

CHAPTER 465

PUBLIC UTILITIES

SENATE BILL 21-108

BY SENATOR(S) Story, Moreno, Pettersen, Winter;
also REPRESENTATIVE(S) Bernett and Cutter, Amabile, Bird, Boesenecker, Caraveo, Froelich, Gonzales-Gutierrez, Kipp,
Lontine, Sirota.

AN ACT

CONCERNING GAS PIPELINE SAFETY, AND, IN CONNECTION THEREWITH, INCREASING AND CLARIFYING THE RULE-MAKING AND ENFORCEMENT AUTHORITY OF THE PUBLIC UTILITIES COMMISSION, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and determines that:

(a) Due to recent innovations in extraction technology leading to ample supplies and reduced prices for natural gas, the number of households and businesses in Colorado that receive natural gas service is at an all-time high;

(b) At the same time, the pace of expansion of natural gas infrastructure has stressed the capacity of skilled installation and maintenance personnel and in many cases outstripped the ability of the public utilities commission's gas pipeline safety section to keep up with vital safety inspections and enforcement of applicable rules and standards, with regard not only to new installations but also to older pipelines that continue to age but are working harder than ever;

(c) An issue of special concern in Colorado is the juxtaposition of new gas wells and gathering lines with tracts of new homes, often in close proximity. This raises the stakes of potential mishaps and adds urgency to the need for sound and comprehensive application of common-sense safety measures in the gas industry; and

(d) Leaks in natural gas gathering and distribution pipelines pose safety risks and environmental harm due to methane emissions that contribute to near-term climate

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change and other hydrocarbon emissions that pose a threat to public health and safety.

(2) Therefore, the general assembly declares that the purpose of this act is to appropriately strengthen and streamline Colorado's laws governing gas pipeline safety to meet these emerging challenges.

SECTION 2. In Colorado Revised Statutes, **amend** 40-2-115 as follows:

40-2-115. Cooperation with other states and with the United States - rules - definitions. (1) (a) The commission ~~is authorized to~~ MAY confer with or hold joint hearings with the authorities of any state or any agency of the United States in connection with any matter arising in proceedings under this ~~title~~ TITLE 40, under the laws of any state, or under the laws of the United States; ~~to~~ avail itself of the cooperation, services, records, and facilities of authorities of this state, any other state, or any agency of the United States as may be practicable in the enforcement or administration of the provisions of this ~~title~~ TITLE 40; and ~~to~~ enter into cooperative agreements with the various states and with any agency of the United States to enforce the economic and safety laws and rules of this state and of the United States.

(b) The commission ~~is authorized to~~ MAY provide for the exchange of information concerning the enforcement of the economic and safety laws and rules of this state, any other state, and the United States relating to public utilities or to safety of transportation of gas by any person, including a municipality. ~~and~~; In particular, THE COMMISSION MAY SUBMIT A CERTIFICATION TO, OR ENTER INTO AN AGREEMENT WITH, THE UNITED STATES SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. SEC. 60105 OR 60106, RESPECTIVELY, SO THAT the commission may enforce the rules of the United States department of transportation concerning pipeline safety ~~drug testing~~ promulgated under the federal "Natural Gas Pipeline Safety Act", 49 U.S.C. sec. 60101 et seq. ~~and may~~ THE COMMISSION SHALL adopt such rules as are necessary and proper to comply with federal requirements. ~~under said act.~~

~~(1.5)~~ (c) The ~~commission is authorized to adopt such rules as may be necessary to enforce and administer, in cooperation with the United States department of transportation, the provisions of the "Natural Gas Pipeline Safety Act", 49 U.S.C. sec. 60101 et seq., for the purpose of gas pipeline safety. Such~~ COMMISSION'S rules ~~shall~~ ADOPTED PURSUANT TO THIS SECTION MUST apply to ALL PERSONS AND ENTITIES CONSTITUTING THE INTRASTATE PIPELINE SYSTEM TO THE MAXIMUM EXTENT PERMISSIBLE UNDER FEDERAL LAW AND THE COLORADO CONSTITUTION, INCLUDING all:

(I) Public utilities and ~~all~~ municipal or quasi-municipal corporations transporting ~~natural~~ gas or providing ~~natural~~ gas service; ~~all~~

(II) Operators of NATURAL GAS master ~~meter~~ METERED systems; ~~as defined in 49 CFR 191.3, and all~~

(III) OPERATORS OF LIQUID PETROLEUM GAS DISTRIBUTION SYSTEMS;

(IV) Operators of pipelines transporting gas in intrastate commerce; AND

(V) OPERATORS OF INTRASTATE LIQUEFIED NATURAL GAS FACILITIES.

(d) (I) THE COMMISSION SHALL ADOPT PIPELINE SAFETY RULES THAT INCORPORATE THE MOST CURRENT FEDERAL REQUIREMENTS UNDER 49 CFR 191, 192, 193, AND 199, AS APPLICABLE, TO MAINTAIN MINIMUM STANDARDS FOR GAS PIPELINE SAFETY.

(II) THE COMMISSION'S GAS PIPELINE SAFETY RULES MUST ADDRESS, AND MAY BE MORE STRINGENT THAN REQUIRED BY FEDERAL STANDARDS WITH REGARD TO:

(A) QUALIFICATIONS AND VERIFIABLE CREDENTIALS FOR PERSONNEL ENGAGED IN PIPELINE CONSTRUCTION, INSPECTION, AND REPAIR ACTIVITIES;

(B) REDUCTION OF THE RISKS POSED BY ABANDONED GAS PIPELINES;

(C) MAPPING OF ALL PIPELINES WITHIN THE COMMISSION'S JURISDICTION. FOR THIS PURPOSE THE COMMISSION MAY INCORPORATE INFORMATION FROM ANY EXISTING FLOWLINE MAPS OR OTHER MAPS PREPARED BY THE OIL AND GAS CONSERVATION COMMISSION AND SHOWING PIPELINES SUBJECT TO THE JURISDICTION OF THAT AGENCY. THE PUBLIC UTILITIES COMMISSION'S MAPPING REQUIREMENTS FOR PIPELINES WITHIN ITS JURISDICTION MUST INCORPORATE THE SAME STANDARDS FOR CONFIDENTIALITY, SECURITY, AND PUBLIC ACCESS AND LIMITATIONS ON THE SCALE OF PUBLICLY AVAILABLE IMAGES AS ADOPTED BY THE OIL AND GAS CONSERVATION COMMISSION IN 2 CCR 404-1, RULE 1101.e.

(D) INCREASED FREQUENCY OF INSPECTIONS OF ALL PIPELINES WITHIN THE COMMISSION'S JURISDICTION;

(E) USE OF ADVANCED LEAK DETECTION TECHNOLOGY TO MEET THE NEED FOR PIPELINE SAFETY AND PROTECTION OF THE ENVIRONMENT;

(F) EXPANSION OF ANNUAL REPORTING REQUIREMENTS FOR PIPELINE OPERATORS; AND

(G) REQUIREMENTS FOR COMMISSION INVESTIGATION OF SPECIFIC TYPES OF PIPELINE DAMAGE AND PURSUIT OF APPROPRIATE CIVIL REMEDIES FOR SUCH DAMAGE.

(e) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED ON THE COMMISSION BY THIS TITLE 40, THE COMMISSION MAY ISSUE ORDERS REQUIRING ANY PERSON TO COMPLY WITH, OR TO CEASE AND DESIST FROM ANY VIOLATION OF, THE RULES ADOPTED UNDER THIS SECTION.

(2) As used in this section:

~~(a) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or its storage as defined in 49 CFR 192.3.~~

~~(b)~~ (a) "Gas" means natural gas, flammable gas, or AND ANY gas which THAT is toxic or corrosive.

(b) "TRANSPORTATION OF GAS" OR "TRANSPORTING GAS" MEANS THE GATHERING, TRANSMISSION, OR DISTRIBUTION OF GAS BY PIPELINE, AS DEFINED IN 49 CFR 192.3, OR ITS STORAGE.

(c) ~~"Manufacturing goods" does not include farming or activities associated with the production of oil or natural gas.~~

SECTION 3. In Colorado Revised Statutes, **amend** 40-7-117 as follows:

40-7-117. Gas pipeline safety rules - civil penalty for violations - compromise - other remedies. (1) Any person violating any rule adopted or order issued by the commission pursuant to the authority granted in ~~section 40-2-115 (1.5) shall be~~ SECTION 40-2-115 (1)(c), (1)(d), OR (1)(e) IS SUBJECT TO A CIVIL PENALTY ~~not to exceed one~~ OF UP TO TWO HUNDRED THOUSAND DOLLARS PER VIOLATION; EXCEPT THAT, IN THE CASE OF A GROUP OR SERIES OF RELATED VIOLATIONS, THE AGGREGATE AMOUNT OF SUCH PENALTIES SHALL NOT EXCEED ~~one~~ TWO MILLION DOLLARS. EACH DAY OF A CONTINUING VIOLATION ~~shall constitute~~ CONSTITUTES A SEPARATE VIOLATION.

(2) Any civil penalty authorized by this section may be ~~compromised~~ REDUCED BY THE COMMISSION ~~In determining the amount of the penalty or of the amount to be agreed upon in compromise, the commission shall consider the gravity of the violation, the size of the business of the violator, and the amount of effort expended by the violator in any attempts made in good faith to remedy the violation or prevent future similar violations~~ BASED ON CONSIDERATION OF OBJECTIVE METRICS AND FACTORS SET FORTH IN RULES. THE METRICS AND FACTORS MUST INCLUDE:

(a) AN EVALUATION OF THE SEVERITY OF THE VIOLATION, IN TERMS OF ITS ACTUAL OR POTENTIAL EFFECT ON PUBLIC SAFETY OR PIPELINE SYSTEM INTEGRITY;

(b) THE EXTENT TO WHICH THE VIOLATION AND ANY UNDERLYING CONDITIONS THAT MAY HAVE CONTRIBUTED TO THE LIKELIHOOD OR SEVERITY OF THE VIOLATION HAVE BEEN REMEDIED; AND

(c) THE EXTENT TO WHICH THE VIOLATOR AGREES TO SPEND, IN LIEU OF PAYMENT OF PART OF THE CIVIL PENALTY, A SPECIFIED DOLLAR AMOUNT ON COMMISSION-APPROVED MEASURES TO REDUCE THE OVERALL RISK TO PIPELINE SYSTEM SAFETY OR INTEGRITY; EXCEPT THAT THE AMOUNT OF THE PENALTY PAYABLE TO THE COMMISSION SHALL BE NO LESS THAN FIVE THOUSAND DOLLARS.

(3) IF A VIOLATOR DOES NOT REMIT ~~the assessed penalty or any~~ THE LESSER AMOUNT AGREED UPON ~~in compromise may be recovered by~~ PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COMMISSION MAY RECOVER THE AMOUNT DUE PLUS COURT COSTS IN A CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION.

~~(3)~~ (4) The remedy provided in this section is in addition to any other remedies available to the commission under the constitution or laws of this state or of the United States.

SECTION 4. Appropriation. (1) For the 2021-22 state fiscal year, \$423,448 is appropriated to the department of regulatory agencies. This appropriation is from the general fund. To implement this act, the department may use this appropriation

as follows:

(a) \$264,878 for use by the public utilities commission for personal services, which amount is based on an assumption that the commission will require an additional 3.7 FTE;

(b) \$105,400 for use by the public utilities commission for operating expenses; and

(c) \$53,170 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, \$53,170 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.3 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 6, 2021