

1 HB386  
2 135575-1  
3 By Representative Buskey (N & P)  
4 RFD: Mobile County Legislation  
5 First Read: 23-FEB-12

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8 SYNOPSIS: Under existing law, a person excavating on  
9 property is required to notify the "one-call  
10 notification system" before digging on the  
11 property. The State Department of Transportation,  
12 any county, and excavations by railroads are exempt  
13 from this law.

14 This bill would exempt any Class 2  
15 municipality from the law.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 Relating to Class 2 municipalities; to amend Section  
22 37-15-2, Code of Alabama 1975, relating to the one-call  
23 notification system; to provide that the provisions of this  
24 law would not apply to any Class 2 municipality or its  
25 officials, employees, agents, or representatives.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 37-15-2, Code of Alabama 1975, is  
2 amended to read as follows:

3           "§37-15-2.

4           "As used in this chapter unless the context clearly  
5 implies a different meaning:

6           "(a) "Approximate Location" of underground  
7 facilities means information about an operator's underground  
8 facilities which is provided to a person by an operator and  
9 must be accurate to within 18 inches measured horizontally  
10 from the outside edge of each side of such operator's  
11 facility, or a strip of land eighteen inches either side of  
12 the operator's field mark or the marked width of the facility  
13 plus eighteen inches on each side of the marked width of the  
14 facility.

15           "(b) "Blasting" means the use of an explosive device  
16 for the excavation of earth, rock, or other material or the  
17 demolition of a structure.

18           "(c) "Damage" includes, but is not limited to, the  
19 substantial weakening of structural or lateral support of an  
20 underground facility, penetration or destruction of any  
21 underground facility's protective coating, housing, or other  
22 protective device, and the severance (partial or complete) of  
23 any underground facility, but does not apply to any operator's  
24 abandoned underground facility.

25           "(d) "Demolition" means any operation by which a  
26 structure or mass of material is wrecked, razed, rendered,

1 moved, or removed by means of any tools, equipment, or  
2 explosives.

3 "(e) "Excavate" or "Excavation" means any operation  
4 for the purpose of the movement or removal of earth, rock, or  
5 other material by mechanized equipment or explosive device and  
6 includes, but is not limited to, augering, backfilling,  
7 blasting, boring, digging, ditching, drilling, grading,  
8 plowing-in, pulling-in, ripping, scraping, sub-soiling,  
9 trenching, and tunneling.

10 "(f) "Excavator" means any person who engages in  
11 excavation.

12 "(g) "Implied Easement" means any unwritten easement  
13 or right-of-way on private property required to provide  
14 utility or other services by means of underground facilities  
15 on property of the owner requesting such service.

16 "(h) "Mark" or "Marking" means the use of stakes,  
17 flags, paint, buoys, or clearly identifiable materials placed  
18 on the surface of the ground or water to show the approximate  
19 location of underground facilities.

20 "(i) "Mechanized Equipment" means equipment powered  
21 or energized by any motor, engine, hydraulic or pneumatic  
22 device and is used for excavation or demolition work  
23 including, but not limited to, tractors, trenchers,  
24 bulldozers, power shovels, augers, backhoes, scrapers, pile  
25 drivers, drills, cable and pipe plows, or other equipment used  
26 for plowing-in or pulling-in cable or pipe.

1           "(j) "One-Call Notification System" means a  
2 non-profit corporation, a public corporation, or a  
3 governmental entity which will provide a statewide  
4 notification service, for the purpose of receiving statewide  
5 telephonic toll-free notification of any planned excavation or  
6 demolition activities by excavators or other persons as set  
7 forth in Section 37-15-4 and distributing the required  
8 excavation or demolition information to its affected member  
9 operators as set forth in Section 37-15-5.

10           "(k) "Operator" means any person, governmental  
11 agency, or political subdivision, or their agents, who owns or  
12 operates a public or private underground facility which  
13 furnishes services, information, or materials, or transports  
14 or transmits electric energy, light, water, steam, oil, gases,  
15 gas, mixture of gases, petroleum, petroleum products,  
16 hazardous or flammable liquids, toxic or corrosive fluids and  
17 gases or items of like nature and telecommunications, cable  
18 television, water, drainage, sewage, and traffic control  
19 systems or other systems of like nature.

20           "(l) "Person" means an individual, joint venture,  
21 partnership, association, authority, cooperative, firm,  
22 corporation, governmental entity, or any subdivision or  
23 instrumentality of that entity and their employees, agents, or  
24 legal representatives; however, the term "person" does not  
25 include and no provision of this chapter shall apply to the  
26 State Department of Transportation or their officials,  
27 employees, agents, or representatives while in the performance

1 of their respective duties. Provided further, that the term  
2 does not include, and no provision of this chapter shall apply  
3 to, any county or its officials, employees, agents, or  
4 representatives while in the performance of their duties.  
5 Provided further, that such term does not include and no  
6 provision of this chapter shall apply to any excavating done  
7 by a railroad when said excavating is done entirely on land  
8 which the railroad owns or on which the railroad operates or,  
9 in the event of emergency, on adjacent land. Provided further,  
10 that the term does not include, and no provision of this  
11 chapter shall apply to, any Class 2 municipality, or its  
12 officials, employees, agents, or representatives while in the  
13 performance of their duties.

14 "(m) "Underground Facility" means any cable,  
15 pipeline, duct, wire, conduit, or other similar installation,  
16 installed underground or underwater, by which an operator  
17 transports or delivers materials, information, or services.

18 "(n) "Working Day" means a 24-hour period commencing  
19 from the time of receipt of the notification, excluding  
20 Saturday, Sunday, and the following nine holidays: New Year's  
21 Day, Memorial Day (observed), Independence Day, Labor Day,  
22 Veterans Day, Thanksgiving Day, the Friday following  
23 Thanksgiving Day, Christmas Eve, and Christmas Day. When any  
24 of these holidays occur on a Saturday, it will be observed on  
25 the preceding Friday and when any of these holidays occur on a  
26 Sunday, it will be observed on the following Monday."

1                   Section 2. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.