

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

347N0186

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 10 - 01/30/2007**

Introduced by: The Committee on Commerce at the request of the Statewide One-Call  
Notification Board

1 FOR AN ACT ENTITLED, An Act to revise certain requirements and procedures regarding the  
2 one-call notification system for excavation activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (3) of § 49-7A-1 be amended to read as follows:

5 (3) "Excavation," any operation in which earth, rock, or other material in or ~~on~~ below the  
6 ground is moved or otherwise displaced by means of tools, equipment, or explosives,  
7 and includes grading, trenching, digging, ditching, drilling, augering, tunneling,  
8 scraping, and cable or pipe plowing or driving, ~~except tilling~~;

9 (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil  
10 for agricultural purposes to a depth of eighteen inches, ~~road and ditch~~  
11 ~~maintenance that does not extend below eighteen inches of original roadgrade~~  
12 ~~or ditch flowline within the road right-of-way, digging~~;

13 (b) Pot hole repair and grading of an existing public road if the pot hole repair and  
14 grading does not extend more than twelve inches below the finished roadway;

15 (c) Any vehicle operation or operation involving the use of any hand tool, other



1           than a power tool, so long as such operation does not extend more than  
2           eighteen inches below the surface of the groundline within the right-of-way;

3           (d) Any road and ditch repair or road and ditch activity that does not extend more  
4           than eighteen inches below the surface of the groundline within the right-of-  
5           way, so long as the person performing the repair or activity notifies the one-  
6           call notification center in advance of commencing excavation, by telephone  
7           or other methods approved by the board, of the proposed repair or activities;

8           (e) Digging in a cemetery, or digging; and

9           (f) Digging in a planned sanitary landfill;

10          Section 2. That § 49-7A-5 be amended to read as follows:

11          49-7A-5. No excavator may begin any excavation without first notifying the one-call  
12 notification center of the proposed excavation. The excavator shall give notice by telephone;  
13 ~~facsimile, in person,~~ or by other methods approved by the board pursuant to rules promulgated  
14 pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the  
15 commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state;  
16 ~~but not more than ten business days prior to any excavation.~~ The board may promulgate rules  
17 to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original  
18 locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

19          Section 3. That § 49-7A-27 be amended to read as follows:

20          49-7A-27. The board shall accept the recommendations of the panel unless either party  
21 requests a hearing. The A party requests a hearing by rejecting the panel's recommendation  
22 within twenty days from the date of service of the notice. However, the board may extend the  
23 time period for requesting a hearing. Failure to request a hearing is considered acceptance of the  
24 panel's recommendation. If a hearing is held, the hearing shall be conducted before the board

1 as a contested case under chapter 1-26. Following the hearing, the board shall either render a  
2 decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant  
3 to the provisions of § 49-7A-18 or 49-7A-19.