

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

347N0186

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 10 - 02/26/2007

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 eighteen inches below the finished
15 roadway;



1 (c) Any vehicle operation or operation involving the use of any hand tool, other
2 than a power tool, so long as such operation does not extend more than
3 eighteen inches below the surface of the groundline within the right-of-way;

4 (d) Any road and ditch repair or road and ditch activity that does not extend more
5 than eighteen inches below the surface of the original groundline within the
6 right-of-way;

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

8 (f) Digging in a planned sanitary landfill;

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

10 49-7A-5. No excavator may begin any excavation without first notifying the one-call
11 notification center of the proposed excavation. The excavator shall give notice by telephone;
12 ~~facsimile, in person,~~ or by other methods approved by the board pursuant to rules promulgated
13 pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the
14 commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state;
15 ~~but not more than ten business days prior to any excavation.~~ The board may promulgate rules
16 to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original
17 locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

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

19 49-7A-27. The board shall accept the recommendations of the panel unless either party
20 requests a hearing. The A party requests a hearing by rejecting the panel's recommendation
21 within twenty days from the date of service of the notice. However, the board may extend the
22 time period for requesting a hearing. Failure to request a hearing is considered acceptance of the
23 panel's recommendation. If a hearing is held, the hearing shall be conducted before the board
24 as a contested case under chapter 1-26. Following the hearing, the board shall either render a

1 decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant
2 to the provisions of § 49-7A-18 or 49-7A-19.