

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 425**

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

BY REQUEST OF THE EXECUTIVE

[Introduced January 29, 2016;

Referred to the Committee on Energy, Industry and Mining;

and then to the Committee on the Judiciary.]

1 A BILL to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating  
2 to one-call system; and revising the definition of “underground facility”.

*Be it enacted by the Legislature of West Virginia:*

1 That §24C-1-2 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 1. ONE-CALL SYSTEM.**

**§24C-1-2. Definitions.**

1 As used in this chapter, unless the context clearly requires a different meaning:

2 (a) "Damage" means any impact or contact with or weakening of the support for an  
3 underground facility, its appurtenances, protective casing, coating or housing, which, according  
4 to the operation practices of the operator or state or federal regulation, requires repair.

5 (b) "Demolish" or "demolition" means any operation by which a structure or mass of  
6 material is wrecked, razed, rendered, moved, or removed by means of any tools, equipment or  
7 discharge of explosives which could damage underground facilities: *Provided*, That "demolish"  
8 and "demolition" do not include earth-disturbing activities authorized pursuant to the provisions of  
9 article three, chapter twenty-two of this code or article two, chapter twenty-two-a of this code.

10 (c) "Emergency" means:

11 (1) A condition constituting a clear and present danger to life, health or property by reason  
12 of escaping toxic, corrosive or explosive product, oil or oil-gas or natural gas hydrocarbon product,  
13 exposed wires or other breaks or defects in an underground facility; or

14 (2) A condition that requires immediate correction to assure continuity of service provided  
15 by or through an underground facility.

16 (d) "Equipment operator" means any individual in physical control of powered equipment  
17 or explosives when being used to perform excavation work or demolition work.

18 (e) "Excavate" or "excavation" means any operation in which earth, rock or other material  
19 in the ground is moved, removed or otherwise displaced by means of any tools, equipment or

20 explosives, and includes, without limitation, grading, trenching, digging, ditching, dredging,  
21 drilling, auguring, tunneling, moleing, scraping, cable or pipe plowing and driving, wrecking,  
22 razing, rendering, moving or removing any structure or mass of material, but does not include  
23 underground or surface mining operations or related activities or the tilling of soil for agricultural  
24 purposes or for domestic gardening. Further, for purposes of this article, the terms "excavate" and  
25 "excavation" do not include routine maintenance of paved public roads or highways by employees  
26 of state, county or municipal entities or authorities which:

27 (1) Perform all work within the confines of the traveled portion of the paved public way;

28 and

29 (2) Do not excavate to a depth greater than twelve inches measured from the top of the  
30 paved road surface.

31 (f) "Excavator" means any person intending to engage or engaged in excavation or  
32 demolition work.

33 (g) "Member" means a member of a one-call system as authorized by this article.

34 (h) "One-call system" means a communication system that receives notification from  
35 excavators of intended excavation work and prepares and transmits such notification to operators  
36 of underground facilities in accordance with this article.

37 (i) "Operator" means any person who owns or operates an underground facility used in  
38 the providing or transmission of any of the goods or services described in subsection (1) of this  
39 section.

40 (j) "Person" means any individual, firm, joint venture, partnership, corporation, association,  
41 state agency, county, municipality, cooperative association or joint stock association, and any  
42 trustee, receiver, assignee, agency or personal representative thereof.

43 (k) "Powered equipment" means any equipment energized by an engine, motor or  
44 hydraulic, pneumatic or electrical device and used in excavation or demolition work.

45 (l) "Underground facility" means any underground pipeline facility, owned by a utility and

46 regulated by the Public Service Commission, which is used in the transportation or distribution of  
47 gas, oil or a hazardous liquid; any underground pipeline facility, owned by a company subject to  
48 the jurisdiction of the federal energy regulatory commission, which is used in the gathering,  
49 transportation or distribution of gas, oil or a hazardous liquid; any underground production or  
50 gathering pipeline for gas, oil, or any hazardous substance that is four inches in diameter or  
51 greater and is not otherwise subject to one-call reporting requirements under federal or state law;  
52 any underground facility used as a water main, storm sewer, sanitary sewer or steam line; any  
53 underground facility used for electrical power transmission or distribution; any underground cable,  
54 conductor, waveguide, glass fiber or facility used to transport telecommunications, optical, radio,  
55 telemetry, television, or other similar transmissions; and any facility used in connection with any  
56 of the foregoing facilities on a bridge, a pole or other span, or on the surface of the ground, any  
57 appurtenance, device, cathodic protection system, conduit, protective casing or housing used in  
58 connection with any of the foregoing facilities: *Provided*, That "underground facility" does not  
59 include underground or surface coal mine operations.

60 (m) "Workday" means any day except Saturday, Sunday or a federal or state legal holiday.

61 (n) "Work site" means the location of excavation or demolition work as described by an  
62 excavator, operator, or person or persons performing the work.

NOTE: The purpose of this bill is to implement a formal recommendation offered by the West Virginia Commission on Oil and Natural Gas Industry Safety, which Governor Tomblin convened by executive order. Specifically, the bill expands the definition of "underground facility" in the One-Call System Act to include underground pipelines for gas, oil, or any hazardous substances that are four inches in diameter or greater and are not otherwise subject to one-call reporting requirements under federal or state law.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.