

By the Committees on Community Affairs; Regulated Industries;
Communications and Public Utilities; and Senator Miller

578-2290-06

1 A bill to be entitled
2 An act relating to damage prevention and safety
3 of underground facilities; amending s. 556.101,
4 F.S.; providing legislative intent that
5 Sunshine State One-Call of Florida, Inc., is
6 not required or permitted to locate or mark
7 underground facilities; amending s. 556.102,
8 F.S.; redefining the term "member operator" to
9 remove an exception for a small municipality
10 that elects not to participate in the
11 notification system; amending ss. 556.103 and
12 556.104, F.S.; deleting provisions exempting a
13 small city from membership in the Sunshine
14 State One-Call of Florida, Inc.; amending s.
15 556.105, F.S.; requiring that specified
16 information be placed in the excavation
17 notification system; providing an exception for
18 underwater excavations; providing that the
19 information is valid for 30 calendar days;
20 providing for a study of the feasibility of
21 zones where no notification is required;
22 requiring a report to the Legislature;
23 requiring that a notification number assigned
24 to an excavator be provided to a law
25 enforcement officer, government code inspector,
26 or code enforcement officer upon request;
27 requiring that a member operator respond to the
28 system within a specified time indicating the
29 status of its facility protection operations;
30 requiring the corporation to establish a
31 communication system between member operators

1 and excavators; requiring an excavator to
2 verify the system's positive responses before
3 beginning excavation; requiring operators to
4 use a specified color-code manual; amending s.
5 556.106, F.S.; providing that the notification
6 system has no duty to and may not mark or
7 locate underground facilities; providing that a
8 person has no right of recovery against the
9 notification system for failing to mark or
10 locate underground facilities; providing that
11 the system is not liable for the failure of a
12 member operator to comply with the requirements
13 of the act; amending s. 556.107, F.S. ;
14 correcting cross-references; providing for the
15 distribution of civil penalties; authorizing
16 the corporation to retain legal counsel to
17 represent the corporation in certain legal
18 proceedings; amending s. 556.108, F.S. ;
19 providing that certain single-family
20 residential properties are not exempt from
21 mandatory location notification; providing that
22 certain excavations by surveyors, mappers, or
23 pest control services are exempt from mandatory
24 location notification if mechanized equipment
25 is not used; amending s. 556.111, F.S. ;
26 providing that certain provisions do not
27 preempt a governmental member operator from
28 regulation of its right-of-way under certain
29 conditions; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 556.101, Florida Statutes, is
2 amended to read:

3 556.101 Short title; legislative intent.--

4 (1) This act may be cited as the "Underground Facility
5 Damage Prevention and Safety Act."

6 (2) It is the intent of the Legislature to provide
7 access for excavating contractors and the public to provide
8 notification to the system of their intent to engage in
9 excavation or demolition. This notification system shall
10 provide the member operators an opportunity to identify and
11 locate their underground facilities. Under this notification
12 system, Sunshine State One-Call of Florida, Inc., is not
13 required or permitted to locate or mark underground
14 facilities.

15 (3) It is the purpose of this act to:

16 (a) Aid the public by preventing injury to persons or
17 property and the interruption of services resulting from
18 damage to an underground facility caused by excavation or
19 demolition operations.

20 (b) Create a not-for-profit corporation comprised of
21 operators of underground facilities in this state to
22 administer ~~the provisions of~~ this act.

23 (c) Fund the cost of administration through
24 contributions from the member operators for services provided
25 to the member operators and from charges made to others for
26 services requested and provided, such as record searches,
27 education or training, and damage prevention activities.

28 (d) Reserve to the state the power to regulate any
29 subject matter specifically addressed in this act.

30 (e) Permit any local law enforcement officer, local
31 government code inspector, or code enforcement officer ~~or~~

1 ~~permitting agency inspector~~ to enforce this act without the
2 need to incorporate the provisions of this act into any local
3 code or ordinance.

4 (f) Foster the awareness of federal laws and
5 regulations that promote safety with respect to underground
6 facilities, including, but not limited to, the Federal
7 Pipeline Safety Act of 1968, as amended, the Pipeline Safety
8 Improvement Act of 2002, OSHA Standard 1926.651, and the
9 National Electric Safety Code, ANSI C-2, by requiring and
10 facilitating the advance notice of activities by those who
11 engage in excavation or demolition operations.

12 (4) It is not the purpose of this act to amend or void
13 any permit issued by a state agency for placement or
14 maintenance of facilities in its right-of-way.

15 Section 2. Subsection (8) of section 556.102, Florida
16 Statutes, is amended to read:

17 556.102 Definitions.--As used in this act:

18 (8) "Member operator" means any person who furnishes
19 or transports materials or services by means of an underground
20 facility ~~except a small municipality that has elected not to~~
21 ~~participate in the one call notification system in the manner~~
22 ~~set forth in s. 556.103(1).~~

23 Section 3. Subsection (1) of section 556.103, Florida
24 Statutes, is amended to read:

25 556.103 Creation of the corporation; establishment of
26 the board of directors; authority of the board; annual
27 report.--

28 (1) The "Sunshine State One-Call of Florida, Inc." is
29 ~~hereby~~ created as a not-for-profit corporation. Each operator
30 of an underground facility in this state shall be a member of
31 the corporation and shall use and participate in the system.

1 ~~except that a small city as defined in s. 120.52 may elect by~~
2 ~~January 1, 1998, not to participate in the system until~~
3 ~~January 1, 2003, through a written notification identifying~~
4 ~~any reasons for declining membership. The corporation shall~~
5 ~~be formed by June 1, 1993.~~ The corporation shall administer
6 the provisions of this act. The corporation shall exercise
7 its powers through a board of directors established pursuant
8 to this section.

9 Section 4. Section 556.104, Florida Statutes, is
10 amended to read:

11 556.104 Free-access notification system.--The
12 corporation shall maintain a free-access notification system.
13 Any person who furnishes or transports materials or services
14 by means of an underground facility in this state shall
15 participate as a member operator of the system ~~except that a~~
16 ~~small city as defined in s. 120.52 may elect not to~~
17 ~~participate in the system in the manner set forth in s.~~
18 ~~556.103(1).~~ The purpose of the system is to receive
19 notification of planned excavation or demolition activities
20 and to notify member operators of the ~~such~~ planned excavation
21 or demolition activities. The system shall provide a single
22 toll-free telephone number within this state which excavators
23 can use to notify member operators of planned excavation or
24 demolition activities, and the system may also provide
25 additional modes of access at no cost to the user.

26 Section 5. Section 556.105, Florida Statutes, is
27 amended to read:

28 556.105 Procedures.--

29 (1)(a) Not less than 2 ~~nor more than 5~~ full business
30 days before beginning any excavation or demolition, except an
31

1 excavation beneath the waters of the state, an excavator shall
2 provide the following information through the system:
3 1. The name of the individual who provided
4 notification and the name, address, including the street
5 address, city, state, zip code, and telephone number of her or
6 his employer.
7 2. The name and telephone number of the representative
8 for the excavator and a valid electronic address to facilitate
9 a positive response by the system should be provided, if
10 available.
11 3. The county, the city or closest city, and the
12 street address or the closest street, road, or intersection to
13 the location where the excavation or demolition is to be
14 performed, and the construction limits of the excavation or
15 demolition.
16 4. The commencement date and anticipated duration of
17 the excavation or demolition.
18 5. Whether machinery will be used for the excavation
19 or demolition.
20 6. The person or entity for whom the work is to be
21 done.
22 7. The type of work to be done.
23 8. The approximate depth of the excavation.
24 (b) The excavator shall provide the ~~such~~ information
25 by notifying the system through its free-access notification
26 system during business hours, as determined by the
27 corporation, or by such other method as authorized by the
28 corporation. Any notification received by the system at any
29 time other than during business hours shall be considered to
30 be received at the beginning of the next business day.
31

1 (c) Information provided by an excavator ~~is shall be~~
2 ~~considered~~ valid for 30 ~~a period of 20~~ calendar days after the
3 ~~each~~ date such information is provided to the system. In
4 computing the period for which information furnished is
5 ~~considered~~ valid, the date the notice is provided ~~is shall~~ not
6 ~~be~~ counted, but the last day of the such period shall be
7 counted unless it is a Saturday, Sunday, or a legal holiday,
8 in which event, the period runs shall run until the end of the
9 next day that which is not a Saturday, Sunday, or a legal
10 holiday.

11 (d)1. The system shall study the feasibility of the
12 establishment or recognition of zones for the purpose of
13 allowing excavation within such zones to be undertaken without
14 notice to the system as now required by this act when such
15 zones are:

16 a. In areas within which no underground facilities are
17 located.

18 b. Where permanent markings, permit and mapping
19 systems, and structural protection for underwater crossings
20 are required or in place.

21 c. For previously marked utilities on construction of
22 one or two family dwellings where the contractor remains in
23 custody and control of the building site during the duration
24 of the building permit.

25 2. The system shall report the results of the study to
26 the Legislature on or before February 1, 2007, along with
27 recommendations for further legislative action.

28 (2) Each notification by means of the system shall be
29 recorded to document compliance with this act. Such record
30 may be made by means of electronic, mechanical, or any other
31 method of all incoming and outgoing wire and oral

1 | communications concerning location requests in compliance with
2 | chapter 934. ~~The Such~~ records shall be kept for ~~a period of 5~~
3 | years and, upon written request, shall be available to the
4 | excavator making the request, the member operator intended to
5 | receive the request, and their agents. However, custody of the
6 | records ~~may shall~~ not be transferred from the system except
7 | under subpoena.

8 | (3) The system shall provide the person who provided
9 | notification with the names of the member operators who shall
10 | ~~will~~ be advised of the notification and a notification number
11 | that which specifies the date and time of the notification.

12 | (4) The notification number provided to the excavator
13 | under this section shall be provided to any law enforcement
14 | officer, government code inspector, or code enforcement
15 | officer upon request.

16 | (5)(4) All member operators within the defined area of
17 | a proposed excavation or demolition shall be promptly notified
18 | through the system, except that member operators with
19 | state-owned underground facilities located within the
20 | right-of-way of a state highway need not be notified of
21 | excavation or demolition activities and are under no
22 | obligation to mark or locate ~~the such~~ facilities.

23 | (a) When an excavation site cannot be described in
24 | information provided under subparagraph (1)(a)3. with
25 | sufficient particularity to enable the member operator to
26 | ascertain the excavation site, and if the excavator and member
27 | operator have not mutually agreed otherwise, the excavator
28 | shall premark the proposed area of the excavation before a
29 | member operator is required to identify the horizontal route
30 | of its underground facilities in the proximity of any
31 | excavation. However, premarking is not required for any

1 excavation that is over 500 feet in length and is not required
2 where the premarking could reasonably interfere with traffic
3 or pedestrian control.

4 (b) If a member operator determines that a proposed
5 excavation or demolition is in proximity to or in conflict
6 with an underground facility of the member operator, except a
7 facility beneath the waters of the state, which is governed by
8 paragraph (c), the member operator shall identify the
9 horizontal route by marking to within 24 inches from the outer
10 edge of either side of the underground facility by the use of
11 stakes, paint, flags, or other suitable means within 2 full
12 business days after the time the notification is received
13 under subsection (1). If the member operator is unable to
14 respond within such time, the member operator shall
15 communicate with the person making the request and negotiate a
16 new schedule and time that is agreeable to, and should not
17 unreasonably delay, the excavator.

18 (c) If a member operator determines that a proposed
19 excavation is in proximity to or in conflict with an
20 underground facility of the member operator beneath the waters
21 of the state, the member operator shall identify the estimated
22 horizontal route of the underground facility, within 10
23 business days, using marking buoys or other suitable devices,
24 unless directed otherwise by an agency having jurisdiction
25 over the waters of the state under which the member operator's
26 underground facility is located.

27 (d) When excavation is to take place within a
28 tolerance zone, an excavator shall use increased caution to
29 protect underground facilities. The protection requires hand
30 digging, pot holing, soft digging, vacuum excavation methods,
31 or other similar procedures to identify underground

1 facilities. Any use of mechanized equipment within the
2 tolerance zone must be supervised by the excavator.

3 ~~(6)(a)(5)(a)~~ An excavator shall avoid excavation in
4 the area described in the notice given under ~~pursuant to~~
5 subsection (1) until each member operator underground facility
6 has been marked and located or until the excavator has been
7 notified that no member operator has underground facilities in
8 the area described in the notice, or for the time allowed for
9 markings set forth in paragraphs ~~(5)(b)(4)(b)~~ and (c),
10 whichever occurs first. If a member operator has not located
11 and marked its underground facilities within the time allowed
12 for marking set forth in paragraphs ~~(5)(b)(4)(b)~~ and (c), the
13 excavator may proceed with the excavation, if provided the
14 excavator does so with reasonable care, ~~and if provided,~~
15 ~~further, that~~ detection equipment or other acceptable means to
16 locate underground facilities are used.

17 (b) An excavator ~~may shall~~ not demolish in the area
18 described in the notice given under ~~pursuant to~~ subsection (1)
19 until all member operator underground facilities have been
20 marked and located, or removed.

21 ~~(7)(a)(6)(a)~~ A member operator that states that it
22 does not have accurate information concerning the exact
23 location of its underground facilities is exempt from the
24 requirements of paragraphs ~~(5)(b)(4)(b)~~ and (c), but shall
25 provide the best available information to the excavator in
26 order to comply with the requirements of this section. An
27 excavator is not liable for any damage to an underground
28 facility under the exemption in this subsection if the
29 excavation or demolition is performed with reasonable care and
30 detection equipment or other acceptable means to locate
31 underground facilities are used.

1 (b) A member operator may not exercise the exemption
2 provided by this subsection if the member operator has
3 underground facilities that have not been taken out of service
4 and that are locatable using available designating
5 technologies to locate underground facilities.

6 ~~(8)(a)(7)(a)~~ If extraordinary circumstances exist, a
7 member operator shall notify the system of the member
8 operator's inability to comply with this section. For the
9 purposes of this section, the term "extraordinary
10 circumstances" means circumstances other than normal operating
11 conditions ~~that which~~ exist and make it impractical for a
12 member operator to comply with ~~the provisions of~~ this act.
13 After the system has received notification of a member
14 operator's inability to comply, the system shall make that
15 information known to excavators who subsequently notify the
16 system of an intent to excavate. The member operator is
17 relieved of responsibility for compliance under the law during
18 the period that the extraordinary circumstances exist and
19 shall promptly notify the system when the extraordinary
20 circumstances cease to exist.

21 (b) During the period when extraordinary circumstances
22 exist, the system shall remain available during business hours
23 to provide information to governmental agencies, member
24 operators affected by the extraordinary circumstances, and
25 member operators who can provide relief to the affected
26 parties, unless the system itself has been adversely affected
27 by extraordinary circumstances.

28 (9)(a) After receiving notification from the system, a
29 member operator shall provide a positive response to the
30 system within 2 full business days, or 10 such days for an
31

1 underwater excavation, indicating the status of operations to
2 protect the facility.

3 ~~(8)(a) If a member operator determines that the~~
4 ~~excavation or demolition is not near an existing underground~~
5 ~~facility of the member operator, the member operator shall~~
6 ~~notify the excavator within 2 full business days after the~~
7 ~~time of the notification to the system that no conflict exists~~
8 ~~and that the excavation or demolition area is clear. An~~
9 ~~excavator who has knowledge of the existence of an underground~~
10 ~~facility of a member operator in the area is responsible for~~
11 ~~contacting the member operator if a facility is not marked.~~

12 (b) The system shall establish and maintain a process
13 to facilitate a positive-response communication between member
14 operators and excavators. The system is exempt from any
15 requirement to initiate a positive response to an excavator
16 when an excavator does not provide a valid electronic address
17 to facilitate a positive response by the system.

18 (c) An excavator shall verify the system's positive
19 responses before beginning excavation. If an excavator knows
20 that an existing underground facility of a member operator is
21 in the area, the excavator must contact the member operator if
22 the facility is not marked and a positive response has not
23 been received by the system. The system shall implement
24 procedures for positive response by January 1, 2004.

25 ~~(10)(9)~~ A member operator shall use the recommended
26 guidelines for uniform temporary marking of underground
27 facilities as approved by the Utility Location and
28 Coordinating Council "Uniform Color Code for Utilities" of the
29 American Public Works Association when marking the horizontal
30 route of any underground facility of the operator.
31

1 ~~(11)~~~~(10)~~ Before ~~Prior to~~ or during excavation or
2 demolition, if the marking of the horizontal route of any
3 facility is removed or is no longer visible, the excavator
4 shall stop excavation or demolition activities in the vicinity
5 of the facility and shall notify the system to have the route
6 remarked.

7 ~~(12)~~~~(11)~~ If any contact with or damage to any pipe,
8 cable, or its protective covering, or any other underground
9 facility occurs, the excavator causing the contact or damage
10 shall immediately notify the member operator. Upon receiving
11 notice, the member operator shall send personnel to the
12 location as soon as possible to effect temporary or permanent
13 repair of the contact or damage. Until such time as the
14 contact or damage has been repaired, the excavator shall cease
15 excavation or demolition activities that may cause further
16 damage to such underground facility.

17 Section 6. Subsection (2) of section 556.106, Florida
18 Statutes, is amended, present subsection (6) is redesignated
19 as subsection (7) and amended, and a new subsection (6) is
20 added to that section, to read:

21 556.106 Liability of the member operator, excavator,
22 and system.--

23 (2)(a) If a ~~In the event any~~ person violates s.
24 556.105(1) or ~~(6)~~~~(5)~~, and subsequently, whether by himself or
25 herself or through the person's employees, contractors,
26 subcontractors, or agents, performs an excavation or
27 demolition that ~~which~~ damages an underground facility of a
28 member operator, it is ~~shall be~~ rebuttably presumed that the
29 ~~such~~ person was negligent. The ~~Such~~ person, if found liable,
30 is ~~shall be~~ liable for the total sum of the losses to all
31 member operators involved as those costs are normally

1 | computed. Any damage for loss of revenue and loss of use may
2 | ~~shall~~ not exceed \$500,000 per affected underground facility,
3 | except that revenues lost by a governmental member operator
4 | whose, ~~which~~ revenues are used to support payments on
5 | principal and interest on bonds may, ~~shall~~ not be limited. Any
6 | liability of the state and its agencies and its subdivisions
7 | which arises out of this chapter is ~~shall be~~ subject to the
8 | provisions of s. 768.28.

9 | (b) If any excavator fails to discharge a duty imposed
10 | by the provisions of this act, the ~~such~~ excavator, if found
11 | liable, is ~~shall be~~ liable for the total sum of the losses to
12 | all parties involved as those costs are normally computed.
13 | Any damage for loss of revenue and loss of use may ~~shall~~ not
14 | exceed \$500,000 per affected underground facility, except that
15 | revenues lost by a governmental member operator whose, ~~which~~
16 | revenues are used to support payments on principal and
17 | interest on bonds may, ~~shall~~ not be limited.

18 | (c) Any liability of the state, its agencies, or its
19 | subdivisions which arises out of this act is ~~shall be~~ subject
20 | to the provisions of s. 768.28.

21 | (d) Obtaining information as to the location of an
22 | underground facility from the member operator as required by
23 | this act does not excuse any excavator from performing an
24 | excavation or demolition in a careful and prudent manner,
25 | based on accepted engineering and construction practices, and
26 | it ~~nor~~ does not ~~it~~ excuse the ~~such~~ excavator from liability
27 | for any damage or injury resulting from any excavation or
28 | demolition.

29 | ~~(e) When an excavator knows or should know of the~~
30 | ~~presence of an underground facility of a nonmember small city~~
31 | ~~as defined in s. 120.52, he or she shall make reasonable~~

1 ~~efforts to contact the small city that owns or operates that~~
2 ~~facility prior to commencing an excavation or demolition.~~

3 (6) The system does not have a duty to mark or locate
4 underground facilities and may not do so, and a right of
5 recovery does not exist against the system for failing to mark
6 or locate underground facilities. The system is not liable for
7 the failure of a member operator to comply with the
8 requirements of this act.

9 ~~(7)(6)~~ An excavator who performs any excavation with
10 hand tools under s. 556.108(4)(c) or (5) ~~pursuant to s.~~
11 ~~556.108(5)~~ is liable for any damage to any operator's
12 underground facilities damaged during such excavation.

13 Section 7. Section 556.107, Florida Statutes, is
14 amended to read:

15 556.107 Violations.--

16 (1) NONCRIMINAL INFRACTIONS.--

17 (a) Violations of the following provisions are
18 noncriminal infractions:

19 1. Section 556.105(1), relating to providing required
20 information.

21 2. Section 556.105(6) ~~556.105(5)~~, relating to the
22 avoidance of excavation.

23 3. Section 556.105(11) ~~556.105(10)~~, relating to the
24 need to stop excavation or demolition.

25 4. Section 556.105(12) ~~556.105(11)~~, relating to the
26 need to cease excavation or demolition activities.

27 5. Section 556.105(5)(b) ~~556.105(4)(b)~~ and (c)
28 relating to identification of underground facilities, if a
29 member operator does not mark an underground facility, but not
30 if a member operator marks an underground facility
31 incorrectly.

1 (b) Any excavator or member operator who commits a
2 noncriminal infraction under paragraph (a) may be issued a
3 citation by any local or state law enforcement officer,
4 government code inspector, or code enforcement officer
5 ~~permitting agency inspector,~~ and the issuer of a citation may
6 require an ~~any~~ excavator to cease work on any excavation or
7 not start a proposed excavation until there has been
8 compliance with the provisions of this act. Citations shall
9 ~~may~~ be hand-delivered issued to any employee of the excavator
10 or member operator who is ~~directly~~ involved in the noncriminal
11 infraction. The citation shall be issued in the name of the
12 excavator or member operator, whichever is applicable.

13 (c) Any excavator or member operator who commits a
14 noncriminal infraction under paragraph (a) may be required to
15 appear before the county court. The civil penalty for any such
16 infraction is \$250, plus court costs except as otherwise
17 provided in this section. If a citation is issued by a local
18 law enforcement officer, a local government code inspector, or
19 a code enforcement officer, 80 percent of the civil penalty
20 collected by the clerk of the court shall be distributed to
21 the local governmental entity whose employee issued the
22 citation and 20 percent of the penalty shall be retained by
23 the clerk to cover administrative costs, in addition to other
24 court costs. If a citation is issued by a state law
25 enforcement officer, the civil penalty collected by the clerk
26 shall be retained by the clerk for deposit into the fine and
27 forfeiture fund established pursuant to s. 142.01. Any person
28 who fails to appear or otherwise properly respond to a
29 citation issued pursuant to paragraph (d) shall, in addition
30 to the citation, be charged with the offense of failing to
31 respond to such citation and, upon conviction, commits ~~be~~

1 ~~guilty~~ of a misdemeanor of the second degree, punishable as
2 provided in s. 775.082 or s. 775.083. A written warning to
3 this effect shall be provided at the time any citation is
4 issued pursuant to paragraph (b).

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

7 1. Post a bond, which shall be equal in amount to the
8 applicable civil penalty, plus court costs; or

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

11
12 The person issuing the citation ~~officer~~ may indicate on the
13 citation the time and location of the scheduled hearing and
14 shall indicate the applicable civil penalty.

15 (e) Any person charged with a noncriminal infraction
16 under paragraph (a), unless required to appear before the
17 county court, may:

18 1. Pay the civil penalty plus court costs, in lieu of
19 appearance, either by mail or in person, within 30 ~~10~~ days
20 after the date of receiving the citation; or

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

23
24 If the person cited follows either of the above procedures,
25 she or he ~~is shall be~~ deemed to have admitted to committing
26 the infraction and to have waived the right to a hearing on
27 the issue of commission of the infraction. ~~The~~ Such admission
28 may be used as evidence in any other proceeding under this
29 act.

30 (f) Any person electing to appear before the county
31 court or who is required to appear shall be deemed to have

1 waived the limitations on the civil penalty specified in
2 paragraph (c). The court, after a hearing, shall make a
3 determination as to whether an infraction has been committed.
4 If the commission of an infraction has been proven, the court
5 may impose a civil penalty not to exceed \$5,000, plus court
6 costs. In determining the amount of the civil penalty, the
7 court may consider previous noncriminal infractions committed.

8 (g) At a hearing under this chapter, the commission of
9 a charged infraction must be proven by a preponderance of the
10 evidence.

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

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

23 (2) MISDEMEANORS.--Any person who knowingly and
24 willfully removes or otherwise destroys the valid stakes or
25 other valid physical markings described in s. 556.105(5)(b) ~~s.~~
26 ~~556.105(4)(b)~~ and (c) used to mark the horizontal route of an
27 underground facility commits a misdemeanor of the second
28 degree, punishable as provided in s. 775.082 or s. 775.083.
29 For purposes of this subsection, stakes or other nonpermanent
30 physical markings are considered valid for 30 ~~20~~ calendar days
31

1 after information is provided to the system under s.
2 556.105(1)(c).

3 Section 8. Subsections (1) and (4) of section 556.108,
4 Florida Statutes, are amended to read:

5 556.108 Exemptions.--The notification requirements
6 provided in s. 556.105(1) do not apply to:

7 (1) Any excavation or demolition performed by the
8 owner of a single-family residential property, not including
9 property that is subdivided or is to be subdivided into more
10 than one single-family residential property; or for such owner
11 by a member operator or an agent of a member operator when
12 such excavation or demolition is made entirely on such land,
13 and only up to a depth of 10 inches; provided due care is used
14 and there is no encroachment on any member operator's
15 right-of-way, easement, or permitted use.

16 (4) Any excavation of 18 inches or less for:

17 (a) Surveying public or private property by surveyors
18 or mappers as defined in chapter 472 and services performed by
19 a pest control licensee under chapter 482, excluding marked
20 rights-of-way, marked easements, or permitted uses where
21 marked, ~~if provided~~ mechanized equipment is not used in the
22 process of such surveying or pest control services and the
23 surveying or pest control services are ~~is~~ performed in
24 accordance with the practice rules established under s.
25 472.027 or s. 482.051; ~~or~~

26 (b) Maintenance activities performed by a state agency
27 and its employees when such activities are within the
28 right-of-way of a public road; ~~however, provided~~, if a member
29 operator has permanently marked facilities on such
30 right-of-way, no mechanized equipment may be used without
31 first providing notification; ~~or~~

