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**A BILL**

TO AMEND CHAPTER 35, TITLE 58 OF THE 1976 CODE,  
RELATING TO UNDERGROUND UTILITIES, TO INCLUDE  
THE WORD ‘SAFETY’ IN THE ACT NAME;  
TO DEFINE TERMS USED IN THE ACT;  
TO PROVIDE SAFETY REGULATIONS FOR THE USE AND  
MAINTENANCE OF UNDERGROUND FACILITIES;  
TO PROVIDE FOR FACILITY NOTIFICATION  
REQUIREMENTS PRIOR TO EXCAVATION;  
TO REQUIRE FACILITY OPERATORS TO FORM AND  
OPERATE A NOTIFICATION CENTER;  
TO PROVIDE FOR REQUIRED ACTIONS ON THE PART OF  
THE NOTIFICATION CENTER AFTER THE CENTER HAS  
RECEIVED NOTIFICATION;  
TO PROVIDE THAT OPERATORS MUST FOLLOW CERTAIN  
SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION  
POLICIES;  
TO PROVIDE PROCEDURES FOR NEW UTILITY  
INSTALLATIONS;  
TO PROVIDE RESTRICTIONS ON CERTAIN TYPES OF  
EXCAVATION EQUIPMENT;  
TO PROVIDE FOR ACTIONS THAT MUST BE TAKEN BY  
AN OPERATOR IN THE EVENT OF DAMAGE TO A  
FACILITY;

1  
2 TO PROVIDE PROCEDURES FOR DESIGN LOCATE  
3 REQUESTS;  
4  
5 TO CREATE THE SOUTH CAROLINA UNDERGROUND  
6 UTILITY SAFETY AND DAMAGE PREVENTION BOARD  
7 AND TO PROVIDE FOR THE DUTIES AND POWERS OF  
8 THE BOARD;  
9  
10 TO PROVIDE COMPLAINT PROCEDURES;  
11  
12 TO PROVIDE FOR THE RECOVERY OF DAMAGES DUE TO  
13 VIOLATIONS OF THE ACT;  
14  
15 AND TO PROVIDE EXCEPTIONS.

16  
17 Be it enacted by the General Assembly of the State of South  
18 Carolina:

19  
20 SECTION 1. Chapter 35, Title 28 of the 1976 Code is amended  
21 to read:

22  
23 “Chapter 35

24  
25 Underground Utility Safety and Damage Prevention Act

26  
27 Section 58-35-10. This Chapter may be cited as the  
28 ‘Underground Utility Safety and Damage Prevention Act.’

29  
30 Section 58-35-20. As used in this chapter:

31 (1) ~~‘Association’ means a group of public utilities or their~~  
32 ~~representatives or an organization contracting with a group of~~  
33 ~~public utilities formed for the purpose of receiving and giving~~  
34 ~~notice of excavation, demolition or similar activities in the State.~~  
35 ‘Abandoned facilities’ means an underground or submerged line or  
36 facility no longer in use. When information on abandon facilities  
37 is available, they shall be located and treated as live facilities  
38 unless the owner/operator agrees to their destruction.

39 (2) ‘Common Ground Alliance’ means a not-for-profit  
40 corporation created pursuant to issuance of the United States  
41 Department of Transportation’s Common Ground Study of One  
42 Call System Best Practices.

1 (23) 'Damage' includes, but is not limited to, the substantial  
2 weakening of structural or lateral support of an underground ~~utility~~  
3 facility, penetration or destruction of protective coating, housing,  
4 or other protective device of a ~~utility~~ facility and the partial or  
5 complete severance of a ~~utility~~ facility.

6 (34) 'Demolish' or 'demolition' means any operation by  
7 which a structure or mass of material is wrecked, razed, rendered,  
8 moved or removed by means of any tools, equipment, or discharge  
9 of explosives.

10 (5) 'Design locate request' means a communication to the  
11 notification center in which a request for locating existing facilities  
12 for bidding, predesign, or advance planning purposes is made. A  
13 design locate request may not be used for excavation purposes.

14 (6) 'Emergency' means a sudden or unforeseen occurrence  
15 involving a clear and imminent danger to life, health, or property;  
16 the interruption of essential utility services; or the blockage of  
17 transportation facilities that require immediate action.

18 (47) 'Excavate' or 'excavation' means an operation for the  
19 purpose of the movement or removal of earth, rock, or other  
20 materials in or on the ground by use of mechanized equipment or  
21 by discharge of explosives and including augering, backfilling,  
22 digging, ditching, drilling, well drilling, grading, plowing-in,  
23 pulling-in, ripping, scraping, trenching and tunneling, but not  
24 including the tilling of soil for agricultural purposes, gardening or  
25 landscaping which involves the movement of less than one cubic  
26 yard of soil or other materials.

27 (8) 'Facility' means any underground line, system or facility  
28 used for producing, storing, conveying, transmitting, or  
29 distributing communication, electricity, gas, petroleum, petroleum  
30 products, hazardous liquids, water, steam or sewerage, including  
31 storm drainage.

32 (9) 'Facility owner/operator' means any person, utility,  
33 municipality, authority, political subdivision or other person or  
34 entity who owns, operates or controls the operation of an  
35 underground line/facility.

36 (10) 'Location of underground facilities' means the space in  
37 which a facility is located and in which due care is to be taken.  
38 The location of underground facilities shall extend eighteen inches  
39 each side of the indicated location of the facility or eighteen inches  
40 each side of the indicated outside edge of the facility.

41 (511) 'Mechanized equipment' means equipment operated  
42 by means of mechanical power including trenchers, bulldozers,  
43 power shovels, augers, backhoes, scrapers, drills, cable and pipe

1 plows and other equipment used for plowing-in or pulling-in cable  
2 or pipe.

3 (12) 'Member' means a facility owner/operator that is a  
4 member of the non-profit notification center as set forth in  
5 58-35-70.

6 (13) 'Notification center' means non-profit notification  
7 center, sponsored by facility owner/operators or units of local  
8 government, that will provide for the receipt of notification of  
9 excavation operations within the State and will maintain a  
10 database, provided by its members that includes the geographic  
11 areas in which its members will receive transmissions of notices of  
12 proposed excavation to its members.

13 ~~(614)~~ 'Person' means any individual, owner, corporation,  
14 partnership, association, or any other entity organized under the  
15 laws of any state; any subdivision or instrumentality of a state;  
16 and any authorized representative thereof.

17 ~~(7) 'Utility' means any underground line, system or facility~~  
18 ~~used for producing, storing, conveying, transmitting, or~~  
19 ~~distributing communication, electricity, gas, petroleum, petroleum~~  
20 ~~products, hazardous liquids, water, steam or sewerage, including~~  
21 ~~storm drainage.~~

22 ~~(815)~~ 'Operator' means any person who owns or operates a  
23 ~~utility facility.~~

24 ~~(916)~~ 'Public utility' means any organization, corporation,  
25 municipality, municipal department, authority or other association  
26 providing service to the general public or segments thereof with  
27 any type of ~~utility facility.~~

28 ~~(4017)~~ 'Working day' means every day, except Saturday,  
29 Sunday and legal holidays.

30  
31 Section 58-35-30. A permit issued pursuant to law authorizing  
32 excavation or demolition operations shall not be deemed to relieve  
33 a person from the responsibility for complying with the provisions  
34 of this chapter.

35  
36 Section 58-35-40. Except as provided in Sections 58-35-50 and  
37 58-35-90, no person may excavate in a street, highway, public  
38 space, a private easement of an operator, or near the location of an  
39 underground ~~utility facility~~ installed on the premises of a customer  
40 served by such a ~~utility facility~~, or demolish a building without  
41 having first ascertained from the public utilities the location of all  
42 their underground ~~utilities facilities~~ in the area that would be  
43 affected by the proposed excavation or demolition.

1 Prior to any excavation or demolition, the person financially  
2 responsible or the architect, engineer or designer responsible for  
3 such activities should consult with all the public utilities operating  
4 in the area and cause a detailed plan to be drawn and furnished to  
5 the entity physically doing the excavation or demolition that will  
6 show the location of all ~~utilities~~ facilities in accordance with the  
7 provisions of Section 58-35-80.  
8

9 Section 58-35-50. Excavation is exempt from the provisions of  
10 this chapter under the following conditions:

11 (a) When conducted after individual contacts with public  
12 utilities or after joint preconstruction conferences with public  
13 utilities and the person proposing the excavation or demolition has  
14 a statement in writing from all public utilities operating in the area  
15 that the proposed activity was reviewed and notification provided;  
16 or

17 (b) When the Department of Transportation or a public utility  
18 is carrying out excavation or demolition entirely on and within an  
19 easement or rights-of-way owned and controlled or controlled by  
20 that public utility or department and where no other public utility's  
21 facilities have been permitted, are existing, or are likely to exist; or

22 (c) When a landowner installs or has installed facilities for his  
23 own purposes and under his direction on his own land provided:

24 (1) he or his authorized representative has general knowledge  
25 of the location of underground utilities on his lands; and

26 (2) the work location is remote from these utilities or facilities  
27 of a public utility serving the landowner or others.

28 (d) In those localities or communities and within recognized  
29 boundaries, the Department of Transportation and public utilities  
30 are exempt if they (1) are doing minor excavations such as for  
31 replacing or setting one or two poles, digging test holes, handholes,  
32 normal roadway maintenance, or similar minor excavations, and  
33 (2) there is a local agreement between public utilities and the  
34 Department of Transportation which includes notification before  
35 excavation or demolition.  
36

37 Section 58-53-60. (a) Except as provided in Sections  
38 58-35-50 and 58-35-90, before commencing any excavation or  
39 demolition operation as described in Section 58-35-40, each person  
40 responsible for such excavation or demolition shall serve advance  
41 written, electronic or telephonic notice of intent to excavate or  
42 demolish not less than ~~three~~ two, but not more than ~~ten~~ fifteen full  
43 working days

1           1. ~~On each operator which has underground utilities located in~~  
2 ~~the proposed area of excavation or demolition; or~~  
3           2. ~~If the proposed area of excavation or demolition is served~~  
4 ~~by an on the association notification center provided for in Section~~  
5 ~~58-35-70, on such association and on each operator which has~~  
6 ~~underground utilities in the proposed area of excavation or~~  
7 ~~demolition that is not receiving the services of the association;~~  
8 where demolition of a building is proposed, operators shall be  
9 given reasonable time to remove or protect their underground  
10 utilities before demolition of the building is commenced.

11           (b) The written, electronic, or telephonic notice required by  
12 Section 58-35-60(a) must contain the name, address, and telephone  
13 number of the person filing the notice of intent, and, if different,  
14 the person responsible for the excavation or demolition, the  
15 starting date, anticipated duration, and type of excavation or  
16 demolition operation to be conducted, the location of the proposed  
17 excavation or demolition, and whether or not explosives are to be  
18 used.

19           (c) ~~If the notification required by this section is made by~~  
20 ~~telephone, an An adequate record of such notification shall be~~  
21 ~~maintained by the operators and ~~associations~~ notification center~~  
22 ~~notified to document compliance with the requirements of this~~  
23 ~~chapter. This record shall be made available to the person filing~~  
24 ~~the notice of intent upon request.~~

25  
26           Section 58-35-70. (a) Operators must form and operate ~~an~~  
27 ~~association a notification center providing for mutual receipt of~~  
28 Section 58-35-60 notification of excavation or demolition  
29 operations in a defined geographical area. County governments  
30 shall provide to the notification center any geographical  
31 information requested for an excavation or demolition operations  
32 area.~~An association The notification center that provides this~~  
33 ~~service on behalf of operators having utilities within South~~  
34 ~~Carolina~~ must file with the South Carolina Public Service  
35 Commission the telephone number and address of the ~~association~~  
36 notification center, a description of the geographical area served by  
37 the ~~association~~ notification center, and a list of the names and  
38 addresses of each operator receiving this service from the  
39 ~~association~~ notification center. The South Carolina Underground  
40 Utility Safety and Damage Prevention Board created by Section  
41 58-35-140 of this bill shall oversee operation of the notification  
42 center.

1 (b) ~~The association~~ notification center must file with the Public  
2 Service Commission, not later than April fifteenth of each year, a  
3 report covering the activities and operations of the association for  
4 the preceding calendar year including, but not limited to,  
5 information reflecting average speed of answer, abandoned call  
6 rate, transmit times, total number of locate requests, total number  
7 of transmissions, and a disaster recovery plan.

8 (c) ~~No operator is required to join an association~~ Every facility  
9 owner or operator shall be a member of the notification center, or  
10 be fined an amount equal to the penalty provided in section 58-35-  
11 150.

12  
13 Section 58-35-80. ~~Each~~ Unless another period is provided by  
14 agreement between the person responsible for the excavation or  
15 demolition and the operator or designated representatives, each  
16 operator or designated representative, including an association the  
17 notification center established in accordance with Section  
18 58-35-70, notified in accordance with Section 58-35-60, shall,  
19 within two working days from the time of the notification to the  
20 notification center not less than one working day in advance of the  
21 proposed excavation or demolition, supply, by use of maps or  
22 other appropriate means, the following information to the person  
23 responsible for the excavation or demolition in accordance with  
24 Common Ground Alliance Guidelines for Operator's Facility Field  
25 Delineation:

26 (1) ~~The approximate~~ location and description of all of its  
27 underground utilities facilities which may be damaged as a result  
28 of in the proposed area of excavation or demolition;

29 (2) The location and description of all utility facility markers  
30 indicating the approximate location of the underground utilities  
31 facilities;

32 (3) Any other information that would assist that person in  
33 locating and thereby avoiding damage to the underground utilities  
34 including providing adequate temporary markings, when  
35 necessary, indicating the approximate location of the underground  
36 utility in locations where permanent utility markers do not exist.

37 For the purposes of this section the approximate location of  
38 underground utilities is defined as a 'strip of land at least five three  
39 feet wide, but not wider than the width of the utility plus two and  
40 one half feet eighteen inches on either side of the utility;

41 (4) Each facility owner or operator, either upon determining  
42 that no utility facility is present on the tract or parcel of land or  
43 upon completion of the designation of the location of any facilities

1 on the tract or parcel of land as required by Section 58-35-80(1),  
2 (2), (3), shall provide this information to the notification center and  
3 the information shall be made readily available to the excavator.

4 (5) The owner of an underground facility shall notify the  
5 excavator whether the facility is active or abandoned. For an  
6 underground facility abandoned after December 31, 2010 or  
7 covered by installation records prepared under Section  
8 58-35-100(A), the owner of the facility may not advise or represent  
9 to the excavator that a facility or portion of a facility is abandoned  
10 unless the owner has verified, by reference to installation records  
11 or by testing, that the facility or portion is actually abandoned and  
12 not merely inactive. An inactive facility shall be considered active  
13 for purposes of this article. For all purposes under this article, a  
14 facility owner, excavator or other person subject to this article may  
15 not represent that an underground facility is abandoned, or treat an  
16 underground facility as abandoned, unless the facility has been  
17 verified as abandoned pursuant to this subsection.

18 (6) Locators shall be trained in applicable locating industry  
19 standards and practices no less stringent than the National Utility  
20 Locating Contractors Association's locator training standards and  
21 practices. Facility owners or operators shall maintain  
22 documentation for all locators they employ and/or contract to  
23 respond to notices of intent to excavate as set forth in Section  
24 58-35-80(1), (2) and (3). Should there be no response by the  
25 operators of all the public utilities at the site within ~~three~~ two  
26 working days of telephonic notification, the person responsible for  
27 the excavation or demolition is free to proceed as though the  
28 location of all utilities had been determined as described earlier in  
29 this section.

30 (7) If a facility locator becomes aware of an error or omission  
31 in facility placement documentation when responding to a notice  
32 of intent to excavate, the facility locator shall notify the facility  
33 owner or operator and the facility owner or operator shall update  
34 their records to correct the error or omission. The notification  
35 shall include the following information:

- 36 (a) name (and company if contracted);
- 37 (b) contact phone number of the individual submitting  
38 change;
- 39 (c) location;
- 40 (d) size and type of facility;
- 41 (e) nature of the error or omission; and
- 42 (f) sketch of the change in relation to the other facilities.

1     (8) A facility locator shall document work completed in  
2 response to a notice of intent to excavate. The documentation shall  
3 include, but not be limited to, all facilities marked in the area of  
4 proposed excavation.

5  
6     ~~Section 58-35-90. Compliance with the notice requirements~~  
7 ~~of Section 58-35-60 is not required of persons responsible for~~  
8 ~~emergency excavation or demolition to ameliorate an imminent~~  
9 ~~danger to life, health, or property or to restore existing service.~~  
10 ~~Such persons shall give, as soon as practicable, oral notice of the~~  
11 ~~emergency excavation or demolition to each operator having~~  
12 ~~underground utilities located in the area or to an association~~  
13 ~~provided for in Section 58-35-70, that serves an operator where~~  
14 ~~such excavation or demolition is to be performed and requests~~  
15 ~~emergency assistance from each operator so identified in locating~~  
16 ~~and providing immediate protection to its utilities. An imminent~~  
17 ~~danger to life, health, or property exists whenever there is a~~  
18 ~~substantial likelihood that loss of life, health, or property will~~  
19 ~~result before the procedures under Sections 58-35-60 and 58-35-80~~  
20 ~~can be fully complied with. Facility owners or operators that~~  
21 ~~operate or construct facilities within an easement or right-of-way~~  
22 ~~owned or controlled by the Department of Transportation shall~~  
23 ~~comply with the Department of Transportation's 'Policy for~~  
24 ~~Accommodating Utilities on Highway Rights-of-Way.' Facility~~  
25 ~~owners or operators shall comply with all local utility~~  
26 ~~rights-of-way accommodation placement requirements and policies~~  
27 ~~where they operate or construct facilities in an area under such~~  
28 ~~jurisdictional authority.~~

29  
30     Section 58-35-100. (a) For all new underground facilities,  
31 excluding service drops and service lines, installed after January 1,  
32 2011 in a public street, alley, or right-of-way dedicated to the  
33 public use, but not including any express or implied private  
34 property utility easement, the facility owner or operator of an  
35 underground facility shall prepare, or cause to be prepared,  
36 installation records of the underground facility, shall keep such  
37 records in its possession, and shall refer to the records in locating  
38 and marking pursuant to Section 58-35-80. Installation records  
39 shall also reflect any field notes or other indications by the installer  
40 of the facilities that the installation involved deviates or changes  
41 from installation standards, instructions, or designs, including  
42 vertical and horizontal deviations, and the correction of any  
43 inaccuracies found as a result of locating or marking the

1 underground facilities. Installation records of an underground  
2 facility shall indicate if all or a portion of the facility has been  
3 abandoned.

4 (b) Information contained in installation records relating to the  
5 nature and location of underground facilities shall be made  
6 available to persons who request the same information as specified  
7 in Section 58-35-60 and who are engaged in design of construction  
8 projects involving excavation in a public street, alley, or right-of-  
9 way dedicated to the public use, excluding any express or implied  
10 private property utility easement. The owner of the underground  
11 facility may indicate any portions of the information that are  
12 proprietary and require the person to protect proprietary matters.  
13 The owner of the underground facility shall respond to these  
14 requests as specified in Section 58-35-80.

15 (c) All facilities installed by facility owners or operators on or  
16 after January 1, 2011 shall be installed in a manner which will  
17 make them locatable using a generally accepted electronic locating  
18 method by facility owners or operators.

19 (d) Compliance with the notice requirements of Section  
20 58-35-60 is not required of persons responsible for emergency  
21 excavation or demolition to ameliorate an imminent danger to life,  
22 health, or property or to restore existing service. These persons  
23 shall give, as soon as practicable, oral notice of the emergency  
24 excavation or demolition to each operator having underground  
25 utilities located in the area or to an association provided for in  
26 Section 58-35-70, that serves an operator where the excavation or  
27 demolition is to be performed and requests emergency assistance  
28 from each operator so identified in locating and providing  
29 immediate protection to its utilities. An imminent danger to life,  
30 health, or property exists whenever there is a substantial likelihood  
31 that loss of life, health, or property will result before the  
32 procedures under Sections 58-35-60 and 58-35-80 can be fully  
33 complied with.

34  
35 Section 58-35-~~100~~110. In addition to the notification  
36 requirements of Section 58-35-60, each person responsible for any  
37 excavation or demolition operation designated in Sections  
38 58-35-40 shall:

39 (1) Plan the excavation or demolition to avoid damage to or  
40 minimize interference with underground utilities in and near the  
41 construction area;

42 (2) Not use powered or mechanized equipment, except  
43 non-invasive equipment specifically designed or intended to

1 protect the integrity of the underground facility, within the marked  
2 tolerance zone of existing underground facilities until the precise  
3 location of the underground facilities has been visually identified  
4 by the excavator and reasonable precautions are taken to avoid any  
5 substantial weakening of the facilities structural/lateral support  
6 and/or penetration or destruction of the facilities or their protective  
7 coatings. Mechanical means may be used, as necessary, for initial  
8 penetration and removal of pavement or other materials requiring  
9 use of mechanical means of excavation and then only to the depth  
10 of the pavement or other materials.

11 For parallel type excavations within the tolerance zone, the  
12 existing facility shall be visually identified at intervals not to  
13 exceed fifty feet along the line of excavation to avoid damages.  
14 The excavator shall exercise due care at all times to protect  
15 underground utility lines when exposing these facilities.;

16 (23) Maintain a clearance between an underground utility  
17 facility and the cutting edge or point of any mechanized  
18 equipment, taking into account the known limit of control of such  
19 cutting edge or point, as may be reasonably necessary to avoid  
20 damage to such utility facility; and

21 (34) Provide such support for underground utilities facilities in  
22 and near the construction area, including backfill operations, as  
23 may be reasonably required by the operator for the protection of  
24 such utilities.

25  
26 Section 58-35-110~~120~~. (a) Except as provided by Section  
27 58-35-110(b), each person responsible for any excavation or  
28 demolition operation designated in Section 58-35-40 that results in  
29 any damage to an underground utility facility shall, immediately  
30 upon discovery of such damage, notify the operator of such utility  
31 facility of the location and nature of the damage and shall allow  
32 the operator reasonable time to accomplish necessary repairs  
33 before completing the excavation or demolition in the immediate  
34 area of such utility facility.

35 (b) Each person responsible for any excavation or demolition  
36 operation designated in Section 58-35-40 that results in damage to  
37 an underground utility facility where such damage may endanger  
38 life, health or property, the person responsible for the work shall,  
39 immediately upon discovery of such damage, take immediate  
40 action to protect the public and property, notify the operator, police  
41 or fire departments and take such other actions as may be  
42 appropriate to minimize the hazards until the arrival of the  
43 operator's personnel, police or fire departments. The excavator

1 ~~shall delay any backfilling in the immediate area of the damaged~~  
2 ~~utility until authorized by the operator. Repair of any damage shall~~  
3 ~~be performed by the operator or by qualified personnel authorized~~  
4 ~~by the operator damage results in the escape of any flammable,~~  
5 ~~toxic, or corrosive gas or liquid or endangers life, health, or~~  
6 ~~property, the excavator responsible shall immediately notify~~  
7 ~~emergency services and the facility owner or operator if known.~~  
8 ~~The excavator must take reasonable measures to protect~~  
9 ~~themselves , those in immediate danger, the general public,~~  
10 ~~property, and the environment until the facility owner or operator~~  
11 ~~or emergency responders have arrived and completed their~~  
12 ~~assessment.~~

13  
14 Section 58-35-130. (a) Any person may submit a design  
15 locate request to the notification center. The design locate request  
16 shall:

17 (1) describe the tract or parcel of land for which the design  
18 locate request has been submitted with sufficient particularity, as  
19 defined by policies developed and promulgated by the notification  
20 center, to enable the facility owner/operator to ascertain the precise  
21 tract or parcel of land involved; and

22 (2) state the name, address, and telephone number of the  
23 person who has submitted the design locate request, as well as the  
24 name, address, and telephone number of any other person  
25 authorized to review any records subject to inspection.

26 (b) Within ten working days after a design locate request has  
27 been submitted to the notification center for a proposed project, the  
28 facility owner or operator shall respond by one of the following  
29 methods:

30 (1) designate in accordance with Section 58-35-80 the  
31 location of all facilities within the area of the proposed excavation;

32 (2) provide to the person submitting the design locate  
33 request the best available description of all facilities in the area of  
34 proposed excavation, which might include drawings of facilities  
35 already built in the area, or other facility records that are  
36 maintained by the facility owner/operator; or

37 (3) at an acceptable location, allow the person submitting the  
38 design locate request or any other authorized person to inspect or  
39 copy the drawings or other records for all facilities within the  
40 proposed area of excavation.

41 (c) A facility owner or operator may reject a design or survey  
42 locate request based on homeland security pending additional  
43 information confirming the legitimacy of the request. The owner

1 or operator must notify the person making the request of the denial  
2 and request additional information within the time frame set forth  
3 in Section 58-35-80.

4  
5 Section 58-35-140. (a) There is hereby created and  
6 established the South Carolina Underground Utility Safety and  
7 Damage Prevention Board for the purposes of assisting in the  
8 enforcement of this chapter, reviewing reported violations of this  
9 chapter, and educating facility owners and operators about the  
10 provisions of this chapter.

11 (b) The Public Service Commission shall appoint nine  
12 members as follows:

13 (1)one South Carolina Department of Transportation  
14 Representative;

15 (2)one South Carolina Department of Labor representative;  
16 one Facility Contract Locator Representative;

17 (3)one Notification Center Representative; one Electric Utility  
18 Company Representative;

19 (4)one Telecommunications Company Representative;

20 (5)one Natural Gas Utility Representative;

21 (6)one Hazardous Liquid Pipeline Company Representative;

22 (7)one Municipal Representative;

23 (8)one Licensed Highway Contractor Representative Who  
24 Does Not Own or Operate Facilities;

25 (9) one Licensed Public Utility Contractor Representative  
26 who does not own or operate facilities;

27 (10)one Licensed Building Contractor Representative who  
28 does not own or operate facilities; and

29 (11) one Other Excavator Representative who does not own  
30 or operate facilities.

31 (c) The board shall meet quarterly and shall publish records of  
32 business conducted, measures taken, and progress made in  
33 reducing underground damage.

34 (d) The members of the board shall be immune, individually  
35 and jointly, from civil liability for any act or omission done or  
36 made in the performance of their duties while serving as members  
37 of the board.

38 (e) Failure to comply with this chapter may be reported to the  
39 board.

40 (f) A person reporting an alleged violation may file a  
41 complaint to the board within ninety calendar days from the date of  
42 an alleged violation, or discovery an alleged violation. The  
43 complaint must be in writing, on a form provided by the board, and

1 must include details of the alleged violation and a filing fee set  
2 forth by the Public Service Commission. The cost to file will be  
3 retained for expenses of the board.

4 (g) The board shall send a copy of the complaint by registered  
5 mail to the alleged violator within ten calendar days of receipt of  
6 the complaint . The alleged violator has thirty calendar days to  
7 respond to the complaint.

8 (h) The board shall schedule a meeting to determine if a  
9 violation has occurred, and render a decision of the alleged  
10 violation. Either party to the complaint may request a hearing  
11 before the board.

12 (i) The non-prevailing party will be required to reimburse or  
13 relinquish the cost to file and pay the appropriate fine or penalty  
14 provided by this chapter. Penalties collected shall be remitted as  
15 directed by the Public Service Commission.

16  
17 Section 58-35-120150. Any person who violates any provision  
18 of this chapter shall be subject to a civil penalty not to exceed one  
19 thousand dollars for each such violation. Actions to recover the  
20 penalty provided for in this section shall be brought by the ~~attorney~~  
21 general South Carolina Underground Utility Safety and Damage  
22 Prevention Board at the request of the injured party ~~in the proper~~  
23 ~~forum in and for the county in which the cause, or some part~~  
24 ~~thereof, arose or in which the defendant has its principal place of~~  
25 ~~business or resides.~~ All penalties recovered in any such actions  
26 shall be paid into the general fund of the State. This chapter does  
27 not affect any civil remedies for personal injury or property  
28 damage except as otherwise specifically provided for in this  
29 chapter. The penalty provisions of this chapter are cumulative to  
30 and not in conflict with any provisions of law with respect to civil  
31 remedies for personal injury or property damage.

32  
33 Section 58-35-160. (a) If a violation of this article results in  
34 physical contact with an underground facility, the violator is liable  
35 to the owner of the facility for actual damages to the facilities.

36 (b) If the owner or operator fails to locate or incorrectly locates  
37 the underground facility, pursuant to this article, the owner or  
38 operator becomes liable for resulting damages, costs, and expenses  
39 to the injured party.

40 (c) If, after receiving proper notification, the notification center  
41 fails to discharge its duties, resulting in damage to an underground  
42 facility, the notification center, if found liable, shall be liable to all

1 parties, as defined in this act.  
2 (d) This section is not applicable to an excavation made:  
3 (1) during an emergency which involves danger to life,  
4 health, or property if reasonable precautions are taken to protect  
5 underground facilities;  
6 (2) with hand tools on property owned or occupied by the  
7 person performing the excavation while gardening or tilling such  
8 property.”  
9  
10 SECTION 2. This act takes effect upon approval by the Governor.  
11 ----XX----