

By: Springer

H.B. No. 3284

A BILL TO BE ENTITLED

AN ACT

relating to the applicability of underground facility damage prevention and safety requirements to certain activities.

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

SECTION 1. Section 251.002(5), Utilities Code, is amended to read as follows:

(5) "Excavate" means to use explosives or a motor, engine, hydraulic or pneumatically powered tool, or other mechanized equipment of any kind and includes auguring, backfilling, boring, compressing, digging, ditching, drilling, dragging, dredging, grading, mechanical probing, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling to remove or otherwise disturb soil to a depth of 10 [16] or more inches.

SECTION 2. Section 251.004, Utilities Code, is amended to read as follows:

Sec. 251.004. APPLICABILITY [APPLICATION] TO CERTAIN CONTRACTORS AND STATE EMPLOYEES. ~~[(a)]~~ This chapter does not apply to excavation by an employee of ~~[a contractor working in the public right-of-way under a contract with]~~ the Texas Department of Transportation performing the following activities in a public right-of-way in which the department has an interest:

(1) sampling and repair of pavement, base, and subgrade;

(2) repairing a roadway embankment that is adjacent to

1 pavement structure;

2 (3) reshaping unpaved shoulders and drop-offs; or

3 (4) hand digging for the department's archeological
4 program.

5 ~~[(b) Excavation by an employee of the Texas Department of~~
6 ~~Transportation on a segment of the state highway system is not~~
7 ~~subject to this chapter if the excavation is more than 10 feet from~~
8 ~~the right-of-way line.]~~

9 SECTION 3. Section 251.156(a), Utilities Code, is amended
10 to read as follows:

11 (a) Section 251.151 does not apply to:

12 (1) interment operations of a cemetery;

13 (2) operations at a secured facility if:

14 (A) the excavator operates each underground
15 facility at the secured facility, other than those within a
16 third-party underground facility easement or right-of-way; and

17 (B) the excavation activity is not within a
18 third-party underground facility or right-of-way;

19 (3) routine railroad maintenance within 15 feet of
20 either side of the midline of the track if the maintenance will not
21 disturb the ground at a depth of more than 18 inches;

22 (4) the movement of earth by tillage not to exceed a
23 depth of 16 inches ~~[activities performed on private property in~~
24 ~~connection with agricultural operations];~~

25 (5) operations associated with the exploration or
26 production of oil or gas if the operations are not conducted within
27 an underground facility easement or right-of-way; or

1 (6) excavations by or for a person that:

2 (A) owns, leases, or owns a mineral leasehold
3 interest in the real property on which the excavation occurs; and

4 (B) operates all underground facilities located
5 at the excavation site~~[, or~~

6 ~~[(7) routine maintenance by a county employee on a~~
7 ~~county road right-of-way to a depth of not more than 24 inches]~~.

8 SECTION 4. Section [251.156](#)(c), Utilities Code, is repealed.

9 SECTION 5. This Act takes effect September 1, 2017.