

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0154.01 Jason Gelender x4330

HOUSE BILL 21-1095

HOUSE SPONSORSHIP

Baisley and Kipp, Gray, Pelton, Rich, Roberts

SENATE SPONSORSHIP

Ginal and Woodward,

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXCAVATION NOTIFICATION REQUIREMENTS FOR**
102 **UNDERGROUND FACILITY LOCATION IN CONNECTION WITH**
103 **COUNTY ROAD MAINTENANCE, AND, IN CONNECTION**
104 **THEREWITH, SPECIFYING THAT EXCAVATION DOES NOT INCLUDE**
105 **ROUTINE OR EMERGENCY MAINTENANCE OF RIGHT-OF-WAY ON**
106 **COUNTY-OWNED GRAVEL OR DIRT ROADS THAT DOES NOT**
107 **LOWER THE EXISTING GRADE OR ELEVATION OF THE ROAD,**
108 **SHOULDER, AND DITCHES AND THAT DOES NOT DISTURB MORE**
109 **THAN SIX INCHES IN DEPTH DURING MAINTENANCE OPERATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires an individual or entity to notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities that the excavation might affect, such as water and sewer pipes, gas lines, and electric or cable lines, can be located and marked before excavation begins. Underground facilities are often located beneath county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of such county roads and county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than 6 inches in depth. These maintenance activities currently trigger the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. To prevent such activities from triggering the excavation notification requirement, the bill specifies that "excavation" does not include routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads performed by county employees that:

- Does not lower the existing grade or elevation of the road, shoulder, and ditches; and
- Does not disturb more than 6 inches in depth during maintenance operations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 9-1.5-102, **amend**
3 (3)(a) and (3)(b)(III)(B); and **add** (3)(c) as follows:

4 **9-1.5-102. Definitions.** As used in this article 1.5, unless the
5 context otherwise requires:

6 (3) "Excavation" means any operation in which earth is moved or
7 removed by means of any tools, equipment, or explosives and includes
8 augering, backfilling, boring, ditching, drilling, grading, plowing-in,
9 pulling-in, ripping, scraping, trenching, hydro excavating, postholing, and
10 tunneling. "Excavation" does not include:

11 (a) Routine maintenance on existing planted landscapes; or

1 (b) An excavation by a rancher or a farmer, as defined in section
2 42-20-108.5, occurring on a ranch or farm when the excavation involves:

3 (III) Routine maintenance of:

4 (B) Existing fence lines; OR

5 (c) ROUTINE OR EMERGENCY MAINTENANCE OF RIGHT-OF-WAY ON
6 COUNTY-OWNED GRAVEL OR DIRT ROADS PERFORMED BY COUNTY
7 EMPLOYEES THAT:

8 (I) DOES NOT LOWER THE EXISTING GRADE OR ELEVATION OF THE
9 ROAD, SHOULDER, AND DITCHES; AND

10 (II) DOES NOT DISTURB MORE THAN SIX INCHES IN DEPTH DURING
11 MAINTENANCE OPERATIONS.

12 **SECTION 2.** In Colorado Revised Statutes, 9-1.5-103, **amend**
13 (4)(b) as follows:

14 **9-1.5-103. Plans and specifications - notice of excavation -**
15 **duties of excavators - duties of owners and operators - fee - repeal.**

16 (4) (b) The marking of underground facilities shall be considered valid
17 so long as the markings are clearly visible, but not for more than thirty
18 calendar days following the due date of the locate request initiated
19 pursuant to subsection (3) of this section. ~~except that, if an excavation~~
20 ~~notice is limited to only annual road maintenance that does not exceed six~~
21 ~~inches in depth conducted by a government agency on an existing~~
22 ~~unpaved road, the marking shall be considered valid for up to one~~
23 ~~hundred eighty days. Upon receipt of the notification, an owner or~~
24 ~~operator has ten business days to coordinate the excavation activity with~~
25 ~~the government agency.~~ If an excavation has not been completed within
26 the applicable THIRTY-DAY period, the excavator shall notify the
27 notification association at least two business days, not including the day

1 of actual notice, before the end of the ~~applicable~~ THIRTY-DAY period.

2 **SECTION 3. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly; except
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V
6 of the state constitution against this act or an item, section, or part of this
7 act within such period, then the act, item, section, or part will not take
8 effect unless approved by the people at the general election to be held in
9 November 2022 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.