

SB205 ENROLLED



1 SB205
2 FKRHRC5-3
3 By Senator Allen
4 RFD: Transportation and Energy
5 First Read: 22-Jan-26



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1 Enrolled, An Act,

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4 Relating to the Underground Damage Prevention Program;
5 to amend Sections 37-15-2, 37-15-4, 37-15-4.1, 37-15-5,
6 37-15-6, 37-15-8, 37-15-9, 37-15-10, 37-15-10.1, and
7 37-15-10.2, Code of Alabama 1975; and to add Section 37-15-4.2
8 to the Code of Alabama 1975, to provide various underground
9 damage prevention requirements for excavators before
10 commencing complex or large projects; to extend the statutory
11 sunset clause related to the program; to further provide for
12 hearing procedures; and to make nonsubstantive, technical
13 revisions to update the existing code language to current
14 style.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 37-15-2, 37-15-4, 37-15-4.1,
17 37-15-5, 37-15-6, 37-15-8, 37-15-9, 37-15-10, 37-15-10.1, and
18 37-15-10.2, Code of Alabama 1975, are amended to read as
19 follows:

20 "§37-15-2

21 As used in this chapter the following words have the
22 following meanings:

23 (1) APPROXIMATE LOCATION OF UNDERGROUND FACILITIES.

24 Information about an operator's underground facilities which
25 is provided to a person by an operator and must be accurate to
26 within 18 inches measured horizontally from the outside edge
27 of each side of such operator's facility, or a strip of land
28 18 inches either side of the operator's field mark or the



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29 marked width of the facility plus 18 inches on each side of
30 the marked width of the facility. The term does not include a
31 designation of location as to the depth below the surface of
32 the ground.

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

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

37 (4) BLASTING. The use of an explosive device for the
38 excavation of earth, rock, or other material or the demolition
39 of a structure.

40 (5)a. COMPLEX OR LARGE PROJECT. Any excavation activity
41 that meets one or more of the following criteria:

42 1. The activity is initially planned to extend beyond a
43 standard 40-working day notification period.

44 2. The project involves five or more work crews
45 operating concurrently. Concurrent work crews may work for
46 more than one general contractor on a project.

47 3. The project requires multiple locate requests for
48 the same activity within the same geographic area, submitted
49 within a single working day notification period, with all
50 activity occurring within the initial life of a single locate
51 request.

52 b. This definition establishes the scope for projects
53 exceeding typical requirements for time, resources, and
54 coordination across multiple crews or requests within a single
55 designated notification period

56 ~~(5)~~ (6) CONTRACT LOCATOR. Any person contracted with an



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57 operator specifically to determine and mark the approximate
58 location of the operator's utility lines that exist within the
59 area specified by a notice served on the "One-Call
60 Notification System."

61 ~~(6)~~ (7) DAMAGE. Includes, but is not limited to, the
62 substantial weakening of structural or lateral support of an
63 underground facility, penetration or destruction of any
64 underground facility's protective coating, housing, or other
65 protective device, and the partial or complete severance
66 ~~(partial or complete)~~ of any underground facility, but does
67 not apply to any operator's abandoned underground facility.

68 ~~(7)~~ (8) DEMOLITION. Any operation by which a structure
69 or mass of material is wrecked, razed, rendered, moved, or
70 removed by means of any tools, equipment, or explosives.

71 ~~(8)~~ (9) DESIGN OR SURVEY LOCATE REQUEST. Any
72 communication to the "One-Call Notification System,"
73 specifically to request existing underground facilities to be
74 located for bidding, predesign, or advance planning purposes.
75 A design locate request may not be made or used for excavation
76 purposes, and an excavation locate request may not be made or
77 used for design or survey purposes.

78 ~~(9)~~ (10) EMERGENCY EXCAVATION OR DEMOLITION. An
79 excavation or demolition that is required to eliminate an
80 imminent danger to life, health, property, or the environment
81 or required for the repair or restoration of operator service
82 that is required to be performed before the notification and
83 response procedures required in Section 37-15-4 and 37-15-6
84 may be fully utilized.



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85 ~~(10)~~(11) EXCAVATE or EXCAVATION. Any operation for the
86 purpose of the movement or removal of earth, rock, or other
87 material by mechanized equipment, ~~or explosive device,~~ or hand
88 digging. ~~and~~

89 a. The term includes, but is not limited to, augering,
90 backfilling, blasting, boring, digging, ditching, dredging,
91 drilling, grading, marine construction, pile-driving,
92 plowing-in, pulling-in, ripping, scraping, sub-soiling,
93 trenching, and tunneling on or below the ground or submerged
94 under water. ~~Excavate or excavation~~

95 b. The term does not include ~~routine~~ any of the
96 following:

97 1. Routine roadway maintenance activities carried out
98 by or for those responsible for ~~publicly-maintained~~ publicly
99 maintained roadways, provided that the activities meet all of
100 the following requirements: (i) occur entirely within the
101 right-of-way of a public road, street, or highway; (ii) are
102 carried out with reasonable care so as to protect any utility
103 facilities placed in the right-of-way by permit; (iii) are
104 carried out within the limits of any original excavation on
105 the traveled way, shoulder, or drainage ditches of a public
106 road, street, or highway; and, ~~7~~ (iv) if involving the
107 replacement of existing structures, including traffic control
108 devices, replace such structures in their approximate previous
109 locations and at their approximate previous depth. ~~Excavate or~~
110 ~~excavation does not include routine~~

111 2. Routine railroad maintenance activities conducted
112 within the track structure and its adjacent right-of-way,



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113 provided the activities are performed by railroad employees or
114 railroad contractors and are carried out with reasonable care
115 so as to protect any underground facilities placed in the
116 railroad right-of-way by agreement with the railroad. Nothing
117 in this chapter shall modify or abrogate any contractual
118 provision entered into between any railroad and any other
119 party owning or operating an underground facility or
120 underground utility lines within the railroad's right-of-way.

121 3. Activities carried out by those responsible for
122 publicly maintained roadways when utilizing unmechanized tools
123 or equipment on its property or on its right-of-way when
124 carried out with reasonable care so as to protect any utility
125 facilities placed in the right-of-way by permit and carried
126 out within the limits of any original excavation on the
127 traveled way, shoulder, or drainage ditches of a public road,
128 street, or highway.

129 ~~(11)~~(12) EXCAVATOR. Any person who engages in
130 excavation.

131 ~~(12)~~(13) EXECUTIVE COMMITTEE. The executive committee
132 created under Section 37-15-10.1.

133 (14) HAND DIGGING. Any movement, placement, or removal
134 of earth, rock, or other materials in or on the ground by use
135 of unmechanized tools or equipment, including, but not limited
136 to, shovels, picks, and post hole diggers. The term does not
137 include any of the following:

138 a. A property owner utilizing unmechanized tools or
139 equipment on their own property.

140 b. The use of unmechanized tools or equipment by or on



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141 behalf of a member operator to a depth not greater than 18
142 inches for repairing, connecting, protecting, or routine
143 maintenance of the member operator's underground facilities.

144 c. An operator utilizing unmechanized tools or
145 equipment in the response to a locate request for the purpose
146 of identifying their facility.

147 d. An operator replacing above ground structure in its
148 approximate previous location and at its approximate previous
149 depth.

150 e. A person providing or performing land surveying or
151 engineering activities or services as defined by the State
152 Board of Licensure for Professional Engineers and Land
153 Surveyors.

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

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

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



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169 ~~(16)~~(18) MEMBER. A person who participates in the
170 "One-Call Notification System" to receive services and is in
171 good standing with the "One-Call Notification System" in
172 accordance with the guidelines set forth in the corporation's
173 bylaws.

174 ~~(17)~~(19) NEAR MISS. An event where damage did not
175 occur, but a clear potential for damage was identified.

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

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

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

195 ~~(21)~~(23) OPERATOR. Any person, governmental agency, or
196 political subdivision, or its agents, who owns or operates a



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

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

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

219 ~~(24)~~ (26) PREMARK. To delineate the general scope of the
220 excavation on the surface of the ground using white paint,
221 white stakes, or other similar white markings.

222 ~~(25)~~ (27) ROUTINE ROADWAY MAINTENANCE. Maintenance work
223 on a roadway that is not done pursuant to a contract awarded
224 by a state or local government through a bid process for which



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225 plan drawings have been developed in advance or work for which
226 detailed and specific scheduling is not possible or feasible,
227 except that maintenance work that complies with subparagraph
228 (11)b.1. may be contracted.

229 ~~(26)~~ (28) TOLERANCE ZONE. The width of the underground
230 facility plus 18 inches on either side of the outside edge of
231 the underground facility on a horizontal plane.

232 ~~(27)~~ (29) UNDERGROUND FACILITY. Any cable, pipeline,
233 duct, wire, conduit, or other similar installation, installed
234 underground or underwater, by which an operator transports or
235 delivers materials, information, or services.

236 ~~(28)~~ (30) WILLFUL NONCOMPLIANCE. The intentional refusal
237 or failure to perform, or comply with, a duty created or
238 imposed by this chapter or by the rules adopted pursuant to
239 this chapter.

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

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

252 ~~(30)~~ (33) WORKING DAY HOURS. The time from 7:00 a.m. to



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253 5:00 p.m. local time on working days."

254 "§37-15-4

255 (a) A permit issued pursuant to law authorizing
256 excavation or demolition operations shall not be deemed to
257 relieve a person from the responsibility for complying with
258 this chapter. Any public agency issuing such permit shall
259 notify the person receiving the permit of the notification
260 requirements of this chapter, ~~and, however~~ However, failure to
261 provide such notification shall not make the State Department
262 of Transportation subject to the penalties provided for in
263 Section 37-15-10.

264 (b) Before commencing any excavation or demolition
265 operation prohibited by Section 37-15-3, each person
266 responsible for the excavation or demolition shall give
267 telephonic or electronic notice of the intent to excavate or
268 demolish to the underground facility operator or the "One-Call
269 Notification System" acting on behalf of the operator at least
270 two but not more than 10 working days prior to the start of
271 the proposed excavation, not including the day of
272 notification, and at least two working days but not more than
273 30 calendar days, not including the day of notification, prior
274 to the start of demolition or any blasting operations for
275 either excavation or demolition.

276 (c) The notice required by subsection (b) must contain
277 the name, address, and telephone number of the person
278 responsible for the excavation or the demolition and the
279 person giving notice, the proposed starting date and time, the
280 type of excavation or demolition operation to be conducted,



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281 the location of the proposed excavation or demolition with
282 sufficient details to enable the operator to locate same with
283 reasonable certainty, and whether or not explosives are to be
284 used. In the event the location requirements of this
285 subsection cannot be met, the excavator shall premark the
286 route or boundaries of the site of proposed excavation or
287 demolition by means of white as the identifying color on
288 stakes, flags, paint, buoys, or clearly identifiable materials
289 placed on the surface of the ground or water prior to the
290 notification to the One-Call Notification System. However,
291 premarking is not required when the premarking could
292 reasonably interfere with traffic or pedestrian control.

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

304 ~~(e) When engaged in an extensive and contiguous~~
305 ~~construction, demolition, or excavation activity, working~~
306 ~~agreements may be established to accomplish the intent and~~
307 ~~purpose of this chapter between operators, public agencies,~~
308 ~~and contractors after initial compliance with the notification~~



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309 ~~provisions of this chapter.~~

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

313 ~~(g)~~ (f) Compliance with the notice requirements of this
314 section is not required by persons or operators excavating on
315 their own property or easement when no other persons or
316 operators have underground facilities on the property or
317 easement.

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

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

332 (1) The operator received the notification required by
333 this section.

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

336 (3) The damage is a proximate result of the operator's



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337 failure to locate its underground facilities as required by
338 Section 37-15-6."

339 "§37-15-4.1

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

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

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

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

363 (3) Allowing the person submitting the design or survey
364 locate request or any other authorized person to inspect or



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365 copy the drawings or other records for all underground
366 facilities within the proposed area of excavation.

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

370 "§37-15-5

371 (a) Until January 1, ~~2027~~ 2037:

372 (1) Operators who have underground facilities within
373 this state shall participate in and utilize the services of
374 the One-Call Notification System.

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

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

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

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

392 ~~(6)~~ (3) If an operator of an underground facility fails



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393 to become a member of the One-Call Notification System, as
394 required by this chapter, and that failure is a cause of
395 damage to that underground facility caused by a person who has
396 complied with this chapter and ~~has~~ have exercised reasonable
397 care in the performance of the excavations that has caused
398 damage to the underground facility, the operator has no right
399 of recovery against the person for the damage to that
400 underground facility.

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



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421 forth in this chapter. The One-Call Notification System must
422 provide a report of operations and financial review or audit
423 to the Public Service Commission annually.

424 (c) Subject to subsections (a) and (b), there shall be
425 a statewide One-Call Notification System in accordance with
426 this chapter to provide notice of all excavation or demolition
427 near underground facilities.

428 (d) The One-Call Notification System shall be
429 incorporated or operated as a ~~non-profit~~ nonprofit corporation
430 and governed by a board of directors representing its
431 membership in accordance with the One-Call Notification System
432 bylaws.

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

441 (f) The person giving notice of intent to excavate or
442 demolish shall be furnished an individual reference file
443 number for each notification and upon request shall be
444 furnished the names of the operators to whom the notification
445 will be transmitted.

446 (g) An adequate record of notifications shall be
447 maintained by the underground facility operator or the
448 One-Call Notification System in order to document timely



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449 compliance with this chapter. These records shall be retained
450 for a period of not less than three years and shall be made
451 available at a reasonable cost upon proper and adequate
452 advance request.

453 (h) The services of the One-Call Notification System
454 should be provided on working days in accordance with the
455 established working day hours.

456 (i) The One-Call Notification System should voice
457 record the notification telephone calls, ~~and after hours~~
458 after-hours calls should at least reach a voice recording
459 which explains emergency procedures.

460 (j) All members of the One-Call Notification System
461 shall provide the One-Call Notification System with the
462 following information:

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

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

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

475 (l) All members of the One-Call Notification System who
476 have changes, additions, or new installations of buried



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477 facilities within the boundaries of the State of Alabama shall
478 notify the One-Call Notification System of changes in the
479 information required in subdivision ~~(1) of subsection~~ (j) (1),
480 within 30 days of the completion of such change, addition, or
481 new installation."

482 "§37-15-6

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

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

497 (3) A member operator that states that it does not have
498 accurate information concerning the exact location of its
499 underground facilities is exempt from the requirements of this
500 section, but shall provide the best available information to
501 the person excavating in order to comply with the requirements
502 of this section. A person excavating is not liable for any
503 damage to an underground facility under the exemption in this
504 subdivision if the excavation or demolition is performed with



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505 reasonable care as noted in Section 37-15-8, and the excavator
506 uses detection equipment or other acceptable means to
507 determine the location of the underground facilities.

508 (4) When an excavator encounters an unmarked
509 underground facility on an excavation site where notice of
510 intent to excavate has been made in accordance with the
511 provisions of Section 37-15-4, and attempts a follow-up or
512 second notice relative to revising the original notice to the
513 One-Call Notification System or the operator, all operators
514 thus notified must attempt to contact the excavator within
515 four hours and provide a response relative to any of their
516 known underground facilities, active or abandoned, at the site
517 of the excavation.

518 (b) When marking the approximate location of
519 underground facilities, the operator shall follow the color
520 code designation in accordance with the latest edition of the
521 American Public Works Association Uniform Color Code.

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

532 (d) Each operator, upon determining that no underground



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533 facility is present on the tract or parcel of land or upon
534 completion of the marking of the location of any underground
535 facilities on the tract or parcel of land, shall provide a
536 positive response with information to the One-Call
537 Notification System in accordance with the procedures
538 developed by the One-Call Notification System.

539 (e) If all operators notified on the locate request
540 have submitted a positive response that indicates a closed or
541 completed response by the operator to the One-Call
542 Notification System prior to the proposed excavation date, the
543 excavator who made the request, upon verifying the closed or
544 completed status in the positive response system, may begin
545 work prior to the proposed date of excavation given, while
546 following all requirements of Section 37-15-8 or other
547 applicable portions of this chapter. ~~The requirement for~~
548 ~~providing a positive response shall become effective January~~
549 ~~1, 2021.~~

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

560 ~~(f)~~ (g) Any contract locator acting on behalf of an



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561 operator is subject to this section."

562 "§37-15-8

563 In addition to the notification requirements of Section
564 37-15-4, each person responsible for an excavation or
565 demolition operation designated in Section 37-15-3, when
566 performing excavation or demolition within the tolerance zone,
567 shall do all of the following to avoid damage to or minimize
568 interference with the underground facilities:

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

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

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

579 ~~(3)~~(4) Provide such support for underground facilities
580 in and near a construction area, including backfill
581 operations, as may be reasonably required by the operator for
582 the protection of the utilities.

583 ~~(4)~~(5) Protect and preserve the markings of approximate
584 locations of underground facilities until those markings are
585 no longer required for proper and safe excavation or
586 demolition."

587 "§37-15-9

588 (a) Each person responsible for any excavation or



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589 demolition operation that results in any damage to an
590 underground facility, immediately upon discovery of such
591 damage, shall notify the operator of such facility of the
592 location of the damage or the One-Call Notification System
593 operating on behalf of the underground facility owner and
594 shall allow the operator reasonable time to accomplish any
595 necessary repairs before completing the excavation or
596 demolition in the immediate area of the damage to such
597 facility.

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

609 (c) If an event damages any pipe, cable, or its
610 protective covering, or other underground facility, or there
611 is a significant near miss that could have resulted in damage,
612 the operator receiving the notice shall file a report with the
613 One-Call Notification System. Reports must be submitted
614 annually to the system, ~~no later than March 31~~ for the prior
615 calendar year by the deadline date established for the prior
616 year reporting, or more frequently at the option and sole



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617 discretion of the operator. Each report must describe, if
618 known, the cause, nature, and location of the damage. The
619 One-Call Notification System shall establish and maintain a
620 process to facilitate submission of reports by operators or
621 persons excavating.

622 (d) A public agency shall not be liable for physical or
623 other damages that occur to an underground facility during the
624 course of performing routine roadway maintenance when the
625 underground facility was installed within the public
626 right-of-way in violation of the public agency's requirements
627 or not in accordance with the utility permit under which the
628 installation was performed."

629 "§37-15-10

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

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

637 (2) For a second or subsequent violation within a
638 12-month period, the violator shall complete a course of
639 training concerning compliance with this chapter or pay a
640 civil penalty in an amount not to exceed one thousand dollars
641 (\$1,000) per incident, or both.

642 (3) For a third or subsequent violation within a
643 12-month period, the violator shall complete a course of
644 training concerning compliance with this chapter and pay a



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645 civil penalty in an amount not to exceed three thousand
646 dollars (\$3,000) per incident.

647 (4) Notwithstanding this subsection, if any violation
648 was the result of gross negligence or willful noncompliance,
649 the violator shall be required to complete a course of
650 training concerning compliance with this chapter and pay a
651 civil penalty in an amount not to exceed ten thousand dollars
652 (\$10,000) per incident.

653 (b) Any person who is required to complete a course of
654 training under this section shall be responsible for paying
655 for the cost of the training. For those instances in which
656 training is ordered, if the person is a firm, partnership,
657 association, corporation, limited liability company, joint
658 venture, department, or subdivision of the state or other
659 governmental entity or any other body or organization, it may
660 be required that at least one manager or supervisor thereof
661 attend any training.

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

666 (d) The amount of such penalties shall be dependent
667 upon the degree of ~~non-compliance~~ noncompliance, the amount of
668 injury or damage caused, the degree of threat to public
669 safety, the degree of public inconvenience caused as a result
670 of the violation, and the number of past violations.
671 Mitigation of the penalty may be shown by good faith efforts
672 of the violator to have complied with this chapter.



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673 (e) The Underground Damage Prevention Fund is created
674 within the State Treasury, to be administered by the
675 authority. ~~All penalties recovered in actions brought by the~~
676 ~~authority under this chapter shall be paid into the~~
677 ~~Underground Damage Prevention Fund.~~ All sources of funds
678 collected by the authority under this chapter, including, but
679 not limited to, grants, assessments, and civil penalties,
680 shall be deposited into the fund. Any monies remaining in the
681 ~~Underground Damage Prevention Fund~~ fund at the end of the
682 fiscal year shall not revert to the State General Fund, but
683 shall remain in the Underground Damage Prevention Fund for the
684 exclusive use of the authority. The expenditures of monies in
685 the Underground Damage Prevention Fund shall be at the
686 discretion of the authority board to carry out its duties
687 under this chapter. Excess funds shall be used for purposes
688 related to underground facility damage prevention, including,
689 but not limited to, ~~support~~ public awareness programs and
690 training and education of excavators, operators, locators, and
691 other persons to reduce the number and severity of violations
692 of this chapter.

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

696 (g) Evidence of findings of fact, civil penalties, or
697 any of the actions or proceedings pursuant to this chapter
698 shall not be admissible in any other civil causes of actions
699 related to the excavation or damage for which the penalty or
700 fine was issued. ~~however~~ However, these materials are



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701 discoverable in civil actions arising from the facts herein.
702 This chapter does not limit any person's right to pursue any
703 additional civil remedy otherwise allowed by law.

704 (h) No civil penalty may be imposed pursuant to this
705 section against an excavator or operator who violates any
706 provision of this chapter if the violation occurred while the
707 excavator or operator was responding to an emergency.

708 Notwithstanding the foregoing, the civil penalty shall be
709 imposed if the violation was willful or malicious.

710 (i) This section shall not be construed to limit any
711 provision of law granting governmental immunity to state or
712 local entities or to impose any liability or duty of care not
713 otherwise imposed by law upon any state or local entity.

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

718 (k) Any monies received by the Underground Damage
719 Prevention Authority prior to April 22, 2021, which were
720 directed to be paid into the Underground Damage Prevention
721 Fund, shall be deposited into the fund."

722 "§37-15-10.1

723 (a) The Underground Damage Prevention Authority is
724 created for the purpose of enforcing this chapter and for
725 reviewing penalty provisions and the adequacy of the
726 enforcement process. It is the intent of the Legislature that
727 the authority and its enforcement activities not be funded by
728 appropriations from the state budget.



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729 (b) The authority ~~shall~~ may utilize the services of the
730 ~~Alabama~~ Public Service Commission to provide administrative
731 support for the authority, or the authority may contract with
732 a third-party administrator, subject to the concurrence by the
733 authority board. The Public Service Commission, or the
734 third-party administrator, shall charge the expenses
735 associated with the administrative duties of the authority
736 back to the authority, subject to the concurrence of the
737 authority board. The administrative support provided by the
738 ~~Alabama~~ Public Service Commission to the authority is in an
739 administrative capacity only and nothing in this chapter shall
740 expand the jurisdiction of the ~~Alabama~~ Public Service
741 Commission in any way.

742 (c) The authority shall be composed of a board of
743 underground facility protection stakeholders. The board shall
744 be composed of one subject matter expert representative from
745 each of the following stakeholders and all board appointments
746 shall be made by March 31, 2020, as follows:

- 747 (1) ~~Alabama~~ Attorney General's Office.
- 748 (2) ~~Alabama~~ Public Service Commission - gas pipeline
749 safety.
- 750 (3) ~~Alabama~~ State Department of Transportation.
- 751 (4) Alabama county engineers.
- 752 (5) Cable television industry.
- 753 (6) Electric utility industry.
- 754 (7) Municipal utility operator industry.
- 755 (8) Natural gas distribution industry.
- 756 (9) One-Call Notification System.



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757 (10) Professional excavator industry.
758 (11) Professional road builder industry.
759 (12) Professional land surveyor industry.
760 (13) Telecommunications industry.
761 (14) Transmission pipeline industry.
762 (15) Utility facility locating industry.
763 (16) Water utility industry.
764 (17) Wastewater industry.

765 (d) The Governor shall appoint the stakeholder
766 representatives selected from qualified persons as provided in
767 subsection (c) with the exception of the stakeholder
768 representatives from the ~~Alabama~~ Attorney General's office,
769 the ~~Alabama~~ Public Service Commission - gas pipeline safety,
770 and the ~~Alabama~~ State Department of Transportation, who shall
771 be appointed by the head of the respective agency. The initial
772 authority board shall be appointed with staggered terms as
773 determined by the Governor. After the initial appointment,
774 each stakeholder representative shall serve a term of three
775 years or until a replacement is appointed, whichever occurs
776 later. No person shall be appointed for more than two full
777 consecutive terms with the exception of the stakeholder
778 representatives from the ~~Alabama~~ Attorney General's office,
779 the ~~Alabama~~ Public Service Commission - gas pipeline safety,
780 the ~~Alabama~~ State Department of Transportation, and the
781 One-Call Notification System.

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



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

791 (g) Members of the authority board and executive
792 committee may participate in a meeting of the board or
793 committee by means of telephone conference, video conference,
794 or similar communications equipment by means of which all
795 persons participating in the meeting may hear each other at
796 the same time and members of the public may simultaneously
797 listen to the meeting. Participation by such means shall
798 constitute presence in person at a meeting for all purposes.

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

800 (1) Adopt rules to conduct the affairs of the
801 authority.

802 (2) Make and enter into contracts.

803 (3) Enter into an interagency agreement with the
804 ~~Attorney General's office~~ General to serve as legal counsel.
805 The Attorney General shall be compensated at a rate not to
806 exceed the normal hourly rate authorized by the Governor for
807 legal services contracts. The authority shall also reimburse
808 the Attorney General for any expenses incurred in providing
809 legal representation.

810 (4) Oversee the development of or contract for the
811 development and administration of the designated training
812 program.



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813 (5) Evaluate and revise the enforcement program process
814 and penalty structure by adopting rules if the current
815 structure does not meet the purpose and intent of this chapter
816 or federal law.

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

822 (j) The members of the board shall serve without
823 compensation.

824 (k) Nothing in this chapter shall grant the authority
825 jurisdiction over damage to utilities located above the
826 ground.

827 (l) Board members shall not participate in any
828 enforcement action decisions pertaining to the entity they
829 represent."

830 "§37-15-10.2

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

833 (b) The board shall develop and implement a process for
834 the receipt of a complaint of a violation of this chapter. The
835 complaint must be made no later than 30 days after the known
836 occurrence of the violation. A complaint may be filed as
837 information only and designated not to be pursued under the
838 enforcement provisions.

839 (c) Upon receipt of a complaint of a violation of this
840 chapter, the administrator, operating on behalf of the



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841 authority, shall provide notice to the reported violator
842 advising that a complaint of violation has been made setting
843 out the time and place of the alleged violation, the identity
844 of who reported the violation, his or her right to file a
845 written response within 14 days, and his or her right to
846 appeal from an adverse decision.

847 (d) The administrator, acting on behalf of the
848 authority, shall submit the complaint and documentation to the
849 executive committee.

850 (e) The authority executive committee shall review the
851 complaint and any documentation regarding the complaint and
852 make any needed recommendation for penalty action.

853 (f) The administrator, operating on behalf of the
854 authority, shall notify the complainant and the reported
855 violator of any penalty assessed.

856 (g) Once the reported violator is notified of the
857 designated penalty as described in Section 37-15-10, the
858 violator may pay the penalty to the Underground Damage
859 Prevention Fund or dispute the penalty and request a hearing
860 before the full authority board.

861 (h) The request for a hearing before the authority
862 board must be made within 30 days of the issuance of
863 notification of the violation.

864 (i) The full authority board shall meet no more than
865 quarterly, based on need. The hearings shall be held at the
866 place set forth in the notice of hearing. There shall be no
867 presumption of correctness attached to any finding of fact or
868 any assessment of a penalty that is appealed to the authority



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869 board, and the proceedings and hearing before the authority
870 board shall be tried de novo. The complainant ~~must~~ and alleged
871 violation may request to attend the hearing.

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

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

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

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

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

882 (k) A person aggrieved by the final order, within 30
883 days from the date of the final order, may seek judicial
884 review in the circuit court by filing a notice of appeal.

885 (l) All complaints filed pursuant to this chapter shall
886 not be subject to the Alabama Open Records Act. However, the
887 authority shall make available upon request a summary of a
888 complaint after a final resolution has been entered regarding
889 any such complaint requested along with any documents
890 associated with the final resolution of the complaint.

891 However, this restriction shall not prevent a party from
892 obtaining a copy of the complaint by means of a subpoena or
893 other method allowed by the Alabama Rules of Civil Procedure
894 or the Alabama Rules of Criminal Procedure. The Alabama Open
895 Meetings Act shall apply to all meetings and judicial hearings
896 required pursuant to this chapter, except for those meetings



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897 of the authority in which the initial determination of
898 violation and recommended fine is discussed and determined.

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

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

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

906 §37-15-4.2

907 (a) The excavator for an excavation project that
908 qualifies for a complex or large project shall provide the
909 underground facility operator, via the one-call notification
910 center, with notice of the planned complex or large project
911 not less than five working days prior to the planned complex
912 or large project pre-excavation planning meeting. The notice
913 shall follow the guidelines established for complex or large
914 projects which shall include, but not be limited to, all of
915 the following:

916 (1) Scope of project details and expected timelines for
917 the work to be concluded, including descriptions of project
918 phase, if appropriate.

919 (2) Company representative contact information.

920 (3) Field contact representative contact information.

921 (4) List of known contractors and subcontractors.

922 (5) Use of premarking requirements at proposed
923 excavation sites.

924 (b) The excavator, operators, and locators involved in



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925 the complex or large project shall negotiate in good faith to
926 reach a working agreement, which shall include, but not be
927 limited to, the agreed upon scope of work, timeline for
928 excavation activity, and location completion schedule.

929 (c) Once the working agreement is finalized, the locate
930 requests for utility markings shall be made in accordance with
931 the location completion schedule and in compliance with the
932 requirements of Section 37-15-4. The operator shall mark the
933 proposed excavation site in compliance with the requirements
934 of Section 37-15-6.

935 (d) An excavator's knowing failure to designate a
936 qualifying project as a complex or large project subject to
937 this section and an excavator or operator's failure to comply
938 with a working agreement shall be subject to the enforcement
939 provisions of Section 37-15-10.

940 (e) An operator may require an excavator to utilize the
941 complex or large project process if individual locate requests
942 placed as routine requests combined qualify for the complex or
943 large project process.

944 Section 3. This act shall become effective on January
945 1, 2027.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB205

Senate 19-Feb-26

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives

Passed: 05-Mar-26

By: Senator Allen