

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2693 Session of
2010

INTRODUCED BY BAKER, S. H. SMITH, STERN, MAJOR, BOBACK, BRIGGS,
CALTAGIRONE, CARROLL, CLYMER, D. COSTA, CREIGHTON,
DePASQUALE, FLECK, GINGRICH, GOODMAN, GROVE, HANNA, HARHART,
HELM, HENNESSEY, HESS, KILLION, MANN, MILLER, MILNE, MUNDY,
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WATSON, YOUNGBLOOD, YUDICHAK, McILVAINE SMITH, SWANGER,
DENLINGER, KNOWLES, SONNEY, GEIST, PRESTON AND HOUGHTON,
SEPTEMBER 14, 2010

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 28, 2010

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for definitions; ~~and~~ providing for regulation of
4 certain operators of pipelines; AND, IN VIOLATIONS AND
5 PENALTIES, FURTHER PROVIDING FOR CIVIL PENALTIES FOR GAS
6 PIPELINE SAFETY VIOLATIONS. ←

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Paragraph (2) of the definition of "public
10 utility" in section 102 of Title 66 of the Pennsylvania
11 Consolidated Statutes is amended by adding a subparagraph and
12 the section is amended by adding ~~definitions~~ A DEFINITION to ←
13 read:

14 § 102. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this part which are applicable to specific

provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

~~"Gas." Natural gas, flammable gas or toxic or corrosive gas.~~ ←

~~"Hazardous liquid." Petroleum, a petroleum product or anhydrous ammonia.~~

* * *

~~"Natural or artificial gas." Natural gas, liquified~~ ←
LIQUEFIED natural gas, synthetic natural gas and any natural gas substitute such as propane or landfill gas.

* * *

"Public utility."

* * *

(2) The term does not include:

* * *

~~(vii) An A PIPELINE operator, not otherwise a public~~ ←
utility, provided that the PIPELINE operator is subject ←
to the jurisdiction of the commission as provided in
Chapter 32 (relating to regulation of nonjurisdictional
entities) and in regulations promulgated by the
commission.

* * *

Section 2. Title 66 is amended by adding a chapter to read:

CHAPTER 32

REGULATION OF ~~NONJURISIDCTIONAL~~ NONJURISDICTIONAL ENTITIES ←

Sec.

3201. Definitions.

3202. Adoption of Federal pipeline safety laws.

3203. Scope of commission regulation.

1 3204. Registry of pipeline operators.

2 3205. Assessments.

3 3206. Regulations.

4 § 3201. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Federal pipeline safety laws." The provisions of 49 U.S.C.
9 Subtitle VIII (relating to pipelines) AND ALL REGULATIONS ←
10 PROMULGATED PURSUANT THERETO.

11 ~~"Operator." A person, corporation or other entity, including~~ ←
12 ~~a public utility, that owns or operates in this Commonwealth~~
13 ~~equipment or facilities for the transportation of gas or~~
14 ~~hazardous liquids by pipeline or pipeline facility. The term~~
15 ~~does not include an ultimate consumer who owns a service line on~~
16 ~~the real property of the ultimate consumer.~~

17 "GAS AND NATURAL GAS." NATURAL GAS, FLAMMABLE GAS OR TOXIC ←
18 OR CORROSIVE GAS. THE TERM SHALL HAVE THE SAME MEANING AS IN THE
19 FEDERAL PIPELINE SAFETY LAWS.

20 "HAZARDOUS LIQUID." THE TERM SHALL HAVE THE SAME MEANING AS
21 IN THE FEDERAL PIPELINE SAFETY LAWS, INCLUDING, BUT NOT LIMITED
22 TO, CARBON DIOXIDE, A HIGHLY VOLATILE LIQUID, PETROLEUM,
23 PETROLEUM PRODUCTS OR ANHYDROUS AMMONIA.

24 "PERSON." ANY INDIVIDUAL, FIRM, JOINT VENTURE, PARTNERSHIP,
25 CORPORATION, ASSOCIATION, MUNICIPALITY, COOPERATIVE ASSOCIATION
26 OR JOINT STOCK ASSOCIATION, INCLUDING ANY TRUSTEE, RECEIVER,
27 ASSIGNEE OR PERSONAL REPRESENTATIVE THEREOF.

28 "Pipeline." Any part of the physical facilities through
29 which gas or hazardous liquids move in transportation, including
30 a pipe, valve and other appurtenance attached to the pipe,

compressor unit, metering station, regulator station, delivery station, holder and fabricated assembly. THE TERM ONLY INCLUDES PIPELINES REGULATED BY FEDERAL PIPELINE SAFETY LAWS. THE TERM DOES NOT INCLUDE A PIPELINE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION.

"Pipeline facility." A new and existing pipeline, right-of-way and any equipment, facility or building used in the transportation of gas or hazardous liquids or in the treatment of gas during the course of transportation. ~~The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.~~ THE TERM ONLY INCLUDES FACILITIES REGULATED BY THE FEDERAL PIPELINE SAFETY LAWS. THE TERM DOES NOT INCLUDE A PIPELINE FACILITY SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION.

"PIPELINE OPERATOR." A PERSON THAT OWNS OR OPERATES IN THIS COMMONWEALTH EQUIPMENT OR FACILITIES FOR THE TRANSPORTATION OF GAS OR HAZARDOUS LIQUIDS BY PIPELINE OR PIPELINE FACILITY REGULATED UNDER FEDERAL PIPELINE SAFETY LAWS. THE TERM DOES NOT INCLUDE A PUBLIC UTILITY OR AN ULTIMATE CONSUMER WHO OWNS A SERVICE LINE ON THE REAL PROPERTY OF THE ULTIMATE CONSUMER.

"Transportation of gas." The gathering, transmission or distribution of gas by pipeline or the storage of gas.

"Transportation of hazardous liquids." The gathering, transmission or distribution of hazardous liquids by pipeline.

§ 3202. Adoption of Federal pipeline safety laws.

(a) General rule.--The ~~minimum~~ safety standards AND REGULATIONS for the transportation of gas and hazardous liquids in this Commonwealth shall be those issued under the Federal pipeline safety laws and as implemented in 49 CFR Subtitle B Ch.

1 1 Subch. D (relating to pipeline safety), including all
2 subsequent amendments thereto.

3 (b) Amendments to Federal law.--

4 (1) Amendments to the Federal pipeline safety laws shall
5 have the effect of amending or modifying the commission's
6 regulations with regard to the minimum safety standards for ←
7 the transportation of gas and hazardous liquids.

8 (2) The amendment or modification shall take effect 60
9 days after the effective date of the Federal amendment or
10 modification, unless the commission publishes a notice in the ←
11 Pennsylvania Bulletin stating that the amendment or
12 modification may not take effect.

13 § 3203. Scope of commission regulation.

14 For the purpose of protecting the public safety with respect ←
15 to the transportation of gas and hazardous liquids by operators,
16 the commission shall have the following powers and duties:

17 THE COMMISSION SHALL HAVE GENERAL ADMINISTRATIVE AUTHORITY TO ←
18 SUPERVISE AND REGULATE PIPELINE OPERATORS WITHIN THIS
19 COMMONWEALTH CONSISTENT WITH FEDERAL PIPELINE SAFETY LAWS. THE
20 COMMISSION MAY ADOPT REGULATIONS, CONSISTENT WITH THE FEDERAL
21 PIPELINE SAFETY LAWS, AS MAY BE NECESSARY OR PROPER IN THE
22 EXERCISE OF ITS POWERS AND PERFORM ITS DUTIES UNDER THIS
23 CHAPTER. THE REGULATIONS SHALL NOT BE INCONSISTENT WITH OR
24 GREATER OR MORE STRINGENT THAN THE MINIMUM STANDARDS AND
25 REGULATIONS ADOPTED UNDER THE FEDERAL PIPELINE SAFETY LAWS. THE
26 COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

27 (1) To investigate any service, act, practice, policy or
28 omission by an A PIPELINE operator to determine compliance ←
29 with this chapter.

30 (2) To investigate any pipeline transportation facility ←

1 to determine if it is hazardous to life or property PURSUANT ←
2 TO THE FEDERAL PIPELINE SAFETY LAWS.

3 (3) To investigate the existence or report of any
4 safety-related condition that involves a pipeline
5 transportation facility. ←

6 (4) To enter into and perform contracts or agreements
7 with the United States Department of Transportation to
8 inspect INTRASTATE AND interstate transmission facilities ←
9 pursuant to the Federal pipeline safety laws.

10 (5) Accept grants-in-aid, cash and reimbursements
11 provided for or made available to the Commonwealth by the
12 Federal Government to carry out the Federal pipeline safety
13 laws or other Federal law.

14 (6) To adopt by reference the pipeline safety
15 regulations promulgated at 49 CFR Parts 191 (relating to
16 transportation of natural and other gas pipeline; annual
17 reports, incident reports, and safety-related condition
18 reports) through 199 (relating to drug and alcohol testing).
19 The commission may not adopt a rule or regulation to
20 implement this chapter that is inconsistent with or more
21 stringent than the pipeline safety regulations promulgated by
22 the Federal Government.

23 (7) To advise, consult and cooperate with the Federal
24 Government, other State agencies and other states as may be
25 necessary to administer its duties under this chapter.

26 (8) To issue adjudications, after notice and opportunity
27 to be heard, and to impose civil fines and take enforcement
28 action for violations of the applicable Federal regulations
29 and any provision of this chapter.

30 (9) FOR PURPOSES OF PETROLEUM GAS, THE COMMISSION'S ←

JURISDICTION UNDER THIS CHAPTER SHALL BE LIMITED TO THOSE
PETROLEUM GAS SYSTEMS THAT ARE SUBJECT TO THE FEDERAL
PIPELINE SAFETY LAWS AND NOT A PUBLIC UTILITY.

§ 3204. Registry of pipeline operators.

(a) Duty to establish and maintain registry.--The commission
shall establish and maintain a registry of all gas and hazardous
liquids PIPELINE operators. ←

(b) Applications.--The commission may develop an application
for registration under subsection (a) and may charge a
reasonable registration fee and annual renewal registration fee.

(c) Duty to register.--

~~(1) Unless certificated by the commission as a public~~ ←
~~utility as set forth in this part, an A PIPELINE operator~~ ←
shall register with the commission.

(2) ~~An~~ A PIPELINE operator that fails to register in ←
accordance with this chapter shall be subject to the civil
penalty provided in section 3301(c) (relating to civil
penalties for violations).

(D) EXEMPTIONS.--NO APPLICATION OR REGISTRATION FEE SHALL BE ←
REQUIRED OF A PETROLEUM GAS DISTRIBUTOR WHO IS REGISTERED UNDER
THE ACT OF JUNE 19, 2002 (P.L.421, NO.61), KNOWN AS THE PROPANE
AND LIQUEFIED PETROLEUM GAS ACT, AND PROVIDES PROOF OF
REGISTRATION TO THE COMMISSION. IT SHALL BE THE RESPONSIBILITY
OF THE COMMISSION TO VERIFY REGISTRATIONS OF PETROLEUM GAS
DISTRIBUTORS WITH THE DEPARTMENT OF LABOR AND INDUSTRY BEFORE
REQUIRING A PETROLEUM GAS DISTRIBUTOR TO REGISTER UNDER THIS
SECTION. THIS EXEMPTION SHALL NOT APPLY TO ASSESSMENTS.

§ 3205. Assessments.

(a) Duty to determine.--The commission shall by regulation
or order determine the assessments of PIPELINE operators in ←

accordance with this section.

(b) Fees.--

(1) The commission shall determine an appropriate fee, ANNUAL ASSESSMENT based on INTRASTATE REGULATED TRANSMISSION, DISTRIBUTION AND REGULATED ON-SHORE GATHERING pipeline miles, which fee shall be designed to collect the commission's total costs, plus a reasonable allocation of indirect costs, of its natural gas AND HAZARDOUS LIQUIDS pipeline safety program, excluding the costs otherwise reimbursed by the Federal Government.

(2) The fee ASSESSMENT shall be paid by all PIPELINE operators. The fee ASSESSMENT shall not be applicable to natural gas public utilities.

(c) Time for payment.--The fee ASSESSMENT shall be due and payable within 30 days of the notice of amount due from the commission. The amount of the fee ASSESSMENT may be challenged consistent with the provisions of section 510(c), (d) and (e) (relating to assessment for regulatory expenses upon public utilities).

(d) Reporting of miles.--Each PIPELINE operator shall, on or before March 31 of each calendar year, report to the commission its total INTRASTATE REGULATED transmission and, DISTRIBUTION AND REGULATED ON-SHORE gathering pipeline miles in operation IN THIS COMMONWEALTH during the prior calendar year.

(e) Estimated fees ASSESSMENTS.--The estimated fees ASSESSMENTS to be collected under this section for each fiscal year shall be subtracted from the final estimate of total expenditures used to calculate the total assessment on public utilities under section 510(a).

§ 3206. Regulations.

The commission shall establish regulations to implement this chapter and may promulgate and enforce binding interim guidelines.

§ 3207. JURISDICTION AND AUTHORITY OF COMMISSION.

(A) JURISDICTION.--NOTHING IN THIS CHAPTER SHALL GIVE THE COMMISSION JURISDICTION OVER ANY PIPELINE, NOT OTHERWISE A PUBLIC UTILITY, FOR PURPOSES OF RATES OR RATEMAKING OR ANY PURPOSE OTHER THAN THOSE SET FORTH IN THIS CHAPTER.

(B) LANDFILL GAS DISTRIBUTION SYSTEMS.--THE JURISDICTION OF THE COMMISSION OVER A LANDFILL GAS DISTRIBUTION SYSTEM, NOT OTHERWISE A PUBLIC UTILITY, SHALL BE LIMITED TO SYSTEMS SUBJECT TO FEDERAL PIPELINE SAFETY LAWS. THE COMMISSION SHALL NOT HAVE JURISDICTION OVER OPERATIONS AND SYSTEMS WITHIN THE PROPERTY BOUNDARY OF THE LANDFILL.

(C) AUTHORITY.--NOTHING IN THIS CHAPTER GRANTS THE COMMISSION ADDITIONAL AUTHORITY TO DETERMINE OR REGULATE A PIPELINE OPERATOR AS A PUBLIC UTILITY AS DEFINED IN SECTION 102 (RELATING TO DEFINITIONS) OR AS A NATURAL GAS SUPPLIER OR NATURAL GAS SUPPLY SERVICES AS DEFINED IN SECTION 2202 (RELATING TO DEFINITIONS).

SECTION 3. SECTION 3301(C) OF TITLE 66 IS AMENDED TO READ:

§ 3301. CIVIL PENALTIES FOR VIOLATIONS.

* * *

(C) GAS PIPELINE SAFETY VIOLATIONS.--ANY PERSON OR CORPORATION, DEFINED AS A PUBLIC UTILITY IN THIS PART, WHO VIOLATES ANY PROVISIONS OF THIS PART GOVERNING THE SAFETY OF PIPELINE OR CONDUIT FACILITIES IN THE TRANSPORTATION OF NATURAL GAS, FLAMMABLE GAS, OR GAS WHICH IS TOXIC OR CORROSIVE, OR OF ANY REGULATION OR ORDER ISSUED THEREUNDER, SHALL BE SUBJECT TO A CIVIL PENALTY [OF] NOT TO EXCEED [\$10,000] \$100,000 FOR EACH

1 VIOLATION FOR EACH DAY THAT THE VIOLATION PERSISTS, EXCEPT THAT
2 THE MAXIMUM CIVIL PENALTY SHALL NOT EXCEED [\$500,000] \$1,000,000
3 FOR ANY RELATED SERIES OF VIOLATIONS.

4 * * *

5 Section ~~3~~ 4. This act shall take effect in 60 days.

