

State Damage Prevention Law Summary

State: Tennessee

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	Tennessee Code Annotated (TCA) § 65-31-102. (6) Demolish or demolition means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives; ... (8) Excavate or excavation: (A) Means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and includes augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching, and tunneling; and (B) Does not include: (i) Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement; (ii) Routine railroad maintenance activities, including removal and replacement of base material up to twenty-four inches (24) below the flow line of the ditch or ground surface of the railroad right-of-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities placed in the railroad right-of-way by agreement with the railroad; (iii) Routine road maintenance activities; and (iv) The tilling of soil for agricultural purposes or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator or that is not located within one hundred feet (100) of the edge of the pavement of a street or highway;
Excavator: Definition	TCA § 65-31-102. (9) Excavator means any person who engages in activities described in subdivisions (A) and (B) in the definition of excavate contained in this section;
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	3
Excavator Notice (Specific Language)	<p>TCA § 65-31-104. (a) Except as provided in § 65-31-109, no person may excavate in a street, highway, public space, a private easement of an operator or within one hundred feet (100) of the edge of the pavement of a street or highway, or demolish a building, without giving the notice required by § 65-31-106 in the manner prescribed by such section. (b) A general DIG certificate shall be issued for agricultural land as defined in § 67-5-1004 that lies outside a street, highway, public space or a private easement of an operator but within one hundred feet (100) of the edge of the pavement of a street or highway when no utilities are located within that area. The general certificate shall be valid until title to the land is transferred or until a utility line is located within the area.</p> <p>§ 65-31-106. (a) Except as provided in § 65-31-109, before beginning any excavation or demolition operation described in § 65-31-104, other than an impending emergency as defined in § 65-31-102, each person responsible for such excavation or demolition shall serve written, telephonic or e-mail notice of intent to excavate or demolish at least three (3) working days prior to the actual date of excavation or demolition, but not more than ten (10) full working days prior to such time, unless a different period has been agreed to in writing by the person responsible for the excavation or demolition and the operator or designated representative. ... (1) If the proposed area of excavation or demolition is not served by the one-call service as provided in § 65-31-107, then the notice required by subsection (a) shall be served on each operator which has filed a list required by § 65-31-105 indicating that it has underground utilities located in the county where the excavation or demolition is to occur; or (2) If the proposed area of excavation or demolition is served by the one-call service, as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one-call service; provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins.</p>
Ticket Life (# of days)	15 (TCA § 65-31-104. (a))
White-Line Required (Yes / No)	Yes. (TCA § 65-31-106 (b))
Tolerance Zone	24" (TCA § 65-31-108 (c))

Special Digging Requirements Within Tolerance Zone (Specific Language)	<p>TCA § 65-31-108 (c) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities. For the purpose of this section, "safety zone" means a strip of land at least four feet (4) wide, but not wider than the width of the utility plus two feet (2) on either side of the utility.</p> <p>§ 65-31-110. In addition to the notification requirements of § 65-31-106, each person responsible for any excavation or demolition operation designated in § 65-31-104 shall: (1) Plan the excavation or demolition to avoid damage to and minimize interference with underground utilities in and near the construction area; (2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment in accordance with § 65-31-108(b) and (d), taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility; (3) Provide such support and protection for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary;</p>
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	No
Preserve / Maintain Marks Required (Yes / No)	No
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes. (TCA § 65-31-108 (d))
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	No
Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes. (TCA § 65-31-104 (a))
Notify Operator of Damage (Yes / No)	Yes. (TCA § 65-31-111 (a))
Notify One Call Center of Damage (Yes / No)	No
Call 911 if Hazardous Materials Released (Yes / No)	Yes. (TCA § 65-31-111 (b))
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language))	<p>TCA § 65-31-102 (4) Excavate or excavation means... (B) Does not include: (i) Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement; (ii) Routine railroad maintenance activities, including removal and replacement of base material up to twentyfour inches (24") below the flow line of the ditch or ground surface of the railroad rightof-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities placed in the railroad right-of-way by agreement with the railroad; (iii) Routine road maintenance activities; and (iv) The tilling of soil for agricultural purposes or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator or that is not located within one hundred (100') feet of the edge of pavement of a street or highway;</p> <p>§ 65-31-104. (b) A general DIG certificate shall be issued for agricultural land as defined in § 67-5-104 that lies outside a street, highway, public space or private easement of an operator but within one hundred feet (100) of the edge of the pavement of a street or highway when no utilities are located within that area. The general certificate shall be valid until title to the land is transferred or until a utility line is located within the area.</p> <p>§ 65-31-109. (a) Compliance with the notice requirements of § 6531-106 is not required of any person responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate an imminent danger to life, health, or property; provided, that such person gives, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area or to a one-call service ... and requests emergency assistance from each operator so identified in locating and providing immediate protection to the operator's underground utilities....(c) For the purposes of this section, repair or replacement of an existing traffic control device at its existing location and existing depth shall be considered an emergency, and compliance with the notice requirements of this section and §6531-106 shall not be required of any local or state government responding to the emergency repair or replacement of a traffic control device.</p>
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	3 (TCA § 65-31-106 (a) and (d))

Operator Requirements to Respond to Locate Notification (Specific Language)	TCA § 65-31-108. (a) (1) Each operator notified in accordance with § 65-31-106 shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition. The operator shall not be required to indicate the depth of any such utility, but only the approximate ground location under which the utility is located. Such staking or other marking shall utilize the following color code: ... (b) Each operator participating in a one-call service that has been notified in accordance with § 65-31-106 shall notify the one-call service that the operator has marked the approximate location of all of its underground utilities as required by this section or that the operator has no underground utilities in the proposed area of excavation. The operator shall provide this notice to the one-call service in accordance with procedures adopted by the one-call service for this notification. This notice shall fulfill the operator's obligation set forth in subsection (e).... (e) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
Minimum Standards for Locator Qualifications (Yes / No)	No
Minimum Standards for Locator Qualifications (Specific Language)	Not Addressed
Law Specifies Marking Standards Other Than Color (Yes / No)	Yes
Law Specifies Marking Standards Other Than Color (Specific Language)	TCA § 65-31-108. (a) (2) In the event more than one (1) operator uses the same color code under subdivision (a)(1), each operator using the same color shall include a distinctive marking, such as the initials of the operator's name or other marking, that appropriately identifies each operator and sufficiently distinguishes each operator's marking from any other operator authorized to use the same color under subdivision (a)(1).
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	Yes, but only in relation to penalties related to damage (TCA § 65-31-112 (e) (3) (A)) and design locate requests (TCA § 65-31-112 (b) (1) (A) and (B)).
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	No
Operator Must Locate Abandoned Facilities (Specific Language)	TCA § 65-31-105. (a) Each operator, except operators participating in a one-call service, having underground facilities in a county, including those facilities that have been abandoned in place by the operator but not yet physically removed, shall file a notice with the register of deeds of the county.... It is only necessary that such notice shall consist of the fact that the operator possesses underground facilities in the listed counties. It is not necessary that the operator list the exact physical location of each and every item of its underground facilities in such counties.
Positive Response Required - Operator Contact Excavator (Yes / No)	No
Positive Response Required - Operator Contact Excavator (Specific Language)	TCA § 65-31-108. (a) (1) Each operator notified in accordance with 65-31-106 shall stake or otherwise mark ... (b) Each operator participating in a one-call service that has been notified in accordance with § 65-31-106 shall notify the one-call service ... This notice shall fulfill the operator's obligation set forth in subsection (e). ... (e) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
Positive Response Required - Operator Contact One Call Center (Yes / No)	Yes
Positive Response Required - Operator Contact One Call Center (Specific Language)	TCA § 65-31-108. (b) Each operator participating in a one-call service that has been notified in accordance with § 65-31-106 shall notify the one-call service that the operator has marked the approximate location of all of its underground utilities as required by this section or that the operator has no underground utilities in the proposed area of excavation. ... This notice shall fulfill the operator's obligation set forth in subsection (e). When each operator notified in accordance with 65-31-106 has notified the one-call service that its underground utilities in the proposed area of excavation have been marked or that the operator has no underground utilities in the proposed area of excavation, the person responsible for the excavation or demolition may immediately proceed with the excavation or demolition, notwithstanding the minimum three-working-day notice requirement before excavation or demolition can begin set forth in 65-31-106(a).... (e) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
Positive Response - One-Call Automated (Yes / No)	No

Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Not addressed with regard to notifying one-call center of facility locations. Reference TCA § 65-31-105. (a) for filing requirements for non-member utility operators only.
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	Yes
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	See TCA § 65-31-105. (b) with regard to requirements for filing changes for information regarding facility locations for non-member utility operators only.
New Facilities Must Be Locatable Electronically (Yes / No)	Yes.
New Facilities Must Be Locatable Electronically (Specific Language)	TCA § 65-31-105. (f) All underground utilities owned by an operator that are installed on or after January 1, 2017, shall be installed in a manner that will make those underground utilities locatable using a generally accepted electronic locating method.
Design Request (Yes / No)	Yes. (TCA § 65-31-118)
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes. (TCA § 65-31-107. (b))
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	TCA § 65-31-102. (15) "Operator" means any person who owns or operates a utility; ... (19) "Utility" means ... (B) Does not include any railroad or the Tennessee Department of Transportation; § 65-31-107. (b) (1) All operators are required to join the one-call service and utilize the services of the notification center ... (2) This subsection (b) shall not apply to operators whose total amount of underground facilities constitutes less than twenty percent (20%) of their total utility plant in service.
One-Call Law Addresses Board Make-Up (Yes / No)	Yes

<p>One-Call Law Addresses Board Make-Up (Specific Language)</p>	<p>TCA § 65-31-114. (c) The board shall be composed of sixteen (16) members. Except for initial appointments, members who are not ex officio members shall be appointed to four-year terms. Appointments to the board shall be made as follows: (1) The president of Tennessee One-Call, Inc., or the president's designee, who shall be a voting, ex officio member; (2) One (1) member shall be a person representing the interests of Tennessee natural gas distribution systems, to be appointed by the governor, whose initial term shall be four (4) years. ... the governor shall review a list of qualified persons submitted by the Tennessee Gas Association; (3) One (1) member shall be a person representing the interests of Tennessee utility districts, to be appointed by the speaker of the senate, whose initial term shall be four (4) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee Association of Utility Districts; (4) One (1) member shall be a person representing the interests of the Tennessee cable industry, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee Cable and Telecommunications Association; (5) One (1) member shall be a person representing the interests of large Tennessee incumbent local exchange carriers with more than one hundred thousand (100,000) customers, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years; (6) One (1) member shall be a person who represents the interests of public utilities, as defined in 65-4-101, and who provides water or wastewater services, to be appointed by the speaker of the senate, whose initial term shall be four (4) years; (7) One (1) member shall be a person representing the interests of Tennessee towns and cities, to be appointed by the governor whose initial term shall be three (3) years. ... the governor shall review a list of qualified persons submitted by the Tennessee Municipal League; (8) One (1) member shall be a person representing the interests of small Tennessee incumbent local exchange carriers, to be appointed by the speaker of the senate, whose initial term shall be three (3) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee Telecommunications Association; (9) One (1) member shall be a person representing the interests of Tennessee counties, to be appointed by the speaker of the house of representatives, whose initial term shall be three (3) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee County Services Association; (10) One (1) member shall be a person representing the interests of Tennessee road builders, to be appointed by the governor, whose initial term shall be three (3) years. ... the governor shall review a list of qualified persons submitted by the Tennessee Road Builders Association; (11) One (1) member shall be a person representing the interests of the excavation industry, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. ... the speaker shall review a list of qualified persons submitted by the Associated Builders and Contractors of Tennessee; (12) One (1) member shall be a person representing the interests of interstate pipelines, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years; (13) One (1) member shall be a private property owner representing agricultural or homeowners' interests, to be appointed by the governor, whose initial term shall be two (2) years; (14) One (1) member shall be a person representing the interests of municipal electric utilities with underground facilities, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee Municipal Electric Power Association; (15) One (1) member shall be a person representing the interests of cooperative electric systems with underground facilities, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years. ... the speaker shall review a list of qualified persons submitted by the Tennessee Electric Cooperative Association; and (16) One (1) member shall be a person who represents the interests of public utilities, as defined in 65-4-101, and who provides electric power services, to be appointed by the governor, whose initial term shall be four (4) years.</p>
<p>Separate Body Designated to Advise Enforcement Authority (Yes / No)</p>	<p>Yes</p>
<p>Separate Body Designated to Advise Enforcement Authority (Specific Language)</p>	<p>TCA § 65-31-116. (a) Upon receipt of a complaint of a violation of this chapter, the executive committee shall initiate an investigation of the complaint by requesting that the Tennessee regulatory authority designate an employee of the authority who will investigate the complaint at the executive committee's direction.</p>
<p>Penalties / Fines Excavators (Yes / No)</p>	<p>Yes</p>

Penalties / Fines Excavators (Specific Language)	<p>TCA § 65-31-112. (a) Any person who violates this chapter, or the rules promulgated under this chapter, shall be subject to a civil penalty as follows: (1) For a first violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee; (2) For a second or subsequent violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee or pay a civil penalty in an amount set by the executive committee, not to exceed two thousand five hundred dollars (\$2,500) per incident, or both; and (3) Notwithstanding subdivisions (e) (1) and (2), if any violation was the result of gross negligence or willful or wanton misconduct as determined by the executive committee, the executive committee shall require the violator to complete a course of training concerning compliance with this chapter as determined by the executive committee and pay a civil penalty in an amount set by the executive committee, not to exceed five thousand dollars (\$5,000) per incident. (b) (1) For the purposes of this chapter, monetary civil penalties shall not be levied against any department of this state. In the event that a state department is found by the executive committee to be noncompliant, the executive committee may submit a notice of noncompliance to the department head along with a request for an action plan for future compliance. (2) For the purposes of this chapter, monetary civil penalties shall not be levied against a county, city, town, utility district, or other political subdivision of this state unless the executive committee finds that the county, city, town, utility district, or other political subdivision of this state has engaged in a pattern of willful noncompliance with the requirements of this chapter. (f) Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism under §39-14-105.</p>
Penalties / Fines Operators (Yes / No)	<p>Yes</p>
Penalties / Fines Operators (Specific Language)	<p>TCA § 65-31-112. (a) Any person who violates this chapter, or the rules promulgated under this chapter, shall be subject to a civil penalty as follows: (1) For a first violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee; (2) For a second or subsequent violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee or pay a civil penalty in an amount set by the executive committee, not to exceed two thousand five hundred dollars (\$2,500) per incident, or both; and (3) Notwithstanding subdivisions (e) (1) and (2), if any violation was the result of gross negligence or willful or wanton misconduct as determined by the executive committee, the executive committee shall require the violator to complete a course of training concerning compliance with this chapter as determined by the executive committee and pay a civil penalty in an amount set by the executive committee, not to exceed five thousand dollars (\$5,000) per incident. (b) (1) For the purposes of this chapter, monetary civil penalties shall not be levied against any department of this state. In the event that a state department is found by the executive committee to be noncompliant, the executive committee may submit a notice of noncompliance to the department head along with a request for an action plan for future compliance. (2) For the purposes of this chapter, monetary civil penalties shall not be levied against a county, city, town, utility district, or other political subdivision of this state unless the executive committee finds that the county, city, town, utility district, or other political subdivision of this state has engaged in a pattern of willful noncompliance with the requirements of this chapter. (f) Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism under §39-14-105.</p>
Penalties / Fines Other (Yes / No)	<p>Yes</p>
Penalties / Fines Other (Specific Language)	<p>TCA § 65-31-112. (a) Any person who violates this chapter, or the rules promulgated under this chapter, shall be subject to a civil penalty as follows: (1) For a first violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee; (2) For a second or subsequent violation, the violator shall complete a course of training concerning compliance with this chapter as determined by the executive committee or pay a civil penalty in an amount set by the executive committee, not to exceed two thousand five hundred dollars (\$2,500) per incident, or both; and (3) Notwithstanding subdivisions (e) (1) and (2), if any violation was the result of gross negligence or willful or wanton misconduct as determined by the executive committee, the executive committee shall require the violator to complete a course of training concerning compliance with this chapter as determined by the executive committee and pay a civil penalty in an amount set by the executive committee, not to exceed five thousand dollars (\$5,000) per incident. (b) (1) For the purposes of this chapter, monetary civil penalties shall not be levied against any department of this state. In the event that a state department is found by the executive committee to be noncompliant, the executive committee may submit a notice of noncompliance to the department head along with a request for an action plan for future compliance. (2) For the purposes of this chapter, monetary civil penalties shall not be levied against a county, city, town, utility district, or other political subdivision of this state unless the executive committee finds that the county, city, town, utility district, or other political subdivision of this state has engaged in a pattern of willful noncompliance with the requirements of this chapter. (f) Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism under §39-14-105.</p>
Enforcement Authority Identified	<p>Tennessee Underground Utility Damage Prevention Enforcement Board (TCA § 65-31-114. (a))</p>
Damage Investigation Required by Enforcement Authority (Yes / No)	<p>Yes. (TCA § 65-31-115. (b) (1))</p>

Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	No. (Reference TCA § 65-31-111. (e))
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	Tennessee Code Annotated (TCA), Title 65 Public Utilities and Carriers, Chapter 31 Underground Utility Damage Prevention Act, §§ 6531-101 through 65-31-120. https://www.tn.gov/assets/entities/tra/attachments/65-31-101etseq10-28-2016.pdf Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	June 1, 2015
Administrative Rules / Regulations (Yes / No)	No
Administrative Rules / Regulations (Name & Link)	None
State One Call Center(s) (Name & Link)	Tennessee 811 http://www.tnonecall.com/
Miscellaneous Notes	
Notes	The Tennessee Underground Utility Damage Prevention Act underwent major revision in 2015 Legislative action. You can see a comparison of the old and new laws at http://www.tnonecall.com .
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0