

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 28, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Mike Corrigan, Revisor of Statutes
Tatiana Lin, Legislative Fellow
Ann McMorris, Committee Secretary

Conferees appearing before the committee: None

Others in attendance: See attached list

Chairman Emler called on Senator Apple to report on the recommendations of the Subcommittee on **SB 20** - Kansas Underground Utility Damage Prevention Act. Subcommittee members were Senator Apple, Chair; Senator Taddiken and Senator Francisco.

Senator Apple reported on the subcommittee's discussion and actions taken at their meetings held on January 31, 2007 and February 7, 2007. Discussion involved the comments and concerns of the committee and representatives of the Rural Water Districts with **SB 20**. It was agreed to have Leo Haynos of KCC set up a meeting with the concerned parties to discuss a 2 tiered system and to propose language to clarify the concerns.

Senator Apple called on Leo Haynos to explain the proposed changes to **SB 20**. (Attachment 1) A balloon (z20c2) of **SB 20** was provided the committee and the proposed changes and additions were reviewed. Questions were asked regarding emergency procedures, notification center responsibilities, cost to water and sanitary sewer systems to have One-Call as compared to cost to Tier One subscribers.

At this time, a later balloon of **SB 20** (z20c4) was passed to the committee. (Attachment 2)

Moved by Senator Emler, seconded by Senator Reitz, in **SB 20** change the date for marking from January 1, 2008 to July 1, 2007 (page 4, line 23). Motion carried.

Moved by Senator Emler, seconded by Senator Reitz, in **SB 20** change the date for implementation from January 1, 2008 to July 1, 2008. (Page 4, line 41-42). Motion carried.

Moved by Senator Pyle, seconded by Senator Emler, in **SB 20** strike the language on page 4, line 20 "Except as provided in subsection (h).". Motion carried.

Due to lack of time, Chairman Emler announced the continuation of action on **SB 20** to the March 1 meeting of the Senate Utilities committee.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 2

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 28, 2007

| Name | Representing |
|----------------|----------------------|
| Leo Haynes | KCC |
| George Melling | Kansas Gas Service |
| Joe Duke | KCBPU |
| Whitney Damm | KS Gas Service |
| Tom Day | KCC |
| STEVE JOHNSON | Kansas Gas Service |
| Tim Gardner | AT&T |
| Mark Schreiber | Westar Energy |
| Dave Holtman | KCC |
| Mike Reed | ATMOS Energy |
| Jon Stanton | NORTHERN NATURAL GAS |
| LARRY BELL | MIDWEST ENERGY, INC. |
| Lindy Dangler | Hein Law Firm |
| Pat Lehman | KRWA |
| Mark Tomb | LKM |

SENATE BILL No. 20

By Special Committee on Utilities

1-5

Proposed amendments for consideration by Senate Committee on Utilities

66-1804, 66-1805

9 AN ACT concerning the Kansas underground utility damage prevention
10 act; amending K.S.A. 66-1802 and 66-1806 and K.S.A. 2006 Supp. 66-
11 1802 and repealing the existing sections.

13 Be it enacted by the Legislature of the State of Kansas:
14 Section 1. K.S.A. 66-1802 is hereby amended to read as follows: 66-
15 1802. As used in this act:

16 (a) "Damage" means any impact or contact with an underground fa-
17 cility, its appurtenances or its protective coating, or any weakening of the
18 support for the facility or protective housing which requires repair.

19 (b) "Emergency" means any condition constituting a clear and pres-
20 ent danger to life, health or property, or a customer service outage.

21 (c) "Excavation" means any operation in which earth, rock or other
22 material below the surface is moved or otherwise displaced by any means,
23 except tilling the soil for normal agricultural purposes, or railroad or road
24 and ditch maintenance that does not change the existing railroad grade,
25 road grade and/or ditch flowline, or operations related to exploration and
26 production of crude oil or natural gas, or both.

27 (d) "Excavator" means any person who engages directly in excavation
28 activities within the state of Kansas, but shall not include any occupant
29 of a dwelling who: (1) Uses such dwelling as a primary residence; and (2)
30 excavates on the premises of such dwelling.

31 (e) "Facility" means any sanitary sewer or underground line, system
32 or structure used for transporting, gathering, storing, conveying, trans-
33 mitting or distributing potable water, gas, electricity, communication,
34 crude oil, refined or processed petroleum, petroleum products or haz-
35 ardous liquids; facility shall not include, any stormwater sewers or pro-
36 duction petroleum lead lines, salt water disposal lines or injection lines,
37 which are not located on platted land or inside the corporate limits of any
38 city.

39 (f) "Locatable facility" means facilities for which the tolerance zone
40 can be determined by the operator using generally accepted practices
41 such as as-built construction drawings, system maps, probes, locator de-
42 vices or any other type of proven technology for locating.

43 (g) "Marking" means the use of stakes, paint, flags or other clearly

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1 identifiable materials to show the field location of underground facilities,
2 in accordance with the rules and regulations promulgated by the state
3 corporation commission in the administration and enforcement of this
4 act.

5 (h) "Municipality" means any city, county, municipal corporation,
6 public district or public authority located in whole or in part within this
7 state which provides firefighting, law enforcement, ambulance, emer-
8 gency medical or other emergency services.

9 (i) "Notification center" means the statewide communication system
10 operated by an organization which has as one of its purposes to receive
11 and record notification of planned excavation in the state from excavators
12 and to disseminate such notification of planned excavation to operators
13 who are members and participants.

14 (j) ~~"Operator" means any person who owns or operates an under-~~
15 ~~ground facility, except for any person who is the owner of real property~~
16 ~~wherein is located underground facilities for the purpose of furnishing~~
17 ~~services or materials only to such person or occupants of such property.~~

tier 1 or tier 2

18 (k) "Preengineered project" means a public project or a project which
19 is approved by a public agency where in the public agency responsible for
20 the project, as part of its engineering and contract procedures, holds a
21 meeting prior to the commencement of any construction work on such
22 project in which all persons, determined by the public agency to have
23 underground facilities located within the construction area of the project,
24 are invited to attend and given an opportunity to verify or inform the
25 public agency of the location of their underground facilities, if any, within
26 the construction area and where the location of all known and under-
27 ground facilities are duly located or noted on the engineering drawing as
28 specifications for the project.

29 (l) "Permitted project" means a project where a permit for the work
30 to be performed must be issued by a city, county, state or federal agency
31 and, as a prerequisite to receiving such permit, the applicant must locate
32 all underground facilities in the area of the work and in the vicinity of the
33 excavation and notify each owner of such underground facilities.

34 (m) "Person" means any individual, partnership, corporation, asso-
35 ciation, franchise holder, state, city, county or any governmental subdivi-
36 sion or instrumentality of a state and its employees, agents or legal
37 representatives.

38 (n) "Production petroleum lead line" means an underground facility
39 used for production, gathering or processing on the lease or unit, or for
40 delivery of hydrocarbon gas and/or liquids to an associated tank battery,
41 separator or sales facility. Production petroleum lead lines shall include
42 underground lines associated with lease fuel and saltwater disposal and
43 injection.

(o) "Platted land" means a tract or parcel of land which has been subdivided into lots of less than five acres for the purpose of building developments, including housing developments, and for which a surveyor's plat has been filed of record in the office of the register of deeds in the county where the land is located.

(p) "Tolerance zone" means the area within 24 inches of the outside dimensions in all horizontal directions of an underground facility. ~~that the tolerance zone for a sanitary sewer facility or a potable water facility shall be established by rules and regulations adopted under K.S.A. 2006 Supp. 66-1804 and amendments thereto.~~

(q) "Update" means an additional request from the excavator to extend the time period of the request for intent to excavate beyond the 15 calendar day duration of the request

(r) "Whitelining" means the act of marking by the excavator the route or boundary of the proposed excavation site with white paint, white stakes or white flags.

(s) "Working day" means every day Monday through Friday beginning at 12:01 a.m., except for the following officially recognized holidays: New Year's day, Memorial day, Independence day, Labor day, Thanksgiving day, the day after Thanksgiving and Christmas.

Sec. 2. K.S.A. 66-1806 is hereby amended to read as follows: 66-1806. (a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

(b) If the operator has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.

(c) If the excavator notifies the notification center, within two working days after the initial identification of the tolerance zone by the operator, that the identifiers have been improperly removed or altered, the operator shall make a reasonable effort to reidentify the tolerance zone within one working day after the operator receives actual notice from the notification center.

(d) If the operator notifies the excavator that it has no underground facilities in the area of the planned excavation, ~~fails to respond or improperly marks the tolerance zone for the facilities,~~ the excavator may proceed and shall not be liable to the operator for any direct or indirect

(p) "Tier 1 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.
(q) "Tier 2 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing potable water or sanitary sewage that has elected to not be considered a tier 1 facility for purposes of notification by the notification center.

And reletter remaining subsections accordingly

See Attachment

And renumber remaining sections accordingly

(b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(c) The operator of tier 2 facilities shall not be required to provide notification of the tolerance zone for facilities which are at a depth at least two feet deeper than the excavator plans to excavate but does have to notify the excavator of their existence.

And reletter the remaining subsections accordingly

of a tier 1 facility

excavator has provided notice to an operator pursuant to K.S.A.66-1804, and amendments thereto, and the

fails to comply with subsections (a), (b) or (c) of this section or

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1 damages resulting from contact with the operator's facilities, except that
2 nothing in this act shall be construed to hold any excavator harmless from
3 liability to the operator in those cases of gross negligence or willful and
4 wanton conduct.

5 (e) For economic damages in any civil court of this state, failure of
6 an operator to inform the excavator within two working days of the tol-
7 erance zone of the underground facilities of the operator in the manner
8 required by subsection (a) of K.S.A. 66-1806, and amendments thereto,
9 shall not give rise to a cause of action on the part of the excavator against
10 an operator, except that nothing in this act shall be construed to hold any
11 operator harmless from liability in those cases of inaccurate marking of
12 the tolerance zone, gross negligence or willful and wanton conduct. Such
13 failure may subject an operator to civil penalties as determined by the
14 state corporation commission.

15 (f) Any person claiming that an operator has failed to inform the
16 excavator within two working days of the tolerance zone of the under-
17 ground facilities of the operator shall file a complaint with the state cor-
18 poration commission requesting enforcement of subsection (a) within one
19 year of becoming aware of the violation.

20 (g) Except as provided in subsection (h), all facilities installed by an
21 operator after January 1, 2003, shall be locatable.

tier 1

22 (h) All sanitary sewer facilities or potable water facilities subject to
23 the provisions of this act installed by an operator after January 1, 2008,
24 shall be locatable.

tier 2 facilities

25 Sec. 3. K.S.A. 2006 Supp. 66-1815 is hereby amended to read as
26 follows: 66-1815. (a) The state corporation commission shall have full
27 power and authority to adopt all necessary rules and regulations for car-
28 rying out the provisions of K.S.A. 66-1801 through 66-1814, and amend-
29 ments thereto.

30 (b) The state corporation commission shall adopt rules and
31 regulations:

32 (1) Establishing the appropriate tolerance zone for sanitary sewer fa-
33 cilities and potable water facilities, and

34 (2) Developing and implementing a protocol for excavating near san-
35 itary sewer facilities or potable water facilities which are hard to locate
36 and mark.

37 (b) (c) This section shall be part of and supplemental to the Kansas
38 underground utility damage prevention act.

And renumber the remaining sections accordingly

39 Sec. 4. K.S.A. 66-1802 and 66-1806 and K.S.A. 2006 Supp. 8-1815
40 are hereby repealed.

, 66-1804, 66-1805

41 Sec. 5. This act shall take effect and be in force from and after Jan-
42 uary 1, 2008, and its publication in the statute book.

Sec. 2. K.S.A. 66-1804 is hereby amended to read as follows:
66-1804. (a) Except in the case of an emergency, an excavator shall serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator having underground tier 1 facilities located in the proposed area of excavation.

(b) An excavator may serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator of tier 2 facilities located in the proposed area of excavation.

~~(b)~~ (c) The notice of intent to excavate or any subsequent updates shall be valid for 15 calendar days after the excavation start date and such notice shall only describe an area in which the proposed excavation reasonably can be completed within the 15 calendar days.

~~(c)~~ (d) No person shall make repeated requests for remarking unless the request is due to circumstances not reasonably within the control of such person.

~~(d)~~ (e) The notice of intent of excavation shall contain the name, address and telephone number of the person filing the notice of intent, the name of the excavator, the date the excavation activity is to commence and the type of excavation being planned. The notice shall also contain the specific location of the excavation.

~~(e)~~ (f) The person filing the notice of intent to excavate shall, at the request of the operator, whitteline the proposed excavation site when the excavation location cannot be described with sufficient detail to enable the operator to ascertain the location of the proposed excavation.

~~(f)~~ (g) The provisions of this section shall not apply to a preengineered project or a permitted project, except that the excavators shall be required to give notification in accordance with this section prior to starting such project.

Sec. 3. K.S.A. 66-1805 is hereby amended to read as follows:

66-1805 (a) This act recognizes the establishment of a single notification center for the state of Kansas. ~~The notification center shall provide prompt notice to each affected member of any proposed excavation.~~ Each operator who has an underground facility shall become a member of the notification center.

(b) The notification center shall provide prompt notice of any proposed excavation to each affected operator of tier 1 facilities that has facilities recorded with the notification center in the area of a proposed excavation site.

(c) The notification center shall provide the excavator with the name and contact information of each affected operator of tier 2 facilities that has facilities recorded with the notification center in the area of the proposed excavation.

~~(b)~~ (d) Notification, as required by K.S.A. 66-1804, and amendments thereto, to operators of tier 1 facilities shall be given by notifying the notification center by telephone at the toll free number or by other communication methods approved by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(e) Notification to operators of tier 2 facilities may be given by using the contact information provided by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

~~(c)~~ (f) Each operator who has an underground facility within the state shall be afforded the opportunity to become a member of the notification center on the same terms as the original members.

~~(d)~~ (g) A suitable record shall be maintained by the notification center to document the receipt of notices from excavators as required by this act.

(h) A suitable record shall be maintained by operators of tier 2 facilities to document the receipt of notices from excavators as required by this act.

SENATE BILL No. 20

By Special Committee on Utilities

1-5

Proposed amendment to subcommittee
balloon

- 1. Definition of tier 2 facility on page 3 new (q)
- 2. Proposed amendment replaces subsection (b) and (c) of balloon with new language in K. S.A. 66-1805.
- 3. Notification requirements of subsection (d) and (e) of K.S.A. 66-1805.

9 AN ACT concerning the Kansas underground utility damage prevention
 10 act; amending K.S.A. 66-1802 and 66-1806 ~~and 66-1805~~
 11 ~~and 66-1805~~ and repealing the existing sections.

66-1804, 66-1805

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 66-1802 is hereby amended to read as follows: 66-
15 1802. As used in this act:

16 (a) "Damage" means any impact or contact with an underground fa-
17 cility, its appurtenances or its protective coating, or any weakening of the
18 support for the facility or protective housing which requires repair.

19 (b) "Emergency" means any condition constituting a clear and pres-
20 ent danger to life, health or property, or a customer service outage.

21 (c) "Excavation" means any operation in which earth, rock or other
22 material below the surface is moved or otherwise displaced by any means,
23 except tilling the soil for normal agricultural purposes, or railroad or road
24 and ditch maintenance that does not change the existing railroad grade,
25 road grade and/or ditch flowline, or operations related to exploration and
26 production of crude oil or natural gas, or both.

27 (d) "Excavator" means any person who engages directly in excavation
28 activities within the state of Kansas, but shall not include any occupant
29 of a dwelling who: (1) Uses such dwelling as a primary residence; and (2)
30 excavates on the premises of such dwelling.

31 (e) "Facility" means any *sanitary sewer* or underground line, system
32 or structure used for *transporting*, gathering, storing, conveying, trans-
33 mitting or distributing *potable water*, gas, electricity, communication,
34 crude oil, refined or processed petroleum, petroleum products or haz-
35 ardous liquids; facility shall not include, any *stormwater sewers* or pro-
36 duction petroleum lead lines, salt water disposal lines or injection lines,
37 which are not located on platted land or inside the corporate limits of any
38 city.

39 (f) "Locatable facility" means facilities for which the tolerance zone
40 can be determined by the operator using generally accepted practices
41 such as as-built construction drawings, system maps, probes, locator de-
42 vices or any other type of proven technology for locating.

43 (g) "Marking" means the use of stakes, paint, flags or other clearly

1 identifiable materials to show the field location of underground facilities,
2 in accordance with the rules and regulations promulgated by the state
3 corporation commission in the administration and enforcement of this
4 act.

5 (h) "Municipality" means any city, county, municipal corporation,
6 public district or public authority located in whole or in part within this
7 state which provides firefighting, law enforcement, ambulance, emer-
8 gency medical or other emergency services.

9 (i) "Notification center" means the statewide communication system
10 operated by an organization which has as one of its purposes to receive
11 and record notification of planned excavation in the state from excavators
12 and to disseminate such notification of planned excavation to operators
13 who are members and participants.

14 (j) ~~"Operator" means any person who owns or operates an under-~~
15 ~~ground facility, except for any person who is the owner of real property~~
16 ~~wherein is located underground facilities for the purpose of furnishing~~
17 ~~services or materials only to such person or occupants of such property.~~

tier 1 or tier 2

18 (k) "Preengineered project" means a public project or a project which
19 is approved by a public agency wherein the public agency responsible for
20 the project, as part of its engineering and contract procedures, holds a
21 meeting prior to the commencement of any construction work on such
22 project in which all persons, determined by the public agency to have
23 underground facilities located within the construction area of the project,
24 are invited to attend and given an opportunity to verify or inform the
25 public agency of the location of their underground facilities, if any, within
26 the construction area and where the location of all known and under-
27 ground facilities are duly located or noted on the engineering drawing as
28 specifications for the project.

29 (l) "Permitted project" means a project where a permit for the work
30 to be performed must be issued by a city, county, state or federal agency
31 and, as a prerequisite to receiving such permit, the applicant must locate
32 all underground facilities in the area of the work and in the vicinity of the
33 excavation and notify each owner of such underground facilities.

34 (m) "Person" means any individual, partnership, corporation, asso-
35 ciation, franchise holder, state, city, county or any governmental subdivi-
36 sion or instrumentality of a state and its employees, agents or legal
37 representatives.

38 (n) "Production petroleum lead line" means an underground facility
39 used for production, gathering or processing on the lease or unit, or for
40 delivery of hydrocarbon gas and/or liquids to an associated tank battery,
41 separator or sales facility. Production petroleum lead lines shall include
42 underground lines associated with lease fuel and saltwater disposal and
43 injection.

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(o) "Platted land" means a tract or parcel of land which has been subdivided into lots of less than five acres for the purpose of building developments, including housing developments, and for which a surveyor's plat has been filed of record in the office of the register of deeds in the county where the land is located.

(p) "Tolerance zone" means the area within 24 inches of the outside dimensions in all horizontal directions of an underground facility ~~that the tolerance zone for a sanitary sewer facility or a potable water facility shall be established by rules and regulations adopted under K.S.A. 66-1806 from 66-1805 and amended by 66-1806.~~

(q) "Update" means an additional request from the excavator to extend the time period of the request for intent to excavate beyond the 15 calendar day duration of the request.

(r) "Whitelineing" means the act of marking by the excavator the route or boundary of the proposed excavation site with white paint, white stakes or white flags.

(s) "Working day" means every day Monday through Friday beginning at 12:01 a.m., except for the following officially recognized holidays: New Year's day, Memorial day, Independence day, Labor day, Thanksgiving day, the day after Thanksgiving and Christmas.

Sec. 2. K.S.A. 66-1806 is hereby amended to read as follows: 66-1806. (a) Within two working days, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

(b) If the operator has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.

(c) If the excavator notifies the notification center, within two working days after the initial identification of the tolerance zone by the operator, that the identifiers have been improperly removed or altered, the operator shall make a reasonable effort to reidentify the tolerance zone within one working day after the operator receives actual notice from the notification center.

(d) If the operator notifies the excavator that it has no underground facilities in the area of the planned excavation, ~~fails to respond or improperly marks the tolerance zone for the facilities,~~ the excavator may proceed and shall not be liable to the operator for any direct or indirect

(p) "Tier 1 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.
(q) "Tier 2 facility" means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing potable water or sanitary sewage.

And reletter remaining subsections accordingly

See Attachment

And renumber remaining sections accordingly

(b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.
(c) The operator of tier 2 facilities shall not be required to provide notification of the tolerance zone for facilities which are at a depth at least two feet deeper than the excavator plans to excavate but does have to notify the excavator of their existence.

And reletter the remaining subsections accordingly

of a tier 1 facility

excavator has provided notice to an operator pursuant to K.S.A.66-1804, and amendments thereto, and the

fails to comply with subsections (a), (b) or (c) of this section or

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1 damages resulting from contact with the operator's facilities, except that
2 nothing in this act shall be construed to hold any excavator harmless from
3 liability to the operator in those cases of gross negligence or willful and
4 wanton conduct.

5 (e) For economic damages in any civil court of this state, failure of
6 an operator to inform the excavator within two working days of the tol-
7 erance zone of the underground facilities of the operator in the manner
8 required by subsection (a) of K.S.A. 66-1806, and amendments thereto,
9 shall not give rise to a cause of action on the part of the excavator against
10 an operator, except that nothing in this act shall be construed to hold any
11 operator harmless from liability in those cases of inaccurate marking of
12 the tolerance zone, gross negligence or willful and wanton conduct. Such
13 failure may subject an operator to civil penalties as determined by the
14 state corporation commission.

15 (f) Any person claiming that an operator has failed to inform the
16 excavator within two working days of the tolerance zone of the under-
17 ground facilities of the operator shall file a complaint with the state cor-
18 poration commission requesting enforcement of subsection (a) within one
19 year of becoming aware of the violation.

20 (g) Except as provided in subsection (h), all facilities installed by an
21 operator after January 1, 2003, shall be locatable.

22 (h) All sanitary sewer facilities or potable water facilities subject to
23 the provisions of this act installed by an operator after January 1, 2008,
24 shall be locatable.

25 Sec. 3. K.S.A. 2006 Supp. 66-1815 is hereby amended to read as
26 follows: 66-1815. (a) The state corporation commission shall have full
27 power and authority to adopt all necessary rules and regulations for car-
28 rying out the provisions of K.S.A. 66-1801 through 66-1814, and amend-
29 ments thereto.

30 (b) The state corporation commission shall adopt rules and
31 regulations:

32 (1) Establishing the appropriate tolerance zone for sanitary sewer fa-
33 cilities and potable water facilities; and

34 (2) Developing and implementing a protocol for excavating near san-
35 itary sewer facilities or potable water facilities which are hard to locate
36 and mark.

37 (b)(c) This section shall be part of and supplemental to the Kansas
38 underground utility damage prevention act.

39 Sec. 4. K.S.A. 66-1802 and 66-1806 and K.S.A. 2006 Supp. 8-1815
40 are hereby repealed.

41 Sec. 5. This act shall take effect and be in force from and after Jan-
42 uary 1, 2008, and its publication in the statute book.

tier 1

tier 2 facilities

And renumber the remaining sections accordingly

, 66-1804, 66-1805

July

Sec. 2. K.S.A. 66-1804 is hereby amended to read as follows:
 66-1804. (a) Except in the case of an emergency, an excavator shall serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator having underground tier 1 facilities located in the proposed area of excavation.

(b) An excavator may serve notice of intent of excavation at least two full working days, but not more than 15 calendar days before the scheduled excavation start date, on each operator of tier 2 facilities located in the proposed area of excavation.

~~(b)~~ (c) The notice of intent to excavate or any subsequent updates shall be valid for 15 calendar days after the excavation start date and such notice shall only describe an area in which the proposed excavation reasonably can be completed within the 15 calendar days.

~~(c)~~ (d) No person shall make repeated requests for remarking unless the request is due to circumstances not reasonably within the control of such person.

~~(d)~~ (e) The notice of intent of excavation shall contain the name, address and telephone number of the person filing the notice of intent, the name of the excavator, the date the excavation activity is to commence and the type of excavation being planned. The notice shall also contain the specific location of the excavation.

~~(e)~~ (f) The person filing the notice of intent to excavate shall, at the request of the operator, whitenline the proposed excavation site when the excavation location cannot be described with sufficient detail to enable the operator to ascertain the location of the proposed excavation.

~~(f)~~ (g) The provisions of this section shall not apply to a preengineered project or a permitted project, except that the excavators shall be required to give notification in accordance with this section prior to starting such project.

Sec. 3. K.S.A. 66-1805 is hereby amended to read as follows:

66-1805 (a) This act recognizes the establishment of a single notification center for the state of Kansas. ~~The notification center shall provide prompt notice to each affected member of any proposed excavation.~~ Each operator who has an underground facility shall become a member of the notification center.

(b) For operators of tier 1 facilities or operators of tier 2 facilities that desire notification in the same manner as operators of tier 1 facilities, the notification center shall provide prompt notice of any proposed excavation to each affected operator that has facilities recorded with the notification center in the area of a proposed excavation site.

(c) For operators of tier 2 facilities that desire direct contact with the excavator, the notification center shall provide the excavator with the name and contact information of the affected operator that has facilities recorded with the notification center in the area of the proposed excavation.

~~(b)~~ (d) Notification, ~~as required by K.S.A. 66-1804, and amendments thereto,~~ to operators as defined in subsection (b) shall be given by notifying the notification center by telephone at the toll free number or by other communication methods approved by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(e) Notification to operators as defined in subsection (c) of this section may be given by notifying the operator of tier 2 facilities using the contact information provided by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

~~(e)~~ (f) Each operator who has an underground facility within the state shall be afforded the opportunity to become a member of the notification center on the same terms as the original members.

~~(d)~~ (g) A suitable record shall be maintained by the notification center to document the receipt of notices from excavators as required by this act.

(h) A suitable record shall be maintained by operators of

tier 2 facilities to document the receipt of notices from excavators as required by this act.