

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0702.01 Jery Payne

SENATE BILL 08-124

SENATE SPONSORSHIP

Williams, Bacon, and Kester

HOUSE SPONSORSHIP

Gagliardi, Kerr J., Casso, Witwer, and Ferrandino

Senate Committees
Local Government

House Committees

A BILL FOR AN ACT

101 CONCERNING THE RISK OF DAMAGE TO UNDERGROUND FACILITIES
102 CAUSED BY EXCAVATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Exempts from the excavation notification statute road and landscape maintenance if the maintenance is less than 12 inches deep by hand or 4 inches deep by machine and does not permanently lower the ground level. Requires the person performing such maintenance to take reasonable care when disturbing the soil.

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

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

2 **SECTION 1.** 9-1.5-102 (2) and (3), Colorado Revised Statutes,
3 are amended, and the said 9-1.5-102 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

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

7 (2) "Emergency situations" includes ruptures and leakage of
8 pipelines, explosions, fires, and similar instances where immediate action
9 is necessary to prevent loss of life or significant damage to PROPERTY,
10 INCLUDING, WITHOUT LIMITATION, underground facilities, and advance
11 notice of proposed excavation is impracticable under the circumstances.

12 (3) "Excavation" means any operation in which earth is moved or
13 removed by means of any tools, equipment, or explosives and includes
14 augering, backfilling, boring, ditching, drilling, grading, plowing-in,
15 pulling-in, ripping, scraping, trenching, and tunneling. "EXCAVATION"
16 SHALL NOT INCLUDE MAINTENANCE ON LANDSCAPES AND ROADWAYS AS
17 DEFINED BY SECTION 42-1-102, C.R.S.

18 (3.5) "MAINTENANCE" MEANS A REGULAR ACTIVITY THAT
19 HAPPENS AT LEAST ONCE PER YEAR ON AN EXISTING LANDSCAPE OR
20 ROADWAY SURFACE IF EARTH IS NOT DISTURBED AT A DEPTH OF MORE
21 THAN TWELVE INCHES BY NONMECHANICAL MEANS OR FOUR INCHES BY
22 MECHANICAL MEANS AND IF THE ACTIVITIES ARE NOT INTENDED TO
23 PERMANENTLY LOWER THE GROUND COVER OR THE EXISTING GROUND
24 CONTOURS.

25 **SECTION 2.** 9-1.5-103, Colorado Revised Statutes, is amended
26 BY THE ADDITION OF A NEW SUBSECTION to read:

27 **9-1.5-103. Plans and specifications - notice of excavation -**

1 **duties of excavators - duties of owners and operators.** (8) A PERSON
2 WHO PERFORMS MAINTENANCE SHALL TAKE REASONABLE CARE WHEN
3 DISTURBING THE SOIL.

4 **SECTION 3. Effective date.** This act shall take effect at 12:01
5 a.m. on the day following the expiration of the ninety-day period after
6 final adjournment of the general assembly that is allowed for submitting
7 a referendum petition pursuant to article V, section 1 (3) of the state
8 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
9 except that, if a referendum petition is filed against this act or an item,
10 section, or part of this act within such period, then the act, item, section,
11 or part, if approved by the people, shall take effect on the date of the
12 official declaration of the vote thereon by proclamation of the governor.