

By: Guillen

H.B. No. 1277

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that certain excavation equipment have a decal to promote safety issued by the Texas Underground Facility Notification Corporation; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 769 to read as follows:

CHAPTER 769. EXCAVATION EQUIPMENT

Sec. 769.001. DEFINITIONS. In this chapter:

(1) "Corporation" means the Texas Underground Facility Notification Corporation.

(2) "Excavation equipment" means equipment operated by mechanical power that is used to excavate, including a trencher, bulldozer, power shovel, auger, backhoe, scraper, drill, cable or pipe plow, and other equipment used to plow in or pull in cable or pipe.

(3) "Railroad commission" means the Railroad Commission of Texas.

Sec. 769.002. DECAL REQUIREMENT. (a) A business entity that sells, leases, or rents excavation equipment shall place a decal on each piece of excavation equipment before the entity sells, leases, or rents the equipment.

(b) The corporation shall produce and issue the decal required under Subsection (a). The decal must contain the

1 following statement: "Call 8-1-1 Before Digging."

2 (c) The corporation shall set a fee for the issuance of the
3 decal in an amount necessary for the corporation to recover the
4 costs of producing and issuing the decal.

5 Sec. 769.003. ADMINISTRATIVE PENALTY. (a) The railroad
6 commission shall send a warning letter to a business entity if:

7 (1) the railroad commission reasonably believes that
8 the business entity has violated Section 769.002(a); and

9 (2) the business entity has not previously violated
10 Section 769.002(a).

11 (b) The railroad commission may assess an administrative
12 penalty against a business entity that violates Section 769.002(a)
13 if the railroad commission has previously sent a warning letter to
14 the entity under Subsection (a).

15 (c) The penalty for each violation may not exceed \$10,000.
16 Each day a violation continues may be considered a separate
17 violation for the purpose of penalty assessment.

18 (d) The railroad commission by rule shall adopt guidelines
19 to be used in determining the amount of a penalty under this
20 section. The guidelines shall take into account:

21 (1) the business entity's history of previous
22 violations of Section 769.002(a);

23 (2) the seriousness of the violation;

24 (3) any hazard to the health or safety of the public;

25 (4) the degree of culpability;

26 (5) the demonstrated good faith of the business entity
27 charged; and

1 (6) any other factor the commission considers
2 relevant.

3 (e) A penalty assessed under this section shall be enforced
4 and collected in the same manner as other administrative penalties
5 the railroad commission is authorized to impose under other state
6 law.

7 SECTION 2. (a) The Texas Underground Facility Notification
8 Corporation shall produce the decal required by Section 769.002,
9 Health and Safety Code, as added by this Act, not later than
10 December 1, 2011.

11 (b) Notwithstanding Section 769.003, Health and Safety
12 Code, as added by this Act, a warning letter may not be sent to a
13 business entity for a failure to comply with Section 769.002(a),
14 Health and Safety Code, as added by this Act, that occurs before
15 January 1, 2012.

16 SECTION 3. This Act takes effect September 1, 2011.