

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1376

  By: Watson

7   AS INTRODUCED

8                                   An Act relating to public health and safety; amending  
9                                   63 O.S. 2011, Sections 142.2 and 142.9, which relates  
10                                  to the Oklahoma Underground Facilities Damage  
11                                  Prevention Act; redefining certain term; modifying  
12                                  application of certain required notification; and  
13                                  providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15                   SECTION 1.            AMENDATORY           63 O.S. 2011, Section 142.2, is  
16 amended to read as follows:

17                   Section 142.2   As used in the Oklahoma Underground Facilities  
18 Damage Prevention Act:

19                   1. "Certified project" means a project where the public agency  
20 responsible for the public project, as part of its procedure,  
21 certifies that the project right-of-way is free and clear of  
22 underground facilities or wherein the public agency responsible for  
23 such project, as part of its procedure, notifies all persons  
24 determined by the public agency to have underground facilities

1 located within the construction right-of-way and certifies that all  
2 known underground facilities are duly located or noted on the  
3 engineering drawings for the project;

4 2. "Damage" means any impact upon or removal of support from an  
5 underground facility as a result of explosion, excavation or  
6 demolition which according to the operating practices of the  
7 operator of the underground facilities would necessitate the repair  
8 thereof;

9 3. "Demolish" means to wreck, raze, render, move or remove a  
10 structure by means of any equipment or explosive;

11 4. "Demolition" means the act or operation of demolishing a  
12 structure;

13 5. "Excavate" means to dig, compress or remove earth, rock or  
14 other materials in or on the ground by use of mechanized equipment  
15 or blasting, including, but not necessarily limited to, augering,  
16 boring, backfilling, drilling, grading, pile driving, plowing in,  
17 pulling in, trenching, tunneling and plowing; provided, however,  
18 that neither:

19 a. the moving of earth by tools manipulated only by human  
20 or animal power, nor

21 b. any form of cultivation for agricultural purposes, nor  
22 any augering, dozing by noncommercial dozer operators  
23 or digging for postholes, farm ponds, land clearing or  
24 other normal agricultural purposes, nor

- 1 c. routine maintenance, nor  
2 d. work by a public agency or its contractors on a  
3 preengineered project, nor  
4 e. work on a certified project, nor  
5 f. work on a permitted project, nor  
6 g. the opening of a grave in a cemetery, nor  
7 h. a solid waste disposal site which is a preengineered  
8 project, nor  
9 i. any individual excavating on his own property and who  
10 is not in the excavating business for hire,

11 shall be deemed excavation;

12 6. "Excavation" means the act or operation of excavating;

13 7. "Excavator" means a person or public agency that intends to  
14 excavate or demolish within the State of Oklahoma;

15 8. "Notification center" means the statewide center currently  
16 known as the Oklahoma One-Call System, Inc., which has as one of its  
17 purposes to receive notification of planned excavation and  
18 demolition in a specified area from excavators, and to disseminate  
19 such notification of planned excavation or demolition to operators  
20 who are members and participants;

21 9. "Operator" shall mean and include any person or public  
22 agency owning or operating underground facilities;

23 10. "Permitted project" means a project where a permit for the  
24 work to be performed must be issued by a state or federal agency

1 and, as a prerequisite to receiving such permit, the applicant must  
2 locate all underground facilities in the area of the work and in the  
3 vicinity of any blasting and notify each owner of such underground  
4 facilities;

5 11. "Person" includes any individual, partnership, corporation,  
6 association, cooperative, trust or other entity, including a person  
7 engaged as a contractor by a public agency, but not including a  
8 public agency;

9 12. "Preengineered project" means a public project wherein the  
10 public agency responsible for such project, as part of its  
11 engineering and contract procedures, holds a meeting prior to the  
12 commencement of any construction work on such project in which all  
13 persons, determined by the public agency to have underground  
14 facilities located within the construction area of the project, are  
15 invited to attend and given an opportunity to verify or inform the  
16 public agency of the location of their underground facilities, if  
17 any, within the construction area and where the location of all  
18 known underground facilities are duly located or noted on the  
19 engineering drawing and specifications for the project;

20 13. "Public agency" means the state or any board, commission or  
21 agency of the state, ~~and any city, town, county, subdivision thereof~~  
22 ~~or other governmental entity;~~

23 14. "Routine maintenance" means the grading of roads and barrow  
24 or drainage ditches, the removal and replacement of pavement,

1 including excavation relating thereto and the installation and  
2 maintenance of drainage and bridge facilities, signs, guardrails,  
3 and electrical and communications facilities in or on the public  
4 rights-of-way by a public agency; and

5 15. "Underground facility" means any underground line, cable,  
6 facility, system and appurtenances thereto, for producing, storing,  
7 conveying, transmitting or distributing communication (including  
8 voice, video, or data information), electricity, power, light, heat,  
9 refined petroleum products, water (including storm water), steam,  
10 sewage and other commodities. Underground facilities shall also  
11 mean oil and natural gas pipelines that are subject to the Hazardous  
12 Liquid Transportation System Safety Act and natural gas pipelines  
13 subject to the jurisdiction of the Oklahoma Corporation Commission  
14 Pipeline Safety Department, and any oil and gas pipeline located in  
15 a public right-of-way.

16 SECTION 2. AMENDATORY 63 O.S. 2011, Section 142.9, is  
17 amended to read as follows:

18 Section 142.9 A. When any damage occurs to an underground  
19 facility or its protective covering, the operator thereof shall be  
20 notified immediately by ~~the excavator~~ any person who caused the  
21 damage.

22 B. Upon receiving notice of such damage, the operator shall  
23 promptly dispatch personnel to the location to effect temporary or  
24 permanent repairs.

1 C. Should damage occur that endangers life, health or property,  
2 the excavator responsible for the work shall keep all sources of  
3 ignition away from the damaged area and shall take immediate action  
4 to protect the public and property and to minimize the hazard until  
5 arrival of the operator's personnel or until the appropriate police  
6 or fire officials shall have arrived and taken charge of the damaged  
7 area.

8 D. An excavator shall delay any backfilling in the immediate  
9 area of the damaged underground facilities until the damage has been  
10 repaired, unless the operator authorizes otherwise. The repair of  
11 such damage must be performed by the operator or by qualified  
12 personnel authorized by the operator.

13 SECTION 3. This act shall become effective November 1, 2017.

14

15 COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 02/23/2017 - DO  
16 PASS.

17

18

19

20

21

22

23

24