House Utilities Subcommittee Am. #1

Amendment No._____

FILED
Date _____
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Clerk _____
Comm. Amdt. _____

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Signature of Sponsor

AMEND Senate Bill No. 2491 House Bill No. 2158*

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 65-31-102, is amended by adding the following as a new subdivision:

( ) "Damage notice" means a notification made to the one-call service by a person who has caused damage to an underground facility;

SECTION 2. Tennessee Code Annotated, Section 65-31-106(b), is amended by deleting the following:

The location of the proposed area of excavation or demolition shall be designated by the person responsible for the excavation or demolition by marking such area with "safety white" color-coded stakes or white paint, unless:

and substituting the following:

The person responsible for the excavation or demolition shall designate the location of the proposed area of excavation or demolition by marking the area, consistent with the marking standards established by the rules adopted pursuant to § 65-31-108(a), with "safety white" color-coded stakes or white paint, unless:

SECTION 3. Tennessee Code Annotated, Section 65-31-107(b)(1)(E), is amended by deleting the language "fines and".

SECTION 4. Tennessee Code Annotated, Section 65-31-108(a)(1)(A), is amended by adding the following language after the first sentence:

The operator shall not charge the person giving notice to the one-call service, the excavator, or property owner for the marking of its facilities. However, an operator may

recover the costs of the marking of its facilities from customers in an appropriate ratemaking procedure.

SECTION 5. Tennessee Code Annotated, Section 65-31-108, is amended by deleting subsection (c) and substituting the following:

(c) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities by hand digging when practical, utilizing pneumatic hand tools, or utilizing mechanical or technical methods approved by the facility owner or operator. Hand digging and non-invasive methods are not required for removal of pavement or concrete. As used in this subsection (c), "safety zone" means a strip of land at least four feet (4′) wide, but not wider than the width of the utility plus two feet (2′) on either side of the utility.

SECTION 6. Tennessee Code Annotated, Section 65-31-111, is amended by deleting the section and substituting the following:

(a) Except as provided by subsection (b), each person responsible for any excavation or demolition operation described in § 65-31-104 that results in any damage to an underground utility shall, immediately upon discovery of the damage, submit a damage notice to the one-call service, notify the operator of the utility of the location and nature of the damage, and allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the utility.

(b) If an excavation or demolition results in damage to an underground utility that permits the escape of any flammable, toxic, or corrosive gas or liquid, then the person damaging the underground utility shall, immediately upon discovery of the damage, notify the operator, notify police and fire departments through the 911 service or other emergency communications system, submit a damage notice to the one-call service, and take any other action as may be reasonably necessary to protect persons and

property and to minimize the hazards until arrival of the operator or police and fire departments.

(c) The reporting requirements established in subsections (a) and (b) apply equally to all types of excavation or demolition activities. However, persons engaged in activities described in § 65-31-102(9)(B)(i)-(iv) are not required to submit a damage notice to the one-call service.

(d) During initial excavation, if an underground utility is found to be unsound due to deterioration, then the person responsible for excavation shall immediately notify the utility company involved and allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the utility.

(e) The financial impact of all damages to underground utilities must be calculated using generally accepted accounting principles (GAAP).

(f) Each operator whose utility facilities have been damaged as described in this section shall report the incident using the Damage Information Reporting Tool (DIRT) utilized by Common Ground Alliance or by filing a damage notice with the one-call system. If a report is made by filing a damage notice with the one-call service, then the one-call service may submit a report of the incident report to DIRT.

SECTION 7. Tennessee Code Annotated, Section 65-31-112(a), is amended by deleting the language "two thousand five hundred dollars ($2,500)" in subdivision (2) and substituting the language "ten thousand dollars ($10,000)", deleting the language "five thousand dollars ($5,000)" in subdivision (3) and substituting "fifteen thousand dollars ($15,000)", and adding the following as a new subdivision:

(4) Operators who fail to join the one-call service and utilize the services of the notification center as required by § 65-31-107 are only subject to the civil penalties described in subdivisions (a)(2) and (a)(3).

SECTION 8. Tennessee Code Annotated, Section 65-31-114(f)(3), is amended by deleting the language "one-year terms" in subdivision (A) and substituting the language "three-

year terms", and deleting the language "one-year terms" in subdivision (C) and substituting the language "three-year terms".

SECTION 9. Tennessee Code Annotated, Section 65-31-117(b), is amended by deleting the language ", and no grants shall be given for this purpose after January 1, 2018" in subdivision (1), and deleting subdivision (2) and substituting the following:

(2) Providing public awareness, educational programs or materials, and compliance training in a manner and by vendors determined and selected by the board.

SECTION 10. Tennessee Code Annotated, Section 65-31-120, is amended by deleting the language "§ 65-31-102(8)(B)" in subsection (a) and substituting the language "§ 65-31-102" and deleting subsection (b).

SECTION 11. Tennessee Code Annotated, Section 65-28-108(a), is amended by deleting the language "ten thousand dollars ($10,000)" and substituting the language "one hundred thousand dollars ($100,000)" and deleting the language "five hundred thousand dollars ($500,000)" and substituting the language "one million dollars ($1,000,000)".

SECTION 12. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to conduct occurring on or after that date.