

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 41 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

SENATE BILL 82

5 By: Senator Baker
6 By: Representative Wills
7
8

For An Act To Be Entitled

10 AN ACT TO AMEND CERTAIN DEFINITIONS IN THE
11 UNDERGROUND FACILITIES DAMAGE PREVENTION ACT; TO
12 AMEND EXEMPTIONS TO NOTICE REQUIREMENTS IN THE
13 UNDERGROUND FACILITIES DAMAGE PREVENTION ACT; TO
14 ELIMINATE A LOCATION IDENTIFICATION REQUIREMENT
15 IN THE UNDERGROUND FACILITIES DAMAGE PREVENTION
16 ACT; TO REPEAL § 14-271-105; AND FOR OTHER
17 PURPOSES.
18

Subtitle

19 TO AMEND CERTAIN DEFINITIONS AND NOTICE
20 REQUIREMENTS IN THE UNDERGROUND
21 FACILITIES DAMAGE PREVENTION ACT AND TO
22 REPEAL § 14-271-105.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code §§ 14-271-102(8), concerning the definition
29 of "operator", is amended to read as follows:

30 (8) "Operator" means any person that ~~public utility as defined~~
31 ~~in § 23-1-101 which~~ owns or operates an underground facility; ~~all municipally~~
32 ~~owned or operated water, sewer, or electric utilities; any gas utility,~~
33 ~~however owned or operated; all master meter operators whose underground~~
34 ~~facilities cross property other than their own or under public rights-of-way;~~
35 ~~and any other water or sewer utilities, owned or operated individually or by~~



1 ~~property owners' associations, improvement districts, or property developers,~~
 2 ~~servicing in excess of one hundred (100) customers;~~

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 4 SECTION 2. Arkansas Code § 14-271-102(9), concerning the definition of
 5 "person", is amended to read as follows:

6 (9) "Person" means any individual, any corporation, partnership,
 7 association, improvement district, property owners association, property
 8 developer, public agency, or any other entity organized under the laws of any
 9 state or any subdivision or instrumentality of a state, and any employee,
 10 agent, or legal representative thereof;

11
 12 SECTION 3. Arkansas Code § 14-271-102(13), concerning the definition
 13 of "underground facility", is amended to read as follows:

14 (13)(A) "Underground facility" means any line, system, and
 15 appurtenance or facility that is:

16 (i) Located beneath the ground surface or beneath
 17 structures, streets, roads, alleys, sidewalks, or other public rights of way;
 18 and

19 (ii) Used ~~used~~ for producing, storing, conveying,
 20 transmitting, or distributing communications, data, electricity, gas, heat,
 21 water, steam, chemicals, television or radio transmissions or signals or
 22 sewage.

23 (B) "Underground facility" does not include: but shall not
 24 include cable television facilities

25 (i) Privately-owned service lines:

26 (a) Used solely for the purpose of
 27 transporting communications, data electricity, gas, heat, water, steam,
 28 chemicals, television or radio transmissions or signals, or sewage for the
 29 operation of a residence or business; and

30 (b) Wholly located on or beneath private
 31 property; or

32 (ii) Residential or agricultural underground
 33 irrigation systems;

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 35 SECTION 4. Arkansas Code § 14-271-109(b), concerning exemptions to
 36 notice requirements, is amended to read as follows:

1 (b)(1) Compliance with notice requirements of § 14-271-112 is not
 2 required of persons responsible for repair or restoration of service, or to
 3 ameliorate an imminent danger to life, health, property, or public safety.

4 (2) However, those persons shall give, as soon as practicable,
 5 oral notice of the emergency excavation or demolition to ~~either~~ the One Call
 6 Center ~~or to each operator having underground facilities located in the area~~
 7 ~~where the excavation or demolition is to be performed~~ and request emergency
 8 assistance from the One Call Center from each operator so identified in
 9 locating and providing immediate protection to its underground facilities.
 10 ~~However, if such notice is given to an operator of an underground pipeline~~
 11 ~~facility, the person giving the notification shall also notify the One Call~~
 12 ~~Center as soon as is reasonably possible.~~

13 (3) An imminent danger to life, health, property, or public
 14 safety exists whenever there is a substantial likelihood that loss of life,
 15 health, or property will result before the procedures under § 14-271-112 can
 16 be fully complied with.

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 18 SECTION 5. Arkansas Code § 14-271-110(a)(2)(A), concerning location
 19 identification, is amended to read as follows:

20 (2)(A) Unless otherwise agreed to between the excavators and the
 21 operator, within two (2) working days after notification from ~~either~~ the One
 22 Call Center ~~or the person proposing the activity~~, the operator shall identify
 23 the approximate location of the facilities by field-marking on the surface by
 24 paint, dye, stakes, or any other clearly visible marking which designates the
 25 horizontal course of the facilities.

26 (B) If the operator has no facilities in the area, the
 27 operator shall so inform the person proposing the activity, either by
 28 contacting that person or by leaving such information at the site.

29
 30 SECTION 6. Arkansas Code § 14-271-105 is repealed.

31 ~~14-271-105. Ordinance or resolution adopting provisions.~~

32 ~~(a) Every city of the first class, city of the second class,~~
 33 ~~incorporated town, county, and rural water association, whether formed as a~~
 34 ~~corporation, improvement district, or other legal entity, shall adopt an~~
 35 ~~ordinance or other formal resolution no later than January 1, 1989,~~
 36 ~~indicating whether the city, county, or rural water association desires to be~~

1 subject to the provisions of the One Call membership requirements of § 14-
2 271-107 of this chapter. However, every city of the first class, city of the
3 second class, incorporated town, county, and rural water association which
4 fails to adopt an ordinance or resolution indicating whether it desires to
5 not be covered by the provisions of this chapter shall be subject to each and
6 every provision of this chapter on and after January 1, 1989.

7 (b) Notwithstanding subsection (a) of this section, every city of the
8 first class, city of the second class, incorporated town, county, and rural
9 water association, whether formed as a corporation, improvement district, or
10 other legal entity which operates an underground pipeline facility must
11 become a member of the One Call Center unless otherwise provided herein.

12 (c) Notwithstanding the issuance of a resolution opting out of One
13 Call membership under subsection (a) of this section, any city of the first
14 class, city of the second class, incorporated town, county, and rural water
15 association, whether formed as a corporation, improvement district, or other
16 legal entity, shall remain subject to the provisions and requirements of §§
17 14-271-110(a)(2) and 14-271-111—14-271-113.

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19 SECTION 6. This act is effective on January 1, 2008.

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21 APPROVED: 1/30/2007
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