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SENATE BILL 794

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO UNDERGROUND UTILITIES; REVISING A DEFINITION;
REVISING THE PIPELINE ONE-CALL NOTIFICATION SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-14-2 NMSA 1978 (being Laws 1973,
Chapter 252, Section 2, as amended) is amended to read:

"62-14-2. DEFINITIONS.--~~[For purposes of]~~ As used in
Chapter 62, Article 14 NMSA 1978:

A. "advance notice" means two working days;

B. "blasting" means the use of an explosive to
excavate;

C. "cable television lines and related facilities"
means the facilities of any cable television system or closed-
circuit coaxial cable communications system or other similar
transmission service used in connection with any cable

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1 television system or other similar closed-circuit coaxial cable
2 communications system;

3 D. "commission" means the public regulation
4 commission;

5 E. "emergency excavation" means an excavation that
6 must be performed due to circumstances beyond the excavator's
7 control and that affects public safety, health or welfare;

8 F. "excavate" means the movement or removal of
9 earth using mechanical excavating equipment or blasting and
10 includes augering, backfilling, digging, ditching, drilling,
11 grading, plowing in, pulling in, ripping, scraping, trenching,
12 tunneling and directional boring;

13 G. "excavator" means a person that excavates;

14 H. "means of location" means a mark such as a
15 stake, a flag, whiskers or paint that is conspicuous in nature
16 and that is designed to last at least ten working days if not
17 disturbed;

18 I. "mechanical excavating equipment" means all
19 equipment powered by any motor, engine or hydraulic or
20 pneumatic device used for excavating and includes trenchers,
21 bulldozers, backhoes, power shovels, scrapers, draglines, clam
22 shells, augers, drills, cable and pipe plows or other plowing-
23 in or pulling-in equipment;

24 J. "one-call notification system" means a
25 communication system in which an operation center provides

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1 telephone services or other reliable means of communication for
2 the purpose of receiving excavation notice information and
3 distributing that information to owners and operators of
4 pipelines and other underground facilities;

5 K. "person" means the legal representative of or an
6 individual, partnership, corporation, joint venture, state,
7 subdivision or instrumentality of the state or an association;

8 L. "pipeline" means a pipeline or system of
9 pipelines and appurtenances for the transportation or movement
10 of any oil or gas, or oil or gas products and byproducts [~~but~~
11 ~~does not include gathering lines or systems operated~~
12 ~~exclusively for the gathering of oil or gas, oil and gas~~
13 ~~products and their byproducts, in any field or area; lines or~~
14 ~~systems constituting a part of any tank farm; plant facilities~~
15 ~~of any processing plant; or underground storage projects,~~
16 ~~unless it is located within a municipality or in the boundaries~~
17 ~~of an established easement or right of way or within the limits~~
18 ~~of any unincorporated city, town or village or within any~~
19 ~~designated residential or commercial area such as a~~
20 ~~subdivision, business or shopping center or community~~
21 ~~development];~~

22 M. "reasonable efforts" means notifying the
23 appropriate one-call notification center or underground
24 facility owner or operator of planned excavation;

25 N. "underground facility" means any tangible

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1 property described in Subsections C, L and O of this section
2 that is underground, but does not include residential
3 sprinklers or low-voltage lighting; and

4 O. "underground utility line" means an underground
5 conduit or cable, including fiber optics, and related
6 facilities for transportation and delivery of electricity,
7 telephonic or telegraphic communications or water, sewer and
8 fire protection lines."

9 Section 2. Section 62-14-7.1 NMSA 1978 (being Laws 1997,
10 Chapter 30, Section 1, as amended) is amended to read:

11 "62-14-7.1. PIPELINE ONE-CALL NOTIFICATION SYSTEM.--

12 A. [~~Every~~] An owner or operator of [~~a pipeline~~] an
13 underground facility subject to Chapter 62, Article 14 NMSA
14 1978 shall be a member of a one-call notification system. A
15 one-call notification system may be for a region of the state
16 or statewide in scope, unless federal law provides otherwise.

17 B. Each one-call notification system shall be
18 operated by:

- 19 (1) an owner or operator of pipeline
20 facilities;
21 (2) a private contractor;
22 (3) a state or local government agency; or
23 (4) a person who is otherwise eligible under
24 state law to operate a one-call notification system.

25 C. If the one-call notification system is operated

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1 by owners or operators of pipeline facilities, it shall be
2 established as a nonprofit entity governed by a board of
3 directors that shall establish the operating processes,
4 procedures and technology needed for a one-call notification
5 system. The board shall further establish a procedure or
6 formula to determine the equitable share of each member for the
7 costs of the one-call notification system. The board may
8 include representatives of excavators or other persons deemed
9 eligible to participate in the system who are not owners or
10 operators.

11 D. Excavators shall give advance notice to the one-
12 call notification system operating in the intended excavation
13 area and provide information established by rule of the
14 commission, except when excavations are by or for a person
15 that:

16 (1) owns or leases or owns a mineral leasehold
17 interest in the real property on which the excavation occurs;
18 and

19 (2) operates all underground facilities
20 located in the intended excavation area.

21 E. The one-call notification system shall promptly
22 transmit excavation notice information to owners or operators
23 of pipeline facilities in the intended excavation area.

24 F. After receiving advance notice, owners and
25 operators of pipeline facilities shall locate and mark their

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1 pipeline facilities in the intended excavation area.

2 G. The one-call notification system shall provide a
3 toll-free telephone number or another comparable and reliable
4 means of communication to receive advance notice of excavation.
5 Means of communication to distribute excavation notice to
6 owners or operators of pipeline facilities shall be reliable
7 and capable of coordination with one-call notification systems
8 operating in other regions of the state.

9 H. Operators of one-call notification systems shall
10 notify the commission of its members and the name and telephone
11 number of the contact person for each member and make available
12 to the commission appropriate records in investigations of
13 alleged violations of Chapter 62, Article 14 NMSA 1978.

14 I. One-call notification systems and owners and
15 operators of pipeline facilities shall promote public awareness
16 of the availability and operation of one-call notification
17 systems and work with state and local governmental agencies
18 charged with issuing excavation permits to provide information
19 concerning and promoting awareness by excavators of one-call
20 notification systems."

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