

State Damage Prevention Law Summary

State: Montana

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	Montana Code Annotated (MCA) § 69-4-501 (4) (a) "Excavation" means an operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving. (b) Excavation does not include surface road grading maintenance or road or ditch maintenance that does not change the original road or ditch grade or flow line.
Excavator: Definition	MCA § 69-4-501. (5) "Excavator" means a person conducting the excavation activities defined in subsection (4).
Excavator Notice to One Call Required (Yes / No)	Yes (MCA § 69-4-503. (1))
Excavator Notice Minimum # Working Days Before Digging	2
Excavator Notice (Specific Language)	MCA § 69-4-502. (1) (a) Except as provided in subsection (1)(b), an excavator may not make or begin an excavation without first obtaining information concerning the possible location of an underground facility from each public utility, municipal corporation, underground facility owner, or other person having the right to bury underground facilities that is a member of a one-call notification center pursuant to subsection (2)(a). § 69-4-503. (1) Before beginning an excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in the area of the proposed excavation.
Ticket Life (# of days)	Not addressed where excavation has begun within 30 days.
White-Line Required (Yes / No)	Yes, if requested by operator. (MCA § 69-4-503. (6))
Tolerance Zone	18" (MCA § 69-4-501. (14))
Special Digging Requirements Within Tolerance Zone (Specific Language)	Not Addressed
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	No
Preserve / Maintain Marks Required (Yes / No)	Yes. (MCA § 69-4-503. (4))
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes. (MCA § 69-4-503. (6))
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	Yes. (MCA § 69-4-503. (3))
Special Language Regarding Trenchless Technology (Yes / No)	No
Separate Locate Request Required for Each Excavator (Yes / No)	Yes. (MCA § 69-4-502. (1))
Notify Operator of Damage (Yes / No)	No
Notify One Call Center of Damage (Yes / No)	No
Call 911 if Hazardous Materials Released (Yes / No)	No
Notice Exemptions (Yes / No)	Yes

Notice Exemptions (Specific Language)	MCA § 69-4-501. (4) (b) Excavation does not include surface road grading maintenance or road or ditch maintenance that does not change the original road or ditch grade or flow line. § 69-4-502. (1) (a) Except as provided in subsection (1)(b), an excavator may not make or begin an excavation without first obtaining information concerning the possible location of an underground facility ... (b) (i) A registered land surveyor or a person under the supervision of a registered land surveyor may hand dig for shallow survey monuments at a depth of 12 inches or less below the road surface of a highway or at the intersection of the center lines of public streets.
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	2
Operator Requirements to Respond to Locate Notification (Specific Language)	MCA § 69-4-503. (1) Before beginning an excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in the area of the proposed excavation. (2) After an excavator has notified the appropriate one-call notification center of a proposed excavation, an owner of an underground facility shall: (a) provide the locates and mark the location within 2 business days; or (b) respond immediately if the excavator notifies the one-call notification center that an emergency exists.
Minimum Standards for Locator Qualifications (Yes / No)	No
Minimum Standards for Locator Qualifications (Specific Language)	Not addressed
Law Specifies Marking Standards Other Than Color (Yes / No)	Yes
Law Specifies Marking Standards Other Than Color (Specific Language)	MCA § 69-4-501. (11) Mark means the use of stakes, paint, or other clearly identifiable material to show the field location or absence of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility and the width of the facility if it is greater than 6 inches.
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	No (See MCA § 69-4-503. (7))
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	No
Operator Must Locate Abandoned Facilities (Specific Language)	Not addressed
Positive Response Required - Operator Contact Excavator (Yes / No)	No
Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed
Positive Response Required - Operator Contact One Call Center (Yes / No)	No
Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed
Positive Response - One-Call Automated (Yes / No)	No

Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Not addressed
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed
Design Request (Yes / No)	Yes (MCA § 69-4-504)
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes (MCA § 69-4-502. (a))
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	MCA § 69-4-502. (2) (a) A public utility, municipal corporation, underground facility owner, or person having the right to bury underground facilities must be a member of a one-call notification center covering the service area in which the entity or person has underground facilities. (b) Subsection (2)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities is located in a public street, alley, or right-of-way dedicated to the public use.
One-Call Law Addresses Board Make-Up (Yes / No)	No
One-Call Law Addresses Board Make-Up (Specific Language)	Not addressed
Separate Body Designated to Advise Enforcement Authority (Yes / No)	No
Separate Body Designated to Advise Enforcement Authority (Specific Language)	Not addressed
Penalties / Fines Excavators (Yes / No)	Yes
Penalties / Fines Excavators (Specific Language)	MCA § 69-4-505. (1) (a) If any underground facility is damaged by an excavator who has failed to obtain information as to its location as provided in 69-4-503, then the excavator is liable to the owner of the underground facility for the entire cost of the repair of the facility. The excavator is also liable to the underground facility owner that is a member of a one-call notification center pursuant to 69-4-502(2)(a) for a damage fee. Damage fees must be assessed as follows: (i) 25% of the total cost of repairing the underground facility not to exceed \$125 for the first incident; (ii) 50% of the total cost of repairing the underground facility not to exceed \$500 for the second incident; and (iii) \$1,000 for the third and each subsequent incident. (b) An underground facility owner may levy only one fee for each incident. (c) If there is more than one underground facility affected by an incident, then each underground facility owner that is a member of a one-call notification center pursuant to 69-4-502(2)(a) may levy one damage fee for that incident.

Penalties / Fines Operators (Yes / No)	No
Penalties / Fines Operators (Specific Language)	Not Addressed
Penalties / Fines Other (Yes / No)	No
Penalties / Fines Other (Specific Language)	Not Addressed
Enforcement Authority Identified	Not addressed
Damage Investigation Required by Enforcement Authority (Yes / No)	No
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	No
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	Montana Code Annotated (MCA), Title 69, Chapter 4, Part 5, Excavations Near Underground Facilities, §§ 69-4-501 to -514 (http://leg.mt.gov/bills/mca/title_0690/chapter_0040/part_0050/sections_index.html) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	October 1, 2005
Administrative Rules / Regulations (Yes / No)	No
Administrative Rules / Regulations (Name & Link)	None
State One Call Center(s) (Name & Link)	(1) Montana811 (http://www.montana811.org) (2) Montana 811, UDIG (Flathead and Lincoln Counties and portions of Lake County) -- (http://www.montana811.com) and (www.udig.org)
Miscellaneous Notes	
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State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	Montana HB365 was passed by the 65th Regular Session of the Montana Legislature and signed by the Governor. The new law becomes affective 7-1-2017 with applicability to excavation damage incidents occurring on or after 10-1-2017. The changes are fairly extensive, offering new definitions, describing the formation and duties of a new underground facility protection advisory council, assigning enforcement to the Montana Department of Labor and Industry (MTDLI), revising the penalties structure, and requiring reporting of damage incidents. A summation of the changes can be found online at http://www.montana811.org/summary-of-new-law-changes.html .