

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 597**

BY SENATOR NELSON

[Introduced February 08, 2022; referred  
to the Committee on Economic Development]



1 A BILL to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating  
2 to the Public Service Commission underground facilities damage prevention and one-call  
3 system; and clarifying the definition of “excavate” or “excavation”.

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

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

**§24C-1-2. Definitions.**

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

2 “Board” or “Underground Facilities Damage Prevention Board” means the Underground  
3 Facilities Damage Prevention Board created in this article.

4 “Commission” or “Public Service Commission” means the Public Service Commission of  
5 West Virginia.

6 “Damage” means any impact or contact with or weakening of the support for, or the partial  
7 or complete destruction of, an underground facility, its appurtenances, protective casing, coating,  
8 or housing, which, according to the operation practices of the operator or state or federal  
9 regulation, requires repair or replacement.

10 “Demolish” or “demolition” means any operation by which a structure or mass of material  
11 is wrecked, razed, rendered, moved, or removed by means of any tools, equipment or discharge  
12 of explosives which could damage underground facilities: *Provided*, That “demolish”, and  
13 “demolition” do not include earth-disturbing activities authorized pursuant to the provisions of §22-  
14 3-1 *et seq.* or §22A-2-1 *et seq.* of this code.

15 “Emergency” means:

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

19 (2) A condition that requires immediate correction to assure the safety of the general public  
20 and operator personnel.

21 "Equipment operator" means any individual in physical control of powered equipment or  
22 explosives when being used to perform excavation work or demolition work.

23 "Excavate" or "excavation" means any operation in which earth, rock, or other material in  
24 the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or  
25 explosives, and includes, without limitation, boring, backfilling, grading, trenching, trenchless  
26 technology, digging, ditching, dredging, drilling, auguring, tunneling, moleing, scraping, cable or  
27 pipe plowing and driving, wrecking, razing, rendering, moving, or removing any structure or mass  
28 of material, but does not include underground or surface mining operations or related activities or  
29 the tilling of soil for agricultural purposes or for domestic gardening. Further, for purposes of this  
30 article, the terms "excavate", and "excavation" do not include routine maintenance of paved public  
31 roads or highways, where all work is confined to the traveled portion of the paved public way and  
32 does not exceed a depth greater than 12 inches measured from the top of the paved road surface.  
33 ~~by employees of state, county, or municipal entities or authorities which:~~

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

35 ~~and~~

36 ~~(2) Do not excavate to a depth greater than 12 inches measured from the top of the paved~~  
37 ~~road surface~~

38 "Excavator" means any person intending to engage or engaged in excavation or  
39 demolition work.

40 "Fund" or "Underground Damage Prevention Fund" means the fund created in §24C-1-2b  
41 of this code.

42 "Member" means a member of the one-call system as authorized by this article.

43 "One-call system" means a communication system that receives notification from  
44 excavators of intended excavation work and prepares and transmits such notification to operators  
45 of underground facilities in accordance with this article.

46 "Operator" means any person who operates an underground facility.

47           “Person” means any individual, firm, joint venture, partnership, corporation, association,  
48 state agency, county, municipality, cooperative association, or joint stock association, and any  
49 trustee, receiver, assignee, agency, or personal representative thereof.

50           “Powered equipment” means any equipment energized by an engine, motor or hydraulic,  
51 pneumatic, or electrical device and used in excavation or demolition work.

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

67           “Workday” means any day except Saturday, Sunday, or a federal or state legal holiday.

68           “Work site” means the location of excavation or demolition work as described by an  
69 excavator, operator, or person or persons performing the work.