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SENATE BILL 810

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOSEPH A. FIDEL

AN ACT

RELATING TO PIPELINES; ESTABLISHING A ONE-CALL NOTIFICATION SYSTEM FOR UNDERGROUND EXCAVATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 62, Article 14 NMSA 1978 is enacted to read:

" [NEW MATERIAL] PIPELINE ONE-CALL NOTIFICATION SYSTEM --

A. Every owner or operator of a pipeline facility shall be a member of a one-call notification system. A one-call notification system may be for a region of the state or statewide in scope, unless federal law provides otherwise.

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

- (1) an owner or operator of pipeline

1 facilities;

2 (2) a private contractor;

3 (3) a state or local government agency; or

4 (4) a person who is otherwise eligible under
5 state law to operate a one-call notification system.

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

17 D. Excavators shall give advance notice to the one-
18 call notification system operating in the intended excavation
19 area and provide information established by rule and regulation
20 of the commission, except when excavations are by or for a
21 person that:

22 (1) owns or leases or owns a mineral leasehold
23 interest in the real property on which the excavation occurs;
24 and

25 (2) operates all underground facilities located

Underscored material = new
[bracketed material] = delete

1 in the intended excavation area.

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

5 F. After receiving advance notice, owners and
6 operators of pipeline facilities shall locate and mark their
7 pipeline facilities in the intended excavation area.

8 G. The one-call notification system shall provide a
9 toll-free telephone number or another comparable and reliable
10 means of communication to receive advance notice of excavation.
11 Means of communication to distribute excavation notice to owners
12 or operators of pipeline facilities shall be reliable and
13 capable of coordination with one-call notification systems
14 operating in other regions of the state.

15 H. Operators of one-call notification systems shall
16 notify the commission of its members and the name and telephone
17 number of the contact person for each member.

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

25 Section 2. A new section of Chapter 62, Article 14 NMSA

.115355.2

Underscored material = new
[bracketed material] = delete

1 1978 is enacted to read:

2 "[NEW MATERIAL] ENFORCEMENT. --If any person excavates or
3 intends to excavate in violation of Chapter 62, Article 14 NMSA
4 1978, the commission or any interested or affected owner or
5 operator of an underground facility may file, in the district
6 court of the county in which the excavation is occurring or
7 intended, an action seeking to enjoin the excavation. "

8 Section 3. A new section of Chapter 62, Article 14 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] RULE-MAKING. --The commission shall
11 promulgate rules and regulations to implement the provisions of
12 Chapter 62, Article 14 NMSA 1978. "

13 Section 4. Section 62-14-2 NMSA 1978 (being Laws 1973,
14 Chapter 252, Section 2, as amended) is amended to read:

15 "62-14-2. DEFINITIONS. --For purposes of Chapter 62,
16 Article 14 NMSA 1978:

17 A. "blasting" means the use of an explosive to
18 excavate;

19 B. "excavate" means the movement or removal of earth
20 using mechanical excavating equipment or blasting and includes
21 augering, backfilling, digging, ditching, drilling, grading,
22 plowing in, pulling in, ripping, scraping, trenching and
23 [~~tunnelling~~] tunneling;

24 C. "mechanical excavating equipment" means all
25 equipment powered by any motor, engine or hydraulic or pneumatic

.115355.2

Underscored material = new
[bracketed material] = delete

1 device used for excavating and includes trenchers, bulldozers,
2 backhoes, power shovels, scrapers, draglines, clam shells,
3 augers, drills, cable and pipe plows or other plowing-in or
4 pulling-in equipment;

5 D. "one-call notification system" means a
6 communication system in which an operation center provides
7 telephone services or other reliable means of communication for
8 the purpose of receiving excavation notice information and
9 distributing that information to owners and operators of
10 pipeline facilities;

11 [~~D.-~~] E. "pipeline" means a pipeline or system of
12 pipelines and appurtenances for the transportation or movement
13 of any oil or gas, [~~mixture of gases or petroleum products~~
14 suitable for domestic or industrial fuel] oil or gas products
15 and byproducts, but does not include:

16 (1) gas distribution systems; or
17 (2) gathering lines or systems operated
18 exclusively for the gathering of oil or gas, oil and gas
19 products and their byproducts in any field or area, lines or
20 systems constituting a part of any tank farm, plant facilities
21 of any processing plant or underground storage projects, unless
22 it is located:

23 (a) within a municipality; or
24 (b) in the boundaries of an established
25 easement or right of way;

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[bracketed material] = delete

1 [E-] F. "underground utility line" means an
2 underground conduit or cable, including fiber optics, piping and
3 related facilities for transportation and delivery of
4 electricity, telephonic or telegraphic communications or water
5 or distribution of gas;

6 [F-] G. "cable television lines and related
7 facilities" means the facilities of any cable television system
8 or closed-circuit coaxial cable communications system or other
9 similar transmission service used in connection with any cable
10 television system or other similar closed-circuit coaxial cable
11 communications system;

12 [G-] H. "underground facilities" means any tangible
13 property described in Subsections [D] E through [F] G of this
14 section [~~whi~~ch] that is underground and does not include
15 residential sprinklers or low-voltage lighting

16 [H-] I. "person" means the legal representative of
17 or any individual, partnership, corporation, joint venture,
18 state, subdivision or instrumentality of the state or an
19 association [~~or any legal representative thereof~~];

20 [I-] J. "means of location" means a mark such as a
21 stake in earthen areas or a paint mark in paved areas [~~whi~~ch]
22 that is conspicuous in nature [~~whi~~ch] and that is designed to
23 last at least five days if not disturbed; [~~and~~]

24 [J-] K. [~~"reasonable advance notice"~~] "advance
25 notice" means two working days; and

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L. "commission" means the state corporation
commission or its successor agency."

Section 5. Section 62-14-8 NMSA 1978 (being Laws 1973,
Chapter 252, Section 8, as amended) is amended to read:

"62-14-8. PENALTIES. --In addition to any other liability
imposed by law, any person who [~~willfully~~] negligently fails to
comply with Chapter 62, Article 14 NMSA 1978 and whose failure
proximately contributes to the damage of any pipeline or
underground utility line shall be subject to a civil penalty not
to exceed five hundred dollars (\$500) for each offense. All
actions to recover the penalties provided for in this section
shall be brought by either the attorney general or the
appropriate district attorney upon complaint of the [~~state
corporation~~] commission, the New Mexico public utility
commission or the construction industries division of the
regulation and licensing department. All such actions shall be
brought in the district court in and for the county in which the
cause, or some part [~~thereof~~] of the cause, arose or in which
the person complained of has [~~their~~] his principal place of
business or residence. All penalties recovered in any such
action shall be paid into the state general fund."

Section 6. EFFECTIVE DATE. --The effective date of the
provisions of this act is October 1, 1997.

1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

SB 810/a

3
4
5 February 26, 1997

6
7 Mr. President:

8
9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
10 whom has been referred

11 SENATE BILL 810

12
13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 5, line 15, strike the semicolon, strike line 16
18 and on line 17, strike "(2)".

19
20 2. On page 5, line 22, strike the colon and on line 23,
21 strike "(a)".

22
23 3. On page 5, line 23, strike the semicolon.

24
25 4. On page 5, line 24, strike "(b)".

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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SCORC/SB 810

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5. On page 5, line 25, before the semicolon insert "or within the limits of any unincorporated city, town or village or within any designated residential or commercial area such as a subdivision, business or shopping center or community development".

8. On page 6, line 2, strike "piping".

9. On page 6, line 5, strike "or distribution of gas"., and thence referred to the CONSERVATION COMMITTEE.

Respectfully submitted,

Roman M. Maes, III, Chairman

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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SCORC/SB 810

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Fidel, Robinson

Absent: None

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[bracketed material] = delete

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

SB 810/a

3
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5 March 4, 1997

6
7 Mr. President:

8
9 Your CONSERVATION COMMITTEE, to whom has been referred

10
11 SENATE BILL 810, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15
16 1. Strike Corporations & Transportation Committee amendment

17 1.

18
19 2. On page 5, line 15, strike the colon, strike line 16 and
20 on line 17, strike "(2)".

21
22 3. On page 7, line 6, strike the brackets and line-through
23 for "willfully" and strike "negligently".

24
25 Respectfully submitted,

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Michael S. Sanchez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

No: None

Excused: Griego

Absent: None

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[bracketed material] = delete

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 10, 1997

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
whom has been referred

SENATE BILL 810, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

James Roger Madalena, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Getty, Knowles, Picraux

Absent: None

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