

Bill No. SB 1394

Barcode 343560

CHAMBER ACTION

Senate

House

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Comm: FAV  
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The Committee on Communications and Public Utilities (Miller)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 15, line 22, through  
page 18, line 10, delete those lines

and insert: collected by the clerk shall be retained by the  
clerk for deposit into the fine and forfeiture fund  
established pursuant to s. 142.01. Any person who fails to  
appear or otherwise properly respond to a citation issued  
pursuant to paragraph (d) shall, in addition to the citation,  
be charged with the offense of failing to respond to such  
citation and, upon conviction, commits ~~be guilty of~~ a  
misdemeanor of the second degree, punishable as provided in s.  
775.082 or s. 775.083. A written warning to this effect shall  
be provided at the time any citation is issued pursuant to  
paragraph (b).

(d) Any person cited for an infraction under paragraph  
(a), unless required to appear before the county court, may:

1. Post a bond, which shall be equal in amount to the

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1 applicable civil penalty, plus fees or court costs; or

2           2. Sign and accept a citation indicating a promise to  
3 appear before the county court.

4  
5 The person issuing the citation ~~officer~~ may indicate on the  
6 citation the time and location of the scheduled hearing and  
7 shall indicate the applicable civil penalty.

8           (e) Any person charged with a noncriminal infraction  
9 under paragraph (a), unless required to appear before the  
10 county court, may:

11           1. Pay the civil penalty plus fees and court costs, in  
12 lieu of appearance, either by mail or in person, within 30 ~~10~~  
13 days after the date of receiving the citation; or

14           2. Forfeit bond, if a bond has been posted, by not  
15 appearing at the designated time and location.

16  
17 If the person cited follows either of the above procedures,  
18 she or he ~~is shall be~~ deemed to have admitted to committing  
19 the infraction and to have waived the right to a hearing on  
20 the issue of commission of the infraction. ~~The Such~~ admission  
21 may be used as evidence in any other proceeding under this  
22 act.

23           (f) Any person electing to appear before the county  
24 court or who is required to appear shall be deemed to have  
25 waived the limitations on the civil penalty specified in  
26 paragraph (c). The court, after a hearing, shall make a  
27 determination as to whether an infraction has been committed.  
28 If the commission of an infraction has been proven, the court  
29 may impose a civil penalty not to exceed \$5,000, plus court  
30 costs. In determining the amount of the civil penalty, the  
31 court may consider previous noncriminal infractions committed.

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1 (g) At a hearing under this chapter, the commission of  
2 a charged infraction must be proven by a preponderance of the  
3 evidence.

4 (h) If a person is found by the hearing official to  
5 have committed an infraction, the ~~such~~ person may appeal that  
6 finding to the circuit court.

7 (i) Sunshine State One-Call of Florida, Inc., may, at  
8 its own cost, retain an attorney to assist in the presentation  
9 of relevant facts and law in the county court proceeding  
10 pertaining to the citation issued under this section. The  
11 corporation may also appear in any case appealed to the  
12 circuit court if a county court finds that an infraction of  
13 the chapter was committed. An appellant in the circuit court  
14 proceeding shall timely notify the corporation of any appeal  
15 under this section.

16 (2) MISDEMEANORS.--Any person who knowingly and  
17 willfully removes or otherwise destroys the valid stakes or  
18 other valid physical markings described in s. 556.105(5)(b) ~~s.~~  
19 ~~556.105(4)(b)~~ and (c) used to mark the horizontal route of an  
20 underground facility commits a misdemeanor of the second  
21 degree, punishable as provided in s. 775.082 or s. 775.083.  
22 For purposes of this subsection, stakes or other nonpermanent  
23 physical markings are considered valid for 30 ~~20~~ calendar days  
24 after information is provided to the system under s.  
25 556.105(1)(c).

26 Section 1. Subsection (4) of section 556.108, Florida  
27 Statutes, is amended to read:

28 556.108 Exemptions.--The notification requirements  
29 provided in s. 556.105(1) do not apply to:

30 (4) Any excavation of 18 inches or less for:  
31 (a) Surveying public or private property by surveyors

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1 or mappers as defined in chapter 472 and services performed by  
 2 a pest control licensee under chapter 482, excluding marked  
 3 rights-of-way, marked easements, or permitted uses where  
 4 marked, if provided mechanized equipment is not used in the  
 5 process of such surveying or pest control services and the  
 6 surveying or pest control services are ~~is~~ performed in  
 7 accordance with the practice rules established under s.  
 8 472.027 or s. 482.051; ~~or~~

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11 ===== T I T L E    A M E N D M E N T =====

12 And the title is amended as follows:

13            On page 2, line 16, after the word "excavations"

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15 insert:

16            by surveyors, mappers, or pest control services

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