An Act

ENROLLED SENATE
BILL NO. 497

By: Paxton of the Senate

and

Caldwell (Trey) and
Crosswhite Hader of the
House

An Act relating to the Oklahoma Underground Facilities Damage Prevention Act; amending 63 O.S. 2021, Sections 142.2 and 142.8, which relate to definitions and required notice; modifying definition; updating statutory language; requiring certain information be provided within certain timeframe to underground facilities; and providing an effective date.

SUBJECT: Oklahoma Underground Facilities Damage Prevention Act

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 142.2, is amended to read as follows:

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

1. "Certified project" means a project where the public agency responsible for the public project, in consultation with the statewide one-call notification center, as part of its procedure, certifies that the project right-of-way is free and clear of underground facilities or wherein the public agency responsible for such project, as part of its procedure, notifies all persons determined by the public agency to have underground facilities located within the construction right-of-way and certifies that all

known underground facilities are duly located or noted on the engineering drawings for the project;

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

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

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

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

a. the moving of earth by tools manipulated only by human or animal power, except in a private or public easement or right-of-way, ~~nor~~

b. the moving of earth by tools manipulated only by human power for burying communication lines of a communications provider in a private or public easement or right-of-way when depth is not greater than twelve (12) inches and within twelve (12) inches of a communications provider terminal,

c. any form of cultivation for agricultural purposes, nor any augering, dozing by noncommercial dozer operators or digging for postholes, farm ponds, land clearing or other normal agricultural purposes, ~~nor~~

~~c.~~ d. routine maintenance, ~~nor~~

~~d.~~ e. work by a public agency or its contractors on a preengineered project, ~~nor~~

~~e.~~ f. work on a certified project, ~~nor~~

~~f.~~ g. work on a permitted project, ~~nor~~

~~g.~~ h. the opening of a grave in a cemetery, ~~nor~~

~~h.~~ i. a solid waste disposal site which is a preengineered project, nor

~~i.~~ j. any individual excavating on his or her own property and who is not in the excavating business for hire, except in a private or public easement or right-of-way,

shall be deemed excavation;

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

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

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

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

10. "Permitted project" means a project where a permit for the work to be performed must be issued by a state or federal agency and, as a prerequisite to receiving such permit, the applicant must locate all underground facilities in the area of the work and in the vicinity of any blasting and notify each owner of such underground facilities;

11. "Person" includes any individual, partnership, corporation, association, cooperative, trust or other entity, including a person

engaged as a contractor by a public agency, but not including a public agency;

12. "Preengineered project" means a public project wherein the public agency responsible for such project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which all persons, determined by the public agency, in consultation with the statewide one-call notification center, to have underground facilities located within the construction area of the project are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and where the location of all known underground facilities are duly located or noted on the engineering drawing and specifications for the project;

13. "Public agency" means the state or any board, commission or agency of the state;

14. "Routine maintenance" means the grading of roads and barrow or drainage ditches, the removal and replacement of pavement, including excavation relating thereto and the installation and maintenance of drainage and bridge facilities, signs, guardrails, and electrical and communications facilities in or on the public rights-of-way by a public agency; ~~and~~

15. "Underground facility" means any underground line, cable, facility, system and appurtenances thereto, for producing, storing, conveying, transmitting or distributing communication (including voice, video, or data information), electricity, power, light, heat, intrastate and interstate gas pipelines, as described in 49 CFR Part 192.1, intrastate and interstate hazardous liquid or carbon dioxide pipelines, as described in 49 CFR Part 195.1, water (including storm water), steam, sewage and other commodities and any oil and gas pipeline located in a public right-of-way; and

16. "Design" or "survey" means a notice to facility operators to provide underground facility information during the design or engineering phase of a project to mitigate potential impact to existing underground facilities.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 142.8, is amended to read as follows:

Section 142.8. A. In addition to the notice required by Section 142.6 of this title, whenever the demolition of a structure is proposed, operators in the geographic area defined by the notification center who have a notice on file with the notification center pursuant to Section 142.3 of this title shall be given at least seven (7) business days' notice of the proposed demolition before the demolition work begins. Such notice shall be initiated by the notification center after the excavator has met local code requirements for a demolition permit. When an operator is served with notice and determines that underground facilities are within the proposed area of demolition and such facilities require additional protection, service removal or termination, the operator shall communicate this information to the excavator and by mutual agreement the operator and excavator shall determine a date to begin the demolition which shall not exceed sixty (60) business days from the original demolition notice. If a public agency determines that the structure endangers the public health or safety, then the public agency may, in the manner provided by law, order the immediate demolition of the structure.

B. When a design or survey notice is received, operators or their designee shall provide underground facilities information within fourteen (14) calendar days from the time of the request which may include physical markings at the project site, facility mapping, or both. No excavation may take place on a design or survey notice. Operators shall provide the one-call notification center with the necessary information for notices to be sent to the appropriate person within their company or organization.

SECTION 3. This act shall become effective November 1, 2023.

Passed the Senate the 14th day of March, 2023.

Brent Howard

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2023.

Carl E. Newton

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 1st day of May, 20 23, at 2:13 o'clock p. M.

By: Jamie Curry

Approved by the Governor of the State of Oklahoma this 5th day of May, 20 23, at 10:38 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th day of May, 2023, at 11:50 o'clock A. M.

By: Brian Bingman