

**SENATE BILL No. 327**

By Committee on Utilities

1-29

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1 AN ACT concerning utilities; relating to the underground utilities damage  
2 prevention act; excavator liability; amending K.S.A. 66-1811 and  
3 repealing the existing section.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 66-1811 is hereby amended to read as follows: 66-  
7 1811. (a) In a civil action in a court of this state when it is shown by  
8 competent evidence that personal injury, death or other damages, including  
9 damage to any underground facilities, occurred as a result of a violation of  
10 this act, there shall be a rebuttable presumption of negligence on the part  
11 of the violator.

12 (b) In no event shall the excavator be responsible for any damage to  
13 underground facilities if such damage was caused by the failure of the  
14 operator to correctly and properly mark the location of the tolerance zone  
15 of the damaged facility.

16 (c) *In no event shall the excavator be responsible for any damage to*  
17 *underground facilities of a municipality which has elected by passage of a*  
18 *charter ordinance to exempt such municipality from the provisions of*  
19 *K.S.A. 66-1801 et seq., and amendments thereto, unless such excavator is*  
20 *guilty of gross and wanton negligence proximately causing such damage.*

21 (d) Nothing in this act is intended to limit or modify the provisions  
22 of:

23 (1) K.S.A. 60-258a, and amendments thereto; or

24 (2) the national electrical safety code, which would otherwise be  
25 applicable.

26 Sec. 2. K.S.A. 66-1811 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the statute book.