

By: Hall

S.B. No. 2098

A BILL TO BE ENTITLED

AN ACT

relating to requirements for underground facility damage prevention and safety.

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

SECTION 1. Section 251.002(6), Utilities Code, is amended to read as follows:

(6) "Excavator" means an individual who or legal entity [~~a person~~] that actually excavates or intends to excavate in this state.

SECTION 2. Subchapter A, Chapter 251, Utilities Code, is amended by adding Section 251.0045 to read as follows:

Sec. 251.0045. EXCAVATION BY SUBCONTRACTOR. A subcontractor who performs an excavation operation may not begin the excavation unless the subcontractor has complied with the requirements this chapter imposes on an excavator, regardless of whether the general contractor that hired the subcontractor has complied with the requirements.

SECTION 3. Section 251.151, Utilities Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Sections 251.155 and 251.156, an excavator [~~a person~~] who intends to excavate shall notify a notification center not earlier than the 14th day before the date the excavation is to begin [~~or later than the 48th hour before the~~

1 ~~time the excavation is to begin~~], excluding Saturdays, Sundays, and  
2 legal holidays. An excavator may not excavate:

3 (1) before 8 a.m. on the third day after the date on  
4 which the excavator gives the notice, excluding Saturdays, Sundays,  
5 and legal holidays; or

6 (2) after the 21st day after the date on which the  
7 excavator gives the notice, including Saturdays, Sundays, and legal  
8 holidays.

9 (a-1) If markings made by an operator after notice is given  
10 under Subsection (a) for an excavation operation showing the  
11 location of underground facilities in the excavation area are no  
12 longer visible, are unclear, or are damaged, the excavator shall  
13 give another notice under Subsection (a) for the unfinished  
14 portions of the excavation operation.

15 SECTION 4. Sections 251.157(a) and (d), Utilities Code, are  
16 amended to read as follows:

17 (a) Each Class A underground facility operator contacted by  
18 the notification system shall mark the approximate location of its  
19 underground facilities at or near the site of the proposed  
20 excavation if the operator believes that marking the location is  
21 necessary. The operator shall mark the location not later than:

22 (1) 8 a.m. on the third day following the date on which  
23 the excavator gives to the notification system notice of intent to  
24 excavate under Section 251.151(a) [the 48th hour after the time the  
25 ~~excavator gives to the notification system notice of intent to~~  
26 ~~excavate]~~, excluding Saturdays, Sundays, and legal holidays;

27 [~~(2) 11:59 a.m. on the Tuesday following a Saturday~~

1 ~~notification unless the intervening Monday is a holiday,~~  
2  ~~[(3) 11:59 a.m. on the Wednesday following a Saturday~~  
3  ~~notification if the intervening Monday is a holiday,] or~~  
4 (2) ~~[(4)]~~ a time agreed to by the operator and the  
5 excavator.

6 (d) Not later than 8 a.m. on the third day following the date  
7 on which the excavator gives to the notification system notice of  
8 intent to excavate under Section 251.151(a), excluding Saturdays,  
9 Sundays, and legal holidays ~~[the 48th hour after the time the~~  
10 ~~excavator gives to the notification center notice of intent to~~  
11 ~~excavate],~~ an operator contacted by the notification center shall  
12 notify the excavator of the operator's plans to not mark the  
13 proximate location of an underground facility at or near the site of  
14 the proposed excavation. The operator must provide the  
15 notification by e-mail or facsimile or by another verifiable  
16 electronic method approved by the board.

17 SECTION 5. Section 251.151(b), Utilities Code, is repealed.

18 SECTION 6. This Act takes effect September 1, 2017.