

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 348

*An Act to amend and reenact § 56-265.32 of the Code of Virginia, relating to the Underground Utility Damage Prevention Act.*

[H 1326]

Approved April 1, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-265.32 of the Code of Virginia is amended and reenacted as follows:**

§ 56-265.32. Commission to impose civil penalties for certain violations; establishment of Underground Utility Damage Prevention Special Fund.

A. The Commission may, by judgment entered after a hearing on notice duly served on any person not less than thirty days before the date of the hearing, impose a civil penalty not exceeding \$2,500 for each violation, if it is proved that the person violated any of the provisions of this chapter; ~~except~~ ~~§ 56-265.16:1~~, as a result of a failure to exercise reasonable care. Any proceeding or civil penalty undertaken pursuant to this section shall not prevent nor preempt the right of any party to obtain civil damages for personal injury or property damage in private causes of action. This subsection shall not authorize the Commission to impose civil penalties on any county, city or town. However, the Commission shall inform the counties, cities and towns of reports of alleged violations involving the locality and, at the request of the locality, suggest corrective action.

B. The Underground Utility Damage Prevention Special Fund (hereinafter referred to as "Special Fund") is hereby established as a revolving fund to be used by the Commission for administering the regulatory program authorized by this chapter. The Special Fund shall be composed entirely of funds generated by the enforcement of this chapter. Excess funds shall be used to support any one or more of the following: (i) public awareness programs established by a notification center pursuant to subsection B of § 56-265.16:1; (ii) training and education programs for excavators, operators, line locators, and other persons; and (iii) programs providing incentives for excavators, operators, line locators, and other persons to reduce the number and severity of violations of the Act. The Commission shall determine the appropriate allocation of any excess funds among such programs, and shall establish required elements for any program established under clause (ii) or (iii).

C. All civil penalties collected pursuant to this section shall be deposited into the Underground Utility Damage Prevention Special Fund. Interest earned on the fund shall be credited to the Special Fund. The Special Fund shall be established on the books of the Commission comptroller and any funds remaining in the Underground Utility Damage Prevention Special Fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the Special Fund.

**2. That an emergency exists and this act is in force from its passage.**