

1 HB187  
2 105982-4  
3 By Representative Johnson  
4 RFD: Government Operations  
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, a person conducting  
9 excavation on property, or demolition near  
10 property, where a public easement exists, or where  
11 an underground facility operator such as a utility  
12 has an easement, is required to notify the  
13 underground facility operator so that the  
14 underground facility operator can mark the location  
15 of its underground facilities. To facilitate  
16 notification, the law has authorized the formation  
17 of a "one-call notification system" which receives  
18 and processes the notices, but participation in the  
19 designated "one-call" system is optional with an  
20 underground facility operator if the underground  
21 facility operator elects to conduct its own  
22 "in-house" program for notification. Thus, a person  
23 excavating in an area may be required to determine  
24 which underground facility operators are operating  
25 in the area and to notify an underground facility  
26 operator separately if it does not participate in  
27 the one-call system.

1                   This bill would provide that an operator of  
2                   underground facilities which elects not to  
3                   participate in the "one-call notification system"  
4                   would be responsible for damages to its facilities  
5                   if the operator fails to meet the operational  
6                   requirements for an in-house system.

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8                   A BILL  
9                   TO BE ENTITLED  
10                  AN ACT

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12                  To amend Section 37-15-5 of the Code of Alabama  
13                  1975, relating to the "One-Call Notification System"  
14                  established for the purpose of receiving notifications by  
15                  persons conducting excavations or demolitions on or near  
16                  certain property where underground facilities may be located,  
17                  to provide that underground facility operators who elect to  
18                  conduct an in-house program to receive notifications in lieu  
19                  of participating in the one-call notification system would be  
20                  responsible under certain conditions for damages to its  
21                  underground facilities.

22                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23                  Section 1. Section 37-15-5 of the Code of Alabama  
24                  1975, is amended to read as follows:

25                  "§37-15-5.

26                  "(a) (1) Operators who have underground facilities  
27                  within this state shall either provide an in-house program

1 which meets the operational requirements of receiving those  
2 excavation or demolition notifications as set forth in  
3 subsections (d) to (g), inclusive, of this section or shall  
4 participate in a "One-Call Notification System"; provided,  
5 however, that any operator who has less than ten thousand  
6 customers or subscribers and who provides an in-house program  
7 which meets all of the operational requirements of receiving  
8 those excavation or demolition notifications as set forth in  
9 this chapter shall not be required to provide the services of  
10 the in-house program on working days except during the hours  
11 that the operator's offices are open to the public and may,  
12 but shall not be required to, voice record the notification  
13 calls received.

14 "(2) Any operator, who elects not to participate in  
15 the "One-Call Notification System" and instead elects to  
16 provide an in-house notification system for receiving  
17 excavation and demolition notifications as provided in  
18 subdivision (1) and whose facilities are damaged by an  
19 excavator who has contacted the "One-Call Notification System"  
20 and the operator's in-house program concerning the location of  
21 underground facilities, shall be responsible for any damages  
22 to its underground facilities by the excavator if the operator  
23 failed to meet the operational requirements for receiving  
24 excavation and demolition notifications as required.

25 "(b) Between April 18, 1994 and January 1, 1995, or  
26 any time thereafter, any non-profit corporation, public  
27 corporation, or governmental entity desiring to become a

1 "One-Call Notification System" shall apply to the Alabama  
2 Public Service Commission for a certificate of public  
3 convenience and necessity, verifying under oath that said  
4 applicant meets the requirements of this chapter. After a  
5 public hearing on said application, if the Alabama Public  
6 Service Commission deems that said applicant meets the  
7 requirements of this chapter, and if it is found that said  
8 applicant is fit, willing and able to properly perform the  
9 services proposed and that the proposed service is or will be  
10 required by the present or future public convenience or  
11 necessity, then in such event the Alabama Public Service  
12 Commission shall issue a certificate of public convenience and  
13 necessity authorizing said applicant to commence its operation  
14 as a "One-Call Notification System". The Alabama Public  
15 Service Commission shall further have the authority, and is  
16 required, to revoke said certificate if said non-profit  
17 corporation, public corporation, or governmental entity ceases  
18 to meet the requirements as set forth in this chapter.

19 "(c) Operators of underground pipeline facilities or  
20 a "One-Call Notification System" acting on their behalf must  
21 notify the public and known excavators of the availability and  
22 use of in-house or "One-Call Notification Systems" as required  
23 in applicable federal regulations.

24 "(d) The person giving notice of intent to excavate  
25 or demolish shall be furnished an individual reference file  
26 number for each notification and upon request shall be

1 furnished the names of the operators to whom the notification  
2 will be transmitted.

3 "(e) An adequate record of notifications shall be  
4 maintained by the underground facility operator or a "One-Call  
5 Notification System" in order to document timely compliance  
6 with this chapter. These records shall be retained for a  
7 period of not less than three years and shall be made  
8 available at a reasonable cost upon proper and adequate  
9 advance request.

10 "(f) The services of any "One-Call Notification  
11 System" acting on behalf of operators should be provided on  
12 working days at least between the hours of 8 A.M. and 5 P.M.

13 "(g) A "One-Call Notification System" should voice  
14 record the notification telephone calls and after hours calls  
15 should at least reach a voice recording which explains  
16 emergency procedures.

17 "(h) All operators who are members of a "One-Call  
18 Notification System" shall provide the "One-Call Notification  
19 System" with the following information:

20 "(1) A list of cities and towns in which they have  
21 underground facilities in each county;

22 "(2) The Townships, Ranges and Sections in each  
23 county in which they have underground facilities or for other  
24 reasons wish to receive notification of proposed excavations,  
25 demolition or blasting;

1           "(3) Total trench or right-of-way miles of  
2 underground facilities within the boundaries of the State of  
3 Alabama updated at least once a year;

4           "(4) The name, address, and telephone number of a  
5 person to receive emergency notifications.

6           "(i) A "One-Call Notification System" shall promptly  
7 transmit the information received from the excavator, as set  
8 forth in Section 37-15-4, to its appropriate member operators.

9           "(j) All operators who are members of a "One-Call  
10 Notification System" and have changes, additions, or new  
11 installations of buried facilities within the boundaries of  
12 the State of Alabama shall notify the "One-Call Notification  
13 System" of changes in the information required in subdivisions  
14 (1), (2), and (4) of subsection (h) of this section, within 30  
15 days of the completion of such change, addition, or new  
16 installation."

17           Section 2. This act shall become effective January  
18 1, following its passage and approval by the Governor, or its  
19 otherwise becoming law.