

By: Bell

H.B. No. 2332

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the liability of an operator of an underground facility  
3 for damages that result from a failure to comply with a duty to mark  
4 underground facilities to prevent damage from excavation or a duty  
5 to make certain notifications.

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

7 SECTION 1. Subchapter D, Chapter 251, Utilities Code, is  
8 amended by adding Section 251.160 to read as follows:

9 Sec. 251.160. CIVIL LIABILITY OF NONCOMPLYING OPERATOR. An  
10 operator that fails to comply fully with Sections 251.157 and  
11 251.158 is liable for:

12 (1) three times the amount of actual damages,  
13 including:

14 (A) damages incurred by the excavator for damage  
15 to equipment or costs of project delays; and

16 (B) damages incurred by a third party caused by  
17 the excavator in reliance on the operator's presumed compliance  
18 with those sections; and

19 (2) reasonable attorney's fees and court costs.

20 SECTION 2. The change in law made by this Act applies only  
21 to a cause of action that accrues on or after the effective date of  
22 this Act. A cause of action that accrues before the effective date  
23 of this Act is governed by the law in effect immediately before the  
24 effective date of this Act, and that law is continued in effect for

1 that purpose.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2013.