First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED
This Version Includes All Amendments Adopted
on Second Reading in the Second House

LLS NO. 21-0154.01 Jason Gelender x4330   **HOUSE BILL 21-1095**

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A BILL FOR AN ACT

101   Concerning excavation notification requirements for
102   underground facility location in connection with
103   county road maintenance.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.*)*

Current law requires an individual or entity to notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities that the excavation might affect, such as water and sewer pipes, gas lines, and electric or cable lines, can be located and marked before

SENATE
Amended 2nd Reading
April 26, 2021

HOUSE
3rd Reading Unamended
April 8, 2021

HOUSE
Amended 2nd Reading
April 7, 2021

excavation begins. Underground facilities are often located beneath county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of such county roads and county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than 6 inches in depth. These maintenance activities currently trigger the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. To prevent such activities from triggering the excavation notification requirement, the bill specifies that "excavation" does not include routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads performed by county employees that:

- Does not lower the existing grade or elevation of the road, shoulder, and ditches; and
- Does not disturb more than 6 inches in depth during maintenance operations.

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

2

3   **SECTION 1.** In Colorado Revised Statutes, 9-1.5-103, **amend**

4   (3)(a)(II) and (4)(b); and **add** (3)(e) as follows:

5   **9-1.5-103. Plans and specifications - notice of excavation -**

6   **duties of excavators - duties of owners and operators - fee - definition**

7   **- repeal.** (3) (a) (II) Effective January 1, 2021, except in emergency

8   situations, ~~and~~ except as to an employee or an employer's contractor with

9   respect to the employer's underground facilities, AND EXCEPT AS

10   OTHERWISE PROVIDED IN SUBSECTION (3)(e) OF THIS SECTION, a person

11   shall not make or begin excavation without first notifying the notification

12   association. Notice may be given by electronic methods approved by the

13   notification association or by telephone.

14   (e) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE

15   1.5, EXCAVATION THAT IS ROUTINE OR EMERGENCY MAINTENANCE OF THE

16   RIGHT-OF-WAY OF A COUNTY-MAINTAINED GRAVEL OR DIRT ROAD AND IS

1   PERFORMED BY COUNTY EMPLOYEES DOES NOT REQUIRE NOTIFICATION OF

2   THE NOTIFICATION ASSOCIATION UNLESS THE EXCAVATION WILL:

3   (A) LOWER THE EXISTING GRADE OR ELEVATION OF THE ROAD OR

4   ANY ADJACENT SHOULDER OR THE DESIGNED AND CONSTRUCTED

5   ELEVATION OF ANY ADJACENT DITCH FLOWLINE; OR

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

7   CONDUCTED.

8   (II) AS USED IN THIS SUBSECTION (3)(e), "DITCH FLOWLINE" MEANS

9   THE LINE RUNNING THE LENGTH OF THE BOTTOM OF A DITCH SO THAT

10   WATER ENTERING THE DITCH RUNS FIRST TO THE LINE AND THEREAFTER

11   DOWN THE LINE.

12   (4) (b) The marking of underground facilities shall be considered

13   valid so long as the markings are clearly visible, but not for more than

14   thirty calendar days following the due date of the locate request initiated

15   pursuant to subsection (3) of this section. except that, if an excavation

16   notice is limited to only annual road maintenance that does not exceed six

17   inches in depth conducted by a government agency on an existing

18   unpaved road, the marking shall be considered valid for up to one

19   hundred eighty days. Upon receipt of the notification, an owner or

20   operator has ten business days to coordinate the excavation activity with

21   the government agency. If an excavation has not been completed within

22   the applicable THIRTY-DAY period, the excavator shall notify the

23   notification association at least two business days, not including the day

24   of actual notice, before the end of the applicable THIRTY-DAY period.

25   **SECTION 2. Effective date.** This act takes effect June 1, 2022.

26   **SECTION 3. Act subject to petition - effective date.** This act

27   takes effect at 12:01 a.m. on the day following the expiration of the

1   ninety-day period after final adjournment of the general assembly; except

2   that, if a referendum petition is filed pursuant to section 1 (3) of article V

3   of the state constitution against this act or an item, section, or part of this

4   act within such period, then the act, item, section, or part will not take

5   effect unless approved by the people at the general election to be held in

6   November 2022 and, in such case, will take effect on the date of the

7   official declaration of the vote thereon by the governor.