

By: Bell

H.B. No. 2535

A BILL TO BE ENTITLED

AN ACT

relating to liability for damages incurred in connection with certain excavation activities and an award of attorney's fees in lawsuits to recover the cost of the damages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 251, Utilities Code, is amended by adding Sections 251.160 and 251.161 to read as follows:

Sec. 251.160. LIABILITY FOR DAMAGE TO EXCAVATOR. An operator is liable for damages incurred by an excavator as a result of an excavation that encounters the operator's underground facilities if:

(1) the excavator reasonably relied on the operator to mark the approximate location of the underground facility as provided by this subchapter;

(2) the operator fails to mark the approximate location of the underground facility encountered or does not accurately mark that approximate location as provided by this subchapter;

(3) the damages to the excavator would not have occurred if the excavation had not encountered the underground facility; and

(4) the damages to the excavator are damages that would not have occurred if the approximate location of the underground facility had been accurately marked as provided by this

1 subchapter.

2 Sec. 251.161. ATTORNEY'S FEES AWARD. The prevailing party
3 in any suit for damages to an excavator or an operator that occurred
4 in relation to an excavation to which this subchapter applies is
5 entitled to recover reasonable attorney's fees in addition to any
6 award of damages.

7 SECTION 2. Sections 251.160 and 251.161, Utilities Code, as
8 added by this Act, apply only in relation to an excavation that
9 begins on or after October 1, 2015.

10 SECTION 3. This Act takes effect September 1, 2015.