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 DIGEST

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DIGEST

SB 169 Reengrossed                      2021 Regular Session                      Allain

Present law provides relative to the La. Underground Utilities and Facilities Damage Prevention Law.

Present law provides that except as provided by law, no person shall excavate or demolish in any street, highway, public place, or servitude of any operator, or near the location of an underground facility or utility, or on the premises of a customer served by an underground facility or utility without having first ascertained, as provided by law, the specific location of all underground facilities or utilities in the area that would be affected by the proposed excavation or demolition.

Present law provides that prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place.

Present law defines "excavation" or "excavate" to mean any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged utilities or facilities by the use of powered or mechanical or manual means, including but not limited to pile driving, digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. "excavation" or "excavate" shall not include manual probing or any force majeure, act of God, or act of nature.

Proposed law adds normal commercial farming operations as an exception to the definition of "excavation" or "excavate" and changes the definition of "excavation" or "excavate" with regards to an exception from any force majeure, act of God or act of nature to any activity resulting from force majeure related occurrences, including but not limited to an act of God or an act of nature.

Proposed law defines "normal commercial farming operations" as the following operations or activities for agriculture cultivation purposes:

- (1) Operations or activities that do not encroach upon a private utility or pipeline servitude, public right-of-way, or public franchise area.
- (2) Operations or activities that do encroach upon a private utility or pipeline servitude and the depth of the excavation is less than 12 inches in the soil below the existing surface grade.

Present law requires operators of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate, to supply certain information to the person responsible for the excavation.

Proposed law adds this requirement when there is a notification of intent to perform normal commercial farming operations.

Present law requires that each person responsible for an excavation or demolition operation that results in damage to an underground facility or utility, perform certain actions immediately such as notification to certain persons, to minimize hazard, and comply with any other laws and regulations.

Proposed law adds this requirement to commercial farming operations that results in damage to an underground facility or utility.

Effective August 1, 2021.

(Amends R.S. 40:1749.12(7) and (12)-(18) and 1749.14(C)(1) (intro par) and 1749.17(B) (intro par); adds R.S. 40:1749.12(19))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.
2. Changes the term "normal farming operations" to "normal commercial farming operations".
3. Specifies in the definition of "normal commercial farming operations" that the depth of the excavation is less than 12 inches in the soil below the existing surface grade.

Senate Floor Amendments to engrossed bill

1. Adds commercial farming operations to present law provisions relative to regional notification centers and repair of damage caused by excavation or demolition.
2. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the reengrossed bill:

1. Make technical changes.