

CHAPTER 173

LABOR AND INDUSTRY

HOUSE BILL 21-1095

BY REPRESENTATIVE(S) Baisley and Kipp, Gray, Pelton, Rich, Roberts, Arndt, Exum, McCluskie, McLachlan, Michaelson Jenet, Ricks, Titone, Will; also SENATOR(S) Ginal and Woodward, Cooke, Holbert, Kirkmeyer, Simpson, Smallwood.

AN ACT

CONCERNING EXCAVATION NOTIFICATION REQUIREMENTS FOR UNDERGROUND FACILITY LOCATION IN CONNECTION WITH COUNTY ROAD MAINTENANCE.

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

SECTION 1. In Colorado Revised Statutes, 9-1.5-103, **amend** (3)(a)(II) and (4)(b); and **add** (3)(e) as follows:

9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - definition - repeal. (3) (a) (II) Effective January 1, 2021, except in emergency situations, ~~and~~ except as to an employee or an employer's contractor with respect to the employer's underground facilities, ~~AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(e) OF THIS SECTION, a person shall not make or begin excavation without first notifying the notification association. Notice may be given by electronic methods approved by the notification association or by telephone.~~

(e) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 1.5, EXCAVATION THAT IS ROUTINE OR EMERGENCY MAINTENANCE OF THE RIGHT-OF-WAY OF A COUNTY-MAINTAINED GRAVEL OR DIRT ROAD AND IS PERFORMED BY COUNTY EMPLOYEES DOES NOT REQUIRE NOTIFICATION OF THE NOTIFICATION ASSOCIATION UNLESS THE EXCAVATION WILL:

(A) LOWER THE EXISTING GRADE OR ELEVATION OF THE ROAD OR ANY ADJACENT SHOULDER OR THE DESIGNED AND CONSTRUCTED ELEVATION OF ANY ADJACENT DITCH FLOWLINE; OR

(B) DISTURB MORE THAN SIX INCHES IN DEPTH AS IT IS CONDUCTED.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(II) AS USED IN THIS SUBSECTION (3)(e), "DITCH FLOWLINE" MEANS THE LINE RUNNING THE LENGTH OF THE BOTTOM OF A DITCH SO THAT WATER ENTERING THE DITCH RUNS FIRST TO THE LINE AND THEREAFTER DOWN THE LINE.

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

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

Approved: May 21, 2021