

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

616W0343

SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 72** - 01/29/2015

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Lederman, Curd, Greenfield (Brock), Peterson (Jim), and Sutton and Representatives Wollmann, Harrison, Hawley, Kirschman, Rounds, and Wiik

1 FOR AN ACT ENTITLED, An Act to provide an exemption from certain excavation
2 requirements in an emergency.

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

4 Section 1. Any requirement to wait a certain time period to excavate does not apply to an
5 excavation deemed necessary to address an emergency condition performed by the operator or
6 an excavator who has been engaged to work on behalf of the operator. In such event, the
7 operator shall give notification in compliance with § 49-7A-5 prior to the excavation undertaken
8 by the operator to address the emergency condition. Upon being notified that an emergency
9 condition exists, each operator shall provide all available location information to the excavating
10 operator as soon as possible, but the excavating operator need not wait for such location
11 information prior to excavation or continuing excavation. However, every person who engages
12 in any such excavation shall take all necessary and reasonable precautions to avoid or minimize
13 damage to existing underground facilities. In addition, in the event the excavation results in
14 damage to any underground facility, the excavator shall immediately notify the affected operator



1 or the one call notification center of the location and the extent of the damage. Any excavator
2 or operator excavating pursuant to this section who damages or injures the underground
3 facilities of another operator is strictly liable for all damage proximately caused thereby.

4 For purposes of this section, an emergency condition exists when an imminent danger to life,
5 health, property, or public safety exists and there is a substantial likelihood that loss of life,
6 health, or property will result before the procedures set forth in §§ 49-7A-5 and 49-7A-8 can be
7 fully complied with.

8 Section 2. That § 49-7A-18 be amended to read as follows:

9 49-7A-18. Except as provided in § 49-7A-19 and in addition to all other penalties provided
10 by law, any person who violates or who procures, aids, or abets in the violation of § 49-7A-2,
11 49-7A-5, 49-7A-8, or 49-7A-12, section 1 of this Act, or any rules promulgated pursuant to
12 § 49-7A-2, 49-7A-5, or 49-7A-8 may be assessed a penalty of up to one thousand dollars for the
13 first violation and up to five thousand dollars for each subsequent violation that occurs within
14 twelve months of the initial violation.

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

16 49-7A-19. In addition to all other penalties provided by law, any person who intentionally
17 violates or who intentionally procures, aids, or abets in the violation of § 49-7A-2, 49-7A-5, 49-
18 7A-8, or 49-7A-12, section 1 of this Act, or any rules promulgated pursuant to § 49-7A-2, 49-
19 7A-5, or 49-7A-8 may be assessed a penalty of up to five thousand dollars for the first violation
20 and up to ten thousand dollars for each subsequent violation that occurs within twelve months
21 of the initial violation.