts.

789 (3) Enter into an interagency agreement with the  
790 Attorney ~~General's office~~General to serve as legal counsel.  
791 The Attorney General shall be compensated at a rate not to  
792 exceed the normal hourly rate authorized by the Governor for  
793 legal services contracts. The authority shall also reimburse  
794 the Attorney General for any expenses incurred in providing  
795 legal representation.

796 (4) Oversee the development of or contract for the  
797 development and administration of the designated training  
798 program.

799 (5) Evaluate and revise the enforcement program process  
800 and penalty structure by adopting rules if the current  
801 structure does not meet the purpose and intent of this chapter  
802 or federal law.

803 (i) No member of the board, individually or jointly,  
804 shall be civilly liable for acts within the scope of his or  
805 her duties as a board member which are made in good faith and  
806 are absent unreasonable, wanton, willful, intentional conduct,  
807 or a violation of federal law.

808 (j) The members of the board shall serve without  
809 compensation.

810 (k) Nothing in this chapter shall grant the authority  
811 jurisdiction over damage to utilities located above the  
812 ground.



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813 (1) Board members shall not participate in any  
814 enforcement action decisions pertaining to the entity they  
815 represent."

816 "§37-15-10.2

817 (a) Any person who violates this chapter may be  
818 reported to the authority for the alleged violation.

819 (b) The board shall develop and implement a process for  
820 the receipt of a complaint of a violation of this chapter. The  
821 complaint must be made no later than 30 days after the known  
822 occurrence of the violation. A complaint may be filed as  
823 information only and designated not to be pursued under the  
824 enforcement provisions.

825 (c) Upon receipt of a complaint of a violation of this  
826 chapter, the administrator, operating on behalf of the  
827 authority, shall provide notice to the reported violator  
828 advising that a complaint of violation has been made setting  
829 out the time and place of the alleged violation, the identity  
830 of who reported the violation, his or her right to file a  
831 written response within 14 days, and his or her right to  
832 appeal from an adverse decision.

833 (d) The administrator, acting on behalf of the  
834 authority, shall submit the complaint and documentation to the  
835 executive committee.

836 (e) The authority executive committee shall review the  
837 complaint and any documentation regarding the complaint and  
838 make any needed recommendation for penalty action.

839 (f) The administrator, operating on behalf of the  
840 authority, shall notify the complainant and the reported



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841 violator of any penalty assessed.

842 (g) Once the reported violator is notified of the  
843 designated penalty as described in Section 37-15-10, the  
844 violator may pay the penalty to the Underground Damage  
845 Prevention Fund or dispute the penalty and request a hearing  
846 before the full authority board.

847 (h) The request for a hearing before the authority  
848 board must be made within 30 days of the issuance of  
849 notification of the violation.

850 (i) The full authority board shall meet no more than  
851 quarterly, based on need. The hearings shall be held at the  
852 place set forth in the notice of hearing. There shall be no  
853 presumption of correctness attached to any finding of fact or  
854 any assessment of a penalty that is appealed to the authority  
855 board, and the proceedings and hearing before the authority  
856 board shall be tried de novo. The complainant ~~must~~ and alleged  
857 violator may request to attend the hearing.

858 (j) The authority board in the appeal process may do  
859 all of the following:

860 (1) Repeal the initial penalty provisions cited for the  
861 alleged violation of this chapter.

862 (2) Uphold the initial penalty provisions cited for the  
863 alleged violation of this chapter.

864 (3) Issue a new penalty provision related to the  
865 alleged violation of this chapter.

866 (4) Issue an order stating the outcome of the hearing,  
867 including any assigned penalty.

868 (k) A person aggrieved by the final order, within 30





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869 days from the date of the final order, may seek judicial  
870 review in the circuit court by filing a notice of appeal.

871 (l) All complaints filed pursuant to this chapter shall  
872 not be subject to the Alabama Open Records Act. However, the  
873 authority shall make available upon request a summary of a  
874 complaint after a final resolution has been entered regarding  
875 any such complaint requested along with any documents  
876 associated with the final resolution of the complaint.  
877 However, this restriction shall not prevent a party from  
878 obtaining a copy of the complaint by means of a subpoena or  
879 other method allowed by the Alabama Rules of Civil Procedure  
880 or the Alabama Rules of Criminal Procedure. The Alabama Open  
881 Meetings Act shall apply to all meetings and judicial hearings  
882 required pursuant to this chapter, except for those meetings  
883 of the authority in which the initial determination of  
884 violation and recommended fine is discussed and determined.

885 (m) The authority may bring an action against any  
886 person or entity to collect any fines, penalties, or other  
887 monies owed to the authority.

888 (n) The authority shall be governed by the Alabama  
889 Administrative Procedure Act."

890 Section 2. Section 37-15-4.2 is added to Chapter 15 of  
891 Title 37, Code of Alabama 1975, to read as follows:

892 §37-15-4.2

893 (a) A person responsible for a demolition or  
894 excavation project that qualifies as a complex or large  
895 project shall provide underground facility operators with  
896 notice of a planned complex or large project a minimum of five



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897 working days before the project commences. The notice shall  
898 follow the guidelines established for complex or large  
899 projects which shall include, but are not limited to, all of  
900 the following:

901 (1) Notice of pre-excavation planning meeting, which  
902 meeting shall be held not less than five working days before  
903 the commencement of the complex or large project.

904 (2) Scope of project details and expected timelines for  
905 the work to be concluded, including descriptions of phase, if  
906 appropriate.

907 (3) Company representative contact information.

908 (4) Field contact representative contact information.

909 (5) List of known contractors and subcontractors.

910 (6) Use of premarking requirements at proposed  
911 excavation sites.

912 (b) The excavator, operators, and locators involved in  
913 the complex or large project shall negotiate in good faith to  
914 reach a working agreement, which shall include, but not be  
915 limited to, the agreed upon scope of work, timeline for  
916 excavation activity, and location completion schedule.

917 (c) Once the working agreement is finalized, the locate  
918 requests for utility markings shall be made in accordance with  
919 the location completion schedule and in compliance with the  
920 requirements of Section 37-15-4. The underground facility  
921 owners shall mark the proposed excavation site in compliance  
922 with the requirements of Section 37-15-6.

923 (d) An excavator's knowing failure to designate a  
924 qualifying project as a complex or large project subject to



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925 this section and an excavator or operator's failure to comply  
926 with a working agreement shall be subject to the enforcement  
927 provisions of Section 37-15-10.

928 Section 3. This act shall become effective on January  
929 1, 2026.