

By Senator Burton

12-00847-24

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1 A bill to be entitled
2 An act relating to underground facilities; amending s.
3 556.105, F.S.; revising the timeframe within which an
4 excavator is required to provide certain information
5 through the free-access notification system
6 established by Sunshine State One-Call of Florida,
7 Inc., before beginning certain excavation or
8 demolition activities; revising the timeframes during
9 which member operators who receive such notifications
10 are required to mark the horizontal route of an
11 underground facility and provide a positive response
12 to the system; making technical changes; reordering
13 and amending s. 556.107, F.S., and reenacting
14 paragraph (3)(a) of that section; providing a
15 noncriminal infraction subject to enhanced civil
16 penalties for a specified violation; making technical
17 changes; reenacting ss. 556.102(8), 556.108, and
18 556.114(1)-(4), F.S., relating to the definition of
19 the term "high-priority subsurface installation,"
20 exemptions to certain notification requirements, and
21 low-impact marking practices, respectively, to
22 incorporate the amendment made to s. 556.105, F.S., in
23 references thereto; reenacting s. 556.116(1) and
24 (2)(a)-(d), F.S., relating to high-priority subsurface
25 installations, to incorporate the amendments made to
26 ss. 556.105 and 556.107, F.S., in references thereto;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (a) of subsection (1), paragraph (a) of subsection (5), and paragraph (a) of subsection (9) of section 556.105, Florida Statutes, are amended to read:

556.105 Procedures.—

(1)(a) Not less than 3 ~~2~~ full business days before beginning any excavation or demolition that is not beneath the waters of the state, and not less than 10 full business days before beginning any excavation or demolition that is beneath the waters of the state, an excavator shall provide the following information through the system:

1. The name of the individual who provided notification and the name, address, including the street address, city, state, zip code, and telephone number of her or his employer.

2. The name and telephone number of the representative for the excavator, and a valid electronic address to facilitate a positive response by the system should be provided, if available.

3. The county, the city or closest city, and the street address or the closest street, road, or intersection to the location where the excavation or demolition is to be performed, and the construction limits of the excavation or demolition.

4. The commencement date and anticipated duration of the excavation or demolition.

5. Whether machinery will be used for the excavation or demolition.

6. The person or entity for whom the work is to be done.

7. The type of work to be done.

8. The approximate depth of the excavation.

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59 (5) All member operators within the defined area of a
60 proposed excavation or demolition shall be promptly notified
61 through the system, except that member operators with state-
62 owned underground facilities located within the right-of-way of
63 a state highway need not be notified of excavation or demolition
64 activities and are under no obligation to mark or locate the
65 facilities.

66 (a) If a member operator determines that a proposed
67 excavation or demolition is in proximity to or in conflict with
68 an underground facility of the member operator, except a
69 facility beneath the waters of the state, which is governed by
70 paragraph (b), the member operator must ~~shall~~ identify the
71 horizontal route by marking to within 24 inches from the outer
72 edge of either side of the underground facility by the use of
73 stakes, paint, flags, or other suitable means within 3 ~~2~~ full
74 business days after the time the notification is received under
75 subsection (1). If the member operator is unable to respond
76 within such time, the member operator must ~~shall~~ communicate
77 with the person making the request and negotiate a new schedule
78 and time that is agreeable to, and should not unreasonably
79 delay, the excavator.

80 (9) (a) After receiving notification from the system, a
81 member operator shall provide a positive response to the system
82 within 3 ~~2~~ full business days, or 10 such days for an underwater
83 excavation or demolition, indicating the status of operations to
84 protect the facility.

85 Section 2. Paragraph (a) of subsection (1) of section
86 556.107, Florida Statutes, is reordered and amended, and
87 paragraph (a) of subsection (3) is reenacted, to read:

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88 556.107 Violations.—

89 (1) NONCRIMINAL INFRACTIONS.—

90 (a)1. Violations of the following provisions are
91 noncriminal infractions:

92 a. Section 556.105(1), relating to providing required
93 information.

94 ~~c.b.~~ Section 556.105(5)(c), relating to excavation
95 practices in tolerance zones.

96 ~~d.e.~~ Section 556.105(6), relating to the avoidance of
97 excavation.

98 ~~e.d.~~ Section 556.105(11), relating to the need to stop
99 excavation or demolition because marks are no longer visible,
100 or, in the case of underwater facilities, are inadequately
101 documented.

102 ~~f.e.~~ Section 556.105(12), relating to the need to cease
103 excavation or demolition activities because of contact or damage
104 to an underground facility.

105 ~~b.f.~~ Section 556.105(5)(a) and (b), relating to
106 identification of underground facilities, if a member operator
107 does not mark an underground facility, but not if a member
108 operator marks an underground facility incorrectly.

109 g. Section 556.109(2), relating to falsely notifying the
110 system of an emergency situation or condition.

111 h. Section 556.114(1), (2), (3), and (4), relating to a
112 failure to follow low-impact marking practices, as defined
113 therein.

114 2. Violations of the following provisions involving an
115 underground facility transporting hazardous materials ~~that are~~
116 regulated by the Pipeline and Hazardous Materials Safety

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117 Administration of the United States Department of Transportation
118 are noncriminal infractions, subject to enhanced civil penalties
119 under paragraph (c):

120 a. Section 556.105(1), relating to providing required
121 information.

122 b. Section 556.105(5)(c), relating to excavation practices
123 in tolerance zones.

124 c. Section 556.105(6), relating to the avoidance of certain
125 excavation.

126 d. Section 556.105(11), relating to the need to stop
127 excavation or demolition because certain marks are removed, no
128 longer visible, or inadequately documented.

129 e. Section 556.105(12), relating to the need to cease
130 excavation or demolition activities because of contact or damage
131 to an underground facility.

132 f. Section 556.116(1), relating to a failure to notify of
133 the planned excavation start date and time before beginning
134 excavation, if the member operator provides timely notice of the
135 existence of a high-priority subsurface installation.

136 (3) MISDEMEANORS.—

137 (a) Any person who knowingly and willfully removes or
138 otherwise destroys the valid stakes or other valid physical
139 markings described in s. 556.105(5)(a) and (b) used to mark the
140 horizontal route of an underground facility commits a
141 misdemeanor of the second degree, punishable as provided in s.
142 775.082 or s. 775.083. For purposes of this subsection, stakes
143 or other nonpermanent physical markings are considered valid for
144 30 calendar days after information is provided to the system
145 under s. 556.105(1)(a).

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146 Section 3. For the purpose of incorporating the amendment
147 made by this act to section 556.105, Florida Statutes, in a
148 reference thereto, subsection (8) of section 556.102, Florida
149 Statutes, is reenacted to read:

150 556.102 Definitions.—As used in this act:

151 (8) "High-priority subsurface installation" means an
152 underground gas transmission or gas distribution pipeline, or an
153 underground pipeline used to transport gasoline, jet fuel, or
154 any other refined petroleum product or hazardous or highly
155 volatile liquid, such as anhydrous ammonia or carbon dioxide, if
156 the pipeline is deemed to be critical by the operator of the
157 pipeline and is identified as a high-priority subsurface
158 installation to an excavator who has provided a notice of intent
159 to excavate under s. 556.105(1), or would have been identified
160 as a high-priority subsurface installation except for the
161 excavator's failure to give proper notice of intent to excavate.

162 Section 4. For the purpose of incorporating the amendment
163 made by this act to section 556.105, Florida Statutes, in a
164 reference thereto, section 556.108, Florida Statutes, is
165 reenacted to read:

166 556.108 Exemptions.—The notification requirements provided
167 in s. 556.105(1) do not apply to:

168 (1) Any excavation or demolition performed by the owner of
169 a single-family residential property, not including property
170 that is subdivided or is to be subdivided into more than one
171 single-family residential property; or for such owner by a
172 member operator or an agent of a member operator when such
173 excavation or demolition is made entirely on such land, and only
174 up to a depth of 10 inches; provided due care is used and there

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175 is no encroachment on any member operator's right-of-way,
176 easement, or permitted use.

177 (2) Any excavation or demolition associated with normal
178 agricultural or railroad activities, provided such activities
179 are not performed on any operator's marked right-of-way,
180 easement, or permitted use.

181 (3) Any excavation or demolition that occurs as the result
182 of normal industrial activities, provided such activities are
183 confined to the immediate secured property of the facility and
184 the activities are not performed on any operator's marked right-
185 of-way, easement, or permitted use. For the purposes of this
186 act, the industrial activities are limited to the following list
187 of Standard Industrial Classifications: Industry Group Numbers
188 141, 206, 242, 243, and 491, and Major Group Numbers 13, 26, 28,
189 and 29, as published by the United States Office of Management
190 and Budget in 1987.

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

192 (a) Surveying public or private property by surveyors or
193 mappers as defined in chapter 472 and services performed by a
194 pest control licensee under chapter 482, excluding marked
195 rights-of-way, marked easements, or permitted uses where marked,
196 if mechanized equipment is not used in the process of such
197 surveying or pest control services and the surveying or pest
198 control services are performed in accordance with the practice
199 rules established under s. 472.027 or s. 482.051, respectively;

200 (b) Maintenance activities performed by a state agency and
201 its employees when such activities are within the right-of-way
202 of a public road; however, if a member operator has permanently
203 marked facilities on such right-of-way, mechanized equipment may

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204 not be used without first providing notification; or

205 (c) Locating, repairing, connecting, adjusting, or routine
206 maintenance of a private or public underground utility facility
207 by an excavator, if the excavator is performing such work for
208 the current owner or future owner of the underground facility
209 and if mechanized equipment is not used.

210 (5) (a) Any excavation with hand tools by a member operator
211 or an agent of a member operator for:

212 1. Locating, repairing, connecting, or protecting, or
213 routine maintenance of, the member operator's underground
214 facilities; or

215 2. The extension of a member operator's underground
216 facilities onto the property of a person to be served by such
217 facilities.

218 (b) The exemption provided in this subsection is limited to
219 excavations to a depth of 30 inches if the right-of-way has
220 permanently marked facilities of a company other than the member
221 operator or its agents performing the excavation.

222 Section 5. For the purpose of incorporating the amendment
223 made by this act to section 556.105, Florida Statutes, in
224 references thereto, subsections (1) through (4) of section
225 556.114, Florida Statutes, are reenacted to read:

226 556.114 Low-impact marking practices.—

227 (1) An excavator providing notice under s. 556.105(1) (a)
228 shall identify in its notice only the area that will be
229 excavated during the period that the information in such notice
230 is considered valid under s. 556.105(1) (c).

231 (2) When an excavator has not completed an excavation
232 noticed under s. 556.105(1) (a) within the period that the

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233 information in the notice is considered valid under s.
234 556.105(1)(c), the excavator must provide a subsequent notice to
235 the system under s. 556.105(1)(a) to continue with the
236 excavation, and such subsequent notice shall identify only the
237 remaining area to be excavated.

238 (3) When an excavation site cannot be described in
239 information provided under s. 556.105(1)(a) with sufficient
240 particularity to enable the member operator to ascertain the
241 excavation site, and if the excavator and member operator have
242 not mutually agreed otherwise, the excavator shall premark the
243 proposed area of the excavation before a member operator is
244 required to identify the horizontal route of its underground
245 facilities in the proximity of any excavation. However,
246 premarking is not required when the premarking could reasonably
247 interfere with traffic or pedestrian control.

248 (4) A member operator shall identify the horizontal route
249 of its underground facilities as set forth in s. 556.105(5)(a)
250 and (b), and excavators shall premark an excavation site as set
251 forth in subsection (3) using flags or stakes or temporary,
252 nonpermanent paint or other industry-accepted low-impact marking
253 practices.

254 Section 6. For the purpose of incorporating the amendments
255 made by this act to sections 556.105 and 556.107, Florida
256 Statutes, in references thereto, subsection (1) and paragraphs
257 (a) through (d) of subsection (2) of section 556.116, Florida
258 Statutes, are reenacted to read:

259 556.116 High-priority subsurface installations; special
260 procedures.—

261 (1) When an excavator proposes to excavate or demolish

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262 within 15 feet of the horizontal route of an underground
263 facility that has been identified as a high-priority subsurface
264 installation by the operator of the facility, the operator
265 shall, in addition to identifying the horizontal route of its
266 facility as set forth in s. 556.105(5) (a) and (b), and within
267 the time period set forth in s. 556.105(9) (a) for a positive
268 response, notify the excavator that the facility is a high-
269 priority subsurface installation. If the member operator
270 provides such timely notice of the existence of a high-priority
271 subsurface installation, an excavator shall notify the operator
272 of the planned excavation start date and time before beginning
273 excavation. If the member operator does not provide timely
274 notice, the excavator may proceed, after waiting the prescribed
275 time period set forth in s. 556.105(9) (a), to excavate without
276 notifying the member operator of the excavation start date and
277 time. The exemptions stated in s. 556.108 apply to the
278 notification requirements in this subsection.

279 (2) (a) An alleged commission of an infraction listed in s.
280 556.107(1) which results in an incident must be reported to the
281 system and the State Fire Marshal by a member operator or an
282 excavator within 24 hours after learning of the alleged
283 occurrence of an incident.

284 (b) Upon receipt of an allegation that an incident has
285 occurred, the member operator or excavator shall transmit an
286 incident report to the State Fire Marshal, who shall conduct an
287 investigation to determine whether an incident has occurred,
288 and, if so, whether a violation of s. 556.107(1) (a) was a
289 proximate cause of the incident. The State Fire Marshal may
290 authorize his or her agents, as provided in ss. 633.114,

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291 633.116, and 633.118, to conduct investigations of incidents.

292 (c) The State Fire Marshal or his or her agents as provided
293 in ss. 633.114, 633.116, and 633.118 may issue a citation and
294 impose a civil penalty against a violator in an amount not to
295 exceed \$50,000 if the person violated a provision of s.

296 556.107(1)(a) and that violation was a proximate cause of the
297 incident. However, if a state agency or political subdivision
298 caused the incident, the state agency or political subdivision
299 may not be fined in an amount in excess of \$10,000.

300 (d) The civil penalty imposed under this subsection is in
301 addition to any amount payable as a result of a citation
302 relating to the incident under s. 556.107(1)(a).

303 Section 7. This act shall take effect October 1, 2024.