
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY PETRI, BAKER, BARBIN, GIBBONS, GODSHALL,
A. HARRIS, IRVIN, LAWRENCE, MILLARD, NEILSON, ROTHMAN AND
TAYLOR, SEPTEMBER 22, 2016

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 22, 2016

AN ACT

1 Providing for rights-of-way through land and permits for use of
2 land owned by the Pennsylvania Turnpike Commission and for
3 additional keystone opportunity expansion zones.

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9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 CHAPTER 1

12 PRELIMINARY PROVISIONS

13 Section 101. Short title.

14 This act shall be known and may be cited as the Pennsylvania
15 Turnpike Right-of-Way Act.

16 Section 102. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Materials." Water, oil, natural gas, natural gas liquids,
21 gas of any other designation, ethane, propane, butane, other
22 complex hydrocarbons, synthetic liquid or gaseous fuels or any
23 refined product produced from water, oil, natural gas, natural
24 gas liquids, gas of any other designation, ethane, propane,
25 butane, other complex hydrocarbons, synthetic liquid or gaseous
26 fuels, that may be transported through a pipeline.

27 "Permit." A permit under Chapter 3.

28 "Right-of-way." A right-of-way under Chapter 3.

29 CHAPTER 3

30 RIGHTS-OF-WAY AND PERMITS

1 Section 301. Definitions.

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

5 "Agency." The agency, department or independent authority
6 which may have jurisdiction over land owned by the commission.

7 "Commission." The Pennsylvania Turnpike Commission.

8 "Federal pipeline safety laws." The provisions of 49 U.S.C.
9 Ch. 601 (relating to safety), the Hazardous Liquid Pipeline
10 Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the
11 Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116
12 Stat. 2985) and the regulations promulgated under the acts.

13 Section 302. Rights-of-way and permits.

14 (a) Grant of authority.--A right-of-way through land owned
15 by the commission may be granted by the commission for pipeline
16 purposes for the transportation of materials to any applicant
17 possessing the qualifications provided in applicable law in
18 accordance with the provisions of this chapter.

19 (b) Interagency coordination.--

20 (1) If the surface of all of the land owned by the
21 commission involved in a proposed right-of-way or permit is
22 under the jurisdiction of one agency, the commission is
23 authorized to grant or renew the right-of-way or permit.

24 (2) If the surface of the land owned by the commission
25 is administered by two or more agencies, the commission is
26 authorized, after consultation with the agencies involved, to
27 grant or renew a right-of-way or permit. The commission may
28 enter into interagency agreements with other agencies having
29 jurisdiction over land owned by the commission for the
30 purpose of:

- 1 (i) Avoiding duplication.
- 2 (ii) Assigning responsibility.
- 3 (iii) Expediting review of the right-of-way or
- 4 permit applications.
- 5 (iv) Issuing joint regulations.
- 6 (v) Assuring a decision based upon a comprehensive
- 7 review of all factors involved in an application.

8 (3) Each agency head shall administer and enforce the
9 provisions of this chapter, appropriate regulations and the
10 terms and conditions of a right-of-way or permit insofar as
11 the land owned by the commission is under the agency head's
12 jurisdiction.

13 (c) Temporary permits.--A right-of-way may be supplemented
14 by a temporary permit for the use of land owned by the
15 commission in the vicinity of the pipeline as the commission
16 deems necessary in connection with construction, operation,
17 maintenance or termination of the pipeline or to protect the
18 natural environment or public safety.

19 (d) Regulatory authority.--The grant or renewal of a right-
20 of-way or permit shall be subject to the following:

- 21 (1) Regulations promulgated under this chapter.
- 22 (2) Terms and conditions as the commission may prescribe
- 23 regarding extent, duration, survey, location, construction,
- 24 operation, maintenance, use and termination.

25 Section 303. Application.

26 (a) Form.--The application for a right-of-way or permit
27 shall be made in a form and manner as determined by the
28 commission.

29 (b) Disclosure.--If the applicant is a partnership,
30 corporation, association or other business entity, the

1 commission shall require the applicant to disclose the identity
2 of the participants in the entity. The disclosure shall include
3 the following, if applicable:

4 (1) The name and address of each partner.

5 (2) The name and address of each shareholder owning 3%
6 or more of the shares and the number and percentage of the
7 class of voting shares of the entity which the shareholder is
8 authorized to vote.

9 (3) The name and address of each affiliate of the entity
10 together with the following:

11 (i) In the case of an affiliate controlled by the
12 entity, the number of shares and the percentage of the
13 class of voting stock of that affiliate owned, directly
14 or indirectly, by that entity.

15 (ii) In the case of an affiliate that controls the
16 entity, the number of shares and the percentage of any
17 class of voting stock of that entity owned, directly or
18 indirectly, by the affiliate.

19 (c) Technical and financial capability.--The commission
20 shall grant or renew a right-of-way or permit only when the
21 commission is satisfied that the applicant has the technical and
22 financial capability to construct, operate, maintain and
23 terminate the pipeline project in accordance with the
24 requirements of this chapter.

25 (d) Public hearings.--The commission by regulation shall
26 establish procedures, including public hearings where
27 appropriate, to give Federal, State and local government
28 agencies and the public adequate notice and an opportunity to
29 comment upon right-of-way applications filed after the date of
30 enactment of this chapter.

1 Section 304. Fees and financial requirement.

2 (a) Establishment of fees.--The commission may establish
3 fees for the transmission of materials which are transported
4 through a pipeline or related facility for which a right-of-way
5 or permit is authorized under this chapter. The fees collected
6 under this subsection shall be deposited in the General Fund.

7 (b) Reimbursement of costs.--An applicant for a right-of-way
8 or permit and a holder of a right-of-way or permit shall
9 reimburse the commission for the following:

10 (1) Administrative or other costs incurred in processing
11 the application.

12 (2) The costs incurred in monitoring the construction,
13 operation, maintenance and termination of a pipeline or
14 related facility in the right-of-way or permit area.

15 (3) The fair market rental value of the right-of-way or
16 permit, as determined by the commission, which shall be paid
17 annually in advance.

18 (c) Bonding.--The commission may require a holder of a
19 right-of-way or permit to furnish a bond or other security
20 satisfactory to the commission to secure an obligation imposed
21 by the terms and conditions of the right-of-way or permit or by
22 any rule or regulation of the commission.

23 Section 305. Safety and environmental protection.

24 (a) Pipeline safety.--The commission shall impose
25 requirements for the operation of the pipeline and related
26 facilities consistent with Federal pipeline safety laws in a
27 manner that will protect the safety of workers and protect the
28 public from sudden ruptures and slow degradation of the
29 pipeline.

30 (b) Environmental protection.--

1 (1) The commission, prior to granting a right-of-way or
2 permit for a new project which may have a significant impact
3 on the environment, shall require the applicant to submit a
4 plan of construction, operation and rehabilitation. The
5 commission shall issue regulations or impose stipulations,
6 including the following:

7 (i) Requirements for restoration, revegetation and
8 curtailment of erosion of the surface of the land.

9 (ii) Requirements to ensure that activities in
10 connection with the right-of-way or permit will not
11 violate applicable air and water quality standards or
12 related facility siting standards established by or under
13 law.

14 (iii) Requirements designed to control or prevent
15 the following:

16 (A) Damage to the environment, including damage
17 to fish and wildlife habitat.

18 (B) Damage to public or private property.

19 (C) Hazards to public health and safety.

20 (iv) Requirements to protect the interests of
21 individuals living in the general area of the right-of-
22 way or permit who rely on the fish, wildlife and biotic
23 resources of the area for subsistence purposes.

24 (2) The regulations shall be applicable to each right-
25 of-way or permit granted under this chapter and may be made
26 applicable by the commission to rights-of-way or permits upon
27 renewal.

28 (3) Requirements and stipulations imposed under this
29 section shall be in addition to any other requirements
30 imposed by any other law.

1 (c) Inspections.--Periodically, but at least once a year,
2 the Secretary of Transportation shall examine all pipelines and
3 related facilities on land owned by the commission and promptly
4 report any potential leaks or safety problems.

5 Section 306. Limitations.

6 (a) Width limitations.--The width of a right-of-way may not
7 exceed 50 feet plus the ground occupied by the pipeline and the
8 pipeline's facilities unless the commission finds, and records
9 the reasons for the finding, that a wider right-of-way is
10 necessary for operation and maintenance after construction to
11 protect the environment or for public safety. Facilities may
12 include valves, pump stations, supporting structures, bridges,
13 monitoring and communication devices, surge and storage tanks,
14 terminals and roads. The facilities do not need to be connected
15 or contiguous to the pipe and may be the subject of a separate
16 right-of-way.

17 (b) Duration of right-of-way or permit.--Each right-of-way
18 or permit granted or renewed under this chapter shall be limited
19 to a reasonable term in light of all circumstances concerning
20 the project. The duration may not exceed 50 years. The following
21 shall apply:

22 (1) For determining the duration of a right-of-way, the
23 commission shall take into consideration at least the
24 following:

25 (i) The cost of the facility.

26 (ii) The useful life of the facility.

27 (iii) The public purpose of the facility.

28 (2) The commission shall renew any right-of-way, in
29 accordance with the provisions of this chapter, if the
30 project is in commercial operation and is operated and

1 maintained in accordance with this chapter.

2 Section 307. Suspension or termination of right-of-way.

3 (a) General rule.--Abandonment of a right-of-way or
4 noncompliance with any provision of this chapter may be grounds
5 for suspension or termination of the right-of-way. Prior to
6 suspension or termination under this section, the commission
7 shall give the holder due notice and a reasonable opportunity to
8 comply with this chapter. A suspension or termination under this
9 section may only occur following an appropriate administrative
10 proceeding where the commission determines that such ground
11 exists and that suspension or termination is justified.

12 (b) Nonapplicability.--This section shall not apply to a
13 termination of a right-of-way in accordance with a fixed or
14 agreed-upon condition, event or time between the commission and
15 the holder.

16 (c) Immediate temporary suspension.--If the commission
17 determines that an immediate temporary suspension of activities
18 within a right-of-way or permit area is necessary to protect
19 public health or safety or the environment, the commission may
20 abate the activities prior to an administrative proceeding.

21 (d) Abandonment.--Deliberate failure of the holder to use
22 the right-of-way granted under this chapter for any continuous
23 two-year period shall constitute a rebuttable presumption of
24 abandonment of the right-of-way. If the failure to use the
25 right-of-way is due to circumstances outside the holder's
26 control, the commission is not required to suspend or terminate
27 the right-of-way.

28 Section 308. Joint use of right-of-way.

29 In order to minimize adverse environmental impacts and the
30 proliferation of separate rights-of-way across land owned by the

1 commission, the utilization of rights-of-way in common shall be
2 required to the extent practicable, and each right-of-way or
3 permit shall reserve to the commission the right to grant
4 additional rights-of-way or permits for compatible uses on or
5 adjacent to any area for which a right-of-way or permit was
6 granted under this chapter.

7 Section 309. Common carriers.

8 The following apply:

9 (1) Pipelines and related facilities for which a right-
10 of-way or permit is authorized under this chapter shall be
11 constructed, operated and maintained as common carriers.

12 (2) A pipeline owner or operator subject to this chapter
13 must accept, convey, transport or purchase materials
14 delivered to the pipeline without regard to whether the
15 materials were produced on land owned by the commission. In
16 the case of oil or gas produced from the land or from
17 resources on the land owned by the commission in the vicinity
18 of the pipeline, the commission shall:

19 (i) Hold a full hearing and proper finding of facts
20 after due notice to the interested parties.

21 (ii) Determine the proportionate amounts to be
22 accepted, conveyed, transported or purchased.

23 (3) Whenever the commission believes an owner or
24 operator is not operating an oil or gas pipeline in
25 accordance with the operator's obligations as a common
26 carrier, the commission may:

27 (i) request the Attorney General to institute
28 proceedings before the appropriate State agency, court of
29 common pleas or United States District Court for the
30 district in which the pipeline or any part thereof is

1 located to enforce the obligation or to impose a penalty
2 under this chapter; or

3 (ii) by proceeding as provided in this section,
4 suspend or terminate the right-of-way for noncompliance
5 with any provision of this chapter.

6 (4) Prior to granting or renewing a right-of-way, the
7 commission shall require that the applicant submit and
8 disclose all plans, contracts, agreements or other
9 information or material which the commission deems necessary
10 to determine whether a right-of-way shall be granted or
11 renewed and the terms and conditions which should be included
12 in the right-of-way. The information may include:

13 (i) Conditions for and agreements among owners or
14 operators regarding the addition of pumping facilities,
15 looping or otherwise increasing the pipeline or
16 terminal's throughput capacity in response to actual or
17 anticipated increases in demand.

18 (ii) Conditions for adding or abandoning intake,
19 offtake or storage points or facilities.

20 (iii) Minimum shipment or purchase tenders.

21 Section 310. Reports.

22 (a) Annual reports.--The commission and other appropriate
23 agency heads shall report to the Environmental Resources and
24 Energy Committee of the Senate and the Environmental Resources
25 and Energy Committee of the House of Representatives annually on
26 the administration of this chapter and on the safety and
27 environmental requirements imposed under this chapter.

28 (b) Notification of application.--The commission shall
29 promptly notify the Environmental Resources and Energy Committee
30 of the Senate and the Environmental Resources and Energy

1 Committee of the House of Representatives upon receipt of an
2 application for a right-of-way for a pipeline 24 inches or more
3 in diameter, and no right-of-way for the pipeline may be granted
4 until a notice of intention to grant the right-of-way together
5 with the commission's or agency head's detailed findings as to
6 the terms and conditions the commission proposes to impose have
7 been submitted to the committees.

8 Section 311. Liability.

9 The commission shall promulgate regulations on liability for
10 damage or injury incurred in connection with a right-of-way or
11 permit in accordance with the following:

12 (1) The commission shall promulgate regulations and may
13 impose stipulations specifying the extent to which holders of
14 rights-of-way and permits shall be liable to the Commonwealth
15 for damage or injury incurred by the Commonwealth in
16 connection with the right-of-way or permit. The commission
17 shall promulgate regulations specifying the extent to which
18 holders shall be liable to third parties for the injuries
19 incurred.

20 (2) The commission may, by regulation or stipulation,
21 impose a standard of strict liability to govern activities
22 taking place in a right-of-way or permit area which present a
23 foreseeable hazard or risk of danger to the Commonwealth as
24 determined by the commission.

25 (3) Regulations and stipulations may not impose strict
26 liability for damage or injury resulting from an act of war
27 or negligence of the Commonwealth.

28 (4) A regulation or stipulation imposing liability
29 without fault shall include a maximum limitation on damages
30 commensurate with the foreseeable risks or hazards presented.

1 Liability for damage or injury in excess of this amount shall
2 be determined by ordinary rules of negligence.

3 (5) The regulations and stipulations shall specify the
4 extent to which the holder shall indemnify or hold harmless
5 the Commonwealth for liability, damage or claims arising in
6 connection with the right-of-way or permit.

7 (6) Any regulation or stipulation promulgated or imposed
8 under this section shall provide that all owners of any
9 interest in and all affiliates or subsidiaries of a holder
10 shall be liable to the Commonwealth in the event that a claim
11 for damage or injury cannot be collected from the holder.

12 (7) In any case where liability without fault is imposed
13 under this section and the damage involved was caused by the
14 negligence of a third party, the rules of subrogation shall
15 apply in accordance with the law of the jurisdiction where
16 the damage occurred.

17 Section 312. Prior right-of-way.

18 No right-of-way shall be granted or renewed across land owned
19 by the commission except under this chapter. An application for
20 a right-of-way filed under any other law prior to the effective
21 date of this section may, at the applicant's option, be
22 considered as an application under this section. The commission
23 may require the applicant to submit any additional information
24 deemed necessary to comply with the requirements of this
25 section.

26 CHAPTER 5

27 KEYSTONE OPPORTUNITY EXPANSION ZONES

28 Section 501. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Business." As defined in section 103 of the Keystone
3 Opportunity Zone Act.

4 "Department." The Department of Community and Economic
5 Development of the Commonwealth.

6 "Keystone opportunity expansion zone." As defined in section
7 103 of the Keystone Opportunity Zone Act.

8 "Keystone Opportunity Zone Act." The act of October 6, 1998
9 (P.L.705, No.92), known as the Keystone Opportunity Zone,
10 Keystone Opportunity Expansion Zone and Keystone Opportunity
11 Improvement Zone Act.

12 "Person." As defined in section 103 of the Keystone
13 Opportunity Zone Act.

14 "Political subdivision." As defined in section 103 of the
15 Keystone Opportunity Zone Act.

16 "Unoccupied parcel." As defined in section 103 of the
17 Keystone Opportunity Zone Act.

18 Section 502. Additional keystone opportunity expansion zones.

19 (a) Establishment.--In addition to any designations under
20 section 301.1 of the Keystone Opportunity Zone Act, the
21 department may designate additional keystone opportunity
22 expansion zones that will create new jobs in accordance with
23 this section. Each additional keystone opportunity expansion
24 zone shall:

25 (1) Be at least 10 acres in size, unless contiguous to
26 an existing zone.

27 (2) In the aggregate, be no more than a total of 375
28 acres.

29 (3) Be comprised of parcels that are deteriorated,
30 underutilized or unoccupied on the effective date of this

1 paragraph.

2 (4) Include a person or business that utilizes materials
3 which were transported in a pipeline authorized to operate in
4 a right-of-way or under a permit granted or renewed under
5 Chapter 3.

6 (b) Authorization.--A person or business within an
7 additional keystone opportunity expansion zone that is
8 authorized under subsection (a) and that is eligible under
9 subsection (d) shall be entitled to all tax exemptions,
10 deductions, abatements or credits set forth under this section
11 and exemptions for sales and use tax under section 511(a) or
12 705(a) of the Keystone Opportunity Zone Act for a period of 10
13 years. Exemptions for sales and use taxes under sections 511 and
14 705 of the Keystone Opportunity Zone Act shall commence upon
15 issuance by the department of a certificate under section 307 of
16 the Keystone Opportunity Zone Act.

17 (c) Application by political subdivision.--In order to
18 receive a designation under this section, the department must
19 receive an application from a political subdivision. The
20 application must contain the information required under section
21 302(a)(1), (2)(i) and (ix), (5) and (6) of the Keystone
22 Opportunity Zone Act. The department, in consultation with the
23 Department of Revenue, shall review each application and, if
24 approved, issue a certification of all tax exemptions,
25 deductions, abatements or credits under this act for the zone
26 within three months of receipt of the application.

27 (d) Eligibility for exemptions, deductions, abatements or
28 credits.--A person or business located in a keystone opportunity
29 expansion zone designated under subsection (a) that utilizes
30 materials which are transported in a pipeline authorized to

1 operate in a right-of-way or under a permit granted or renewed
2 under Chapter 3 is eligible to receive exemptions, deductions,
3 abatements or credits authorized under the Keystone Opportunity
4 Zone Act.

5 (e) Applicability.--All exemptions, deductions, abatements
6 and credits authorized under the Keystone Opportunity Zone Act
7 shall apply to the parcels for a period of 10 years.

8 CHAPTER 19

9 MISCELLANEOUS PROVISIONS

10 Section 1901. Effective date.

11 This act shall take effect in 60 days.