STATE OF NEW YORK

5930

2017-2018 Regular Sessions

IN SENATE

May 8, 2017

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to defining excavation for the purposes of the protection of underground facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph b of subdivision 1 of section 119-b of the public service law, as amended by chapter 445 of the laws of 1995, is amended to read as follows:

b. "Excavation" means an operation for the purpose of movement or removal of earth, rock**, pavement** or other materials in or on the ground by use of mechanized equipment or by blasting, and includes, but is not limited to, auguring, backfilling, boring, drilling, **digging,** grading, plowing in, pulling in, **fence post or pile driving, tree root removal, saw cutting, jack hammering,** trenching and tunneling; provided, however, that **the following shall not be deemed excavation:**

(i) the movement of earth by tools manipulated only by human or animal power [~~and~~]**;**

(ii) the tilling of soil for agricultural purposes [~~shall not be deemed excavation~~]**;**

(iii) vacuum excavation;

(iv) saw cutting and jack hammering in connection with pavement restoration of a previous excavation where only the pavement is involved; and

(v) low impact landscaping practices, including lawn aeration, edging planting beds and injection fertilization and air spading of trees and shrubs.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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