

Regular Session, 2010

HOUSE BILL NO. 546

BY REPRESENTATIVE ARNOLD

UTILITIES: Provides for changes to the La. Underground Utilities and Facilities Damage Prevention Law

1 AN ACT

2 To amend and reenact R.S. 40:1749.12(4) and 1749.20(B)(introductory paragraph), relative
3 to the Louisiana Underground Utilities and Facilities Damage Prevention Law; to
4 define "excavation" or "excavate"; to provide that a failure to take precautions to
5 avoid damage shall be punishable by civil penalty; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1749.12(4) and 1749.20(B)(introductory paragraph) are hereby
8 amended and reenacted to read as follows:

9 §1749.12. Definitions

10 As used in this Part, the following terms shall have the meanings ascribed to
11 them in this Section:

12 * * *

13 (4) "Excavation" or "excavate" means any operation for the purpose of
14 movement or removal of earth, rock, or other materials in or on the ground by the use
15 of powered or mechanical or manual means; intended to disturb the ground,
16 including land beneath the waters of the state. including "Excavation" or "excavate"
17 also includes any man-made cut, cavity, or trench, pile driving, digging, blasting,
18 auguring, boring, back filling, dredging, spudding, jacking operations, wheel
19 washing, compressing, plowing-in, trenching, ditching, tunneling, land-leveling,
20 grading, and mechanical probing. "Excavation" or "excavate" shall not include
21 manual probing.

22 * * *

1 §1749.20. Violations; penalties

2 * * *

3 B. An excavator or demolisher who violates the provisions of R.S.
4 40:1749.13, 1749.16, or 1749.17(B) shall be subject to the following:

5 * * *

6 Section 2. This Act shall become effective upon signature by the governor or, if not
7 signed by the governor, upon expiration of the time for bills to become law without signature
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
10 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Arnold

HB No. 546

Abstract: Changes the definition of "excavation" or "excavate". Provides that a failure to take precautions to avoid damage shall be punishable by civil penalty.

Present law defines "excavation" or "excavate" as any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means, including pile driving, digging, blasting, auguring, boring, back filling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing.

Proposed law defines "excavation" or "excavate" as any operation for the purpose of movement or removal of earth, rock, or other materials in or on the ground by the use of powered or mechanical or manual means intended to disturb the ground, including land beneath the waters of the state. "Excavation" or "excavate" also includes any man-made cut, cavity, or trench, pile driving, digging, blasting, auguring, boring, back filling, dredging, spudding, jacking operations, wheel washing, compressing, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing.

Proposed law provides that "excavation" or "excavate" shall not include manual probing.

Present law requires each person responsible for an excavation or demolition operation to take precautions to avoid damage by doing the following:

- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area.
- (2) Maintain a safe clearance between the underground utilities or facilities and the cutting edge or point of any power or mechanized equipment, taking into account the known limit of control of the cutting edge or point to avoid damage to utilities or facilities.

- (3) Provide support for underground facilities or utilities in and near the construction area, during excavation and back filling operations, as may be reasonably necessary to protect the utility or facility.
- (4) Dig test pits to determine the actual location of facilities or utilities handling electricity, gas, natural gas, oil, petroleum products, or other flammable, toxic, or corrosive fluids/gases if these facilities or utilities are to be exposed.

Proposed law provides that a violation of the requirement in present law to take precautions to avoid damage shall be punishable by civil penalty.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1749.12(4) and 1749.20(B)(intro. para.))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Deleted penetration of the ground from the definition of "excavation" or "excavate".
2. Deleted the creation of a depression from the list of acts in the definition of "excavation" or "excavate".
3. Added jacking operations to the list of acts in the definition of "excavation" or "excavate".
4. Added an exception to the definition of "excavation" or "excavate" for manual probing.