



2020 South Dakota Legislature

House Bill 1234

*Introduced by: **Representative** Miskimins*

1 **An Act to revise the definition of operator for the purposes of the one-call**
 2 **notification system for excavation activities.**

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

4 **Section 1.** That § 49-7A-1 be AMENDED:

5 **49-7A-1. Definitions.**

6 Terms used in this chapter mean:

- 7 (1) "Bar test survey," a leakage survey completed with a non-conductive piece of
 8 equipment made by driving or boring small holes in the ground at regular intervals
 9 along the route of an underground gas pipe for the purpose of extracting a sample
 10 of the ground atmosphere and testing the atmosphere in the holes with a
 11 combustible gas detector or other suitable device;
- 12 (2) "Board," One-Call Notification Board;
- 13 (3) "Emergency," an occurrence which demands immediate action to prevent significant
 14 environmental damage or loss of life, health, property, or essential public services
 15 including the reerecting of critically needed traffic control signs or devices;
- 16 (4) "Excavation," any operation in which earth, rock, or other material in or below the
 17 ground is moved or otherwise displaced by means of tools, equipment, or
 18 explosives, and includes grading, trenching, digging, ditching, drilling, augering,
 19 tunneling, scraping, and cable or pipe plowing or driving, except:
- 20 (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil
 21 for agricultural purposes to a depth of eighteen inches;
- 22 (b) Pot hole repair and grading of an existing public road if the pot hole repair
 23 and grading does not extend more than eighteen inches below the finished
 24 roadway;
- 25 (c) Any vehicle operation or operation involving the use of any hand tool, other
 26 than a power tool, so long as such operation does not extend more than

- 1 eighteen inches below the surface of the groundline within the right-of-way;
- 2 (d) Any road and ditch repair or road and ditch activity that does not extend more
- 3 than eighteen inches below the surface of the original groundline within the
- 4 right-of-way;
- 5 (e) Digging in a cemetery;
- 6 (f) Digging in a planned sanitary landfill; and
- 7 (g) Any bar test survey deemed necessary by an operator in response to a
- 8 suspected natural gas, propane, or other combustible liquid or gas leak that
- 9 is necessary to ensure public safety in an emergency;
- 10 (5) "Excavator," any person who performs excavation;
- 11 (6) "Member," any member of the one-call notification center;
- 12 (7) "One-call notification center," the statewide one-call notification center established
- 13 by § 49-7A-2;
- 14 (8) "Operator," any person who operates an underground facility other than a
- 15 municipality or another political subdivision if the underground facility is a sewer or
- 16 water line located on private property;
- 17 (9) "Person," an individual, partnership, limited liability company, association,
- 18 municipality, state, county, political subdivision, utility, joint venture, or
- 19 corporation, and includes the employer of an individual;
- 20 (10) "Underground facility," any item of personal property buried or placed below ground
- 21 for use in connection with the storage or conveyance of water, sewage, electronic,
- 22 telephonic or telegraphic communications, fiber optics, cablevision, electric energy,
- 23 oil, gas, hazardous liquids, or other substances including pipes, sewers, conduits,
- 24 cables, valves, lines, wires, manholes, and attachments.