

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 344 Session of 2011

INTRODUCED BY BAKER, PICKETT, CAUSER, MAJOR, CARROLL, CLYMER,  
DAY, DENLINGER, GINGRICH, GOODMAN, GROVE, HARHART, HARKINS,  
HARRIS, HORNAMAN, KORTZ, MANN, MICOZZIE, MILLARD, MURT,  
MUSTIO, RAPP, REICHLEY, SAINATO, STERN, VULAKOVICH, WATSON  
AND FLECK, JANUARY 31, 2011

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 31, 2011

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for definitions; 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 subparagraphs and the  
12 section is amended by adding definitions to read:

13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent  
15 provisions of this part which are applicable to specific  
16 provisions of this part, the following words and phrases when  
17 used in this part shall have, unless the context clearly  
18 indicates otherwise, the meanings given to them in this section:

1 \* \* \*

2 "Natural or artificial gas." Natural gas, liquefied natural  
3 gas, synthetic natural gas and any natural gas substitute such  
4 as petroleum gas or landfill gas.

5 \* \* \*

6 "Petroleum gas." Propane, propylene, butane, including  
7 normal butane or isobutanes and butylene, including isomers, or  
8 mixtures composed predominately of these gases, having a vapor  
9 pressure not exceeding 208 psi (1434 kPa) gage at 100°F (38°C).

10 "Public utility."

11 \* \* \*

12 (2) The term does not include:

13 \* \* \*

14 (vii) A pipeline operator, not otherwise a public  
15 utility, provided that the pipeline operator is subject  
16 to the jurisdiction of the commission as provided in  
17 Chapter 32 (relating to safety regulation of nonpublic  
18 utility pipelines) and in regulations promulgated by the  
19 commission.

20 (viii) Any person supplying petroleum gas:

21 (A) to fill a container or by delivery in a  
22 container; or

23 (B) through a pipeline to a customer where the  
24 pipeline system is not subject to Federal safety  
25 regulations under 49 CFR Part 192 (relating to  
26 transportation of natural and other gas by pipeline:  
27 minimum Federal safety standards) exempting from  
28 Federal regulation service to fewer than ten  
29 customers through a pipeline system, if no portion of  
30 the pipeline system is located in a public place, and

1           service to a single customer through a pipeline  
2           system, if the pipeline system is located entirely on  
3           the customer's premises no matter if a portion of the  
4           pipeline system is located in a public place.

5           \* \* \*

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

7                               CHAPTER 32

8                       SAFETY REGULATION OF NONPUBLIC UTILITY PIPELINES

9           Sec.

10          3201. Definitions.

11          3202. Adoption of Federal pipeline safety laws.

12          3203. Scope of commission regulation.

13          3204. Registry of pipeline operators.

14          3205. Assessments.

15          3206. Regulations.

16          3207. Jurisdiction and authority of commission.

17          § 3201. Definitions.

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

21          "Federal pipeline safety laws." The provisions of 49 U.S.C.  
22          Subtitle VIII (relating to pipelines) and all regulations  
23          promulgated pursuant thereto.

24          "Gas" and "natural gas." Natural gas, flammable gas or toxic  
25          or corrosive gas. The term shall have the same meaning as in the  
26          Federal pipeline safety laws.

27          "Hazardous liquid." The term shall have the same meaning as  
28          in the Federal pipeline safety laws, including, but not limited  
29          to, carbon dioxide, a highly volatile liquid, petroleum,  
30          petroleum products or anhydrous ammonia.

1     "Person." Any individual, firm, joint venture, partnership,  
2 corporation, association, municipality, cooperative association  
3 or joint stock association, including any trustee, receiver,  
4 assignee or personal representative thereof.

5     "Pipeline." Any part of the physical facilities through  
6 which gas or hazardous liquids move in transportation, including  
7 a pipe, valve and other appurtenance attached to the pipe,  
8 compressor unit, metering station, regulator station, delivery  
9 station, holder and fabricated assembly. The term only includes  
10 pipelines regulated by Federal pipeline safety laws. The term  
11 does not include a pipeline subject to the exclusive  
12 jurisdiction of the Federal Energy Regulatory Commission.

13     "Pipeline facility." A new and existing pipeline, right-of-  
14 way and any equipment, facility or building used in the  
15 transportation of gas or hazardous liquids or in the treatment  
16 of gas during the course of transportation. The term only  
17 includes facilities regulated by the Federal pipeline safety  
18 laws. The term does not include a pipeline facility subject to  
19 the exclusive jurisdiction of the Federal Energy Regulatory  
20 Commission.

21     "Pipeline operator." A person that owns or operates in this  
22 Commonwealth equipment or facilities for the transportation of  
23 gas or hazardous liquids by pipeline or pipeline facility  
24 regulated under Federal pipeline safety laws. The term does not  
25 include a public utility or an ultimate consumer who owns a  
26 service line on the real property of the ultimate consumer.

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

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

1 § 3202. Adoption of Federal pipeline safety laws.

2 (a) General rule.--The safety standards and regulations for  
3 the transportation of gas and hazardous liquids in this  
4 Commonwealth shall be those issued under the Federal pipeline  
5 safety laws and as implemented in 49 CFR Subtitle B Ch. 1 Subch.  
6 D (relating to pipeline safety), including all subsequent  
7 amendments thereto.

8 (b) Amendments to Federal law.--

9 (1) Amendments to the Federal pipeline safety laws shall  
10 have the effect of amending or modifying the commission's  
11 regulations with regard to the safety standards for the  
12 transportation of gas and hazardous liquids.

13 (2) The amendment or modification shall take effect 60  
14 days after the effective date of the Federal amendment or  
15 modification.

16 § 3203. Scope of commission regulation.

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 a pipeline operator to determine compliance with  
29 this chapter.

30 (2) To investigate any pipeline facility to determine if

1 it is hazardous to life or property under the Federal  
2 pipeline safety laws.

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

5 (4) To enter into and perform contracts or agreements  
6 with the United States Department of Transportation to  
7 inspect intrastate and interstate transmission facilities  
8 under the Federal pipeline safety laws.

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

13 (6) To adopt by reference the pipeline safety  
14 regulations promulgated at 49 CFR Parts 191 (relating to  
15 transportation of natural and other gas by pipeline; annual  
16 reports, incident reports, and safety-related condition  
17 reports), 192 (relating to transportation of natural and  
18 other gas by pipeline: minimum Federal safety standards), 193  
19 (relating to liquefied natural gas facilities: Federal safety  
20 standards), 194 (relating to response plans for onshore oil  
21 pipelines), 195 (relating to transportation of hazardous  
22 liquids by pipeline), 196 (Reserved), 197 (Reserved), 198  
23 (relating to regulations for grants to aid State pipeline  
24 safety programs) and 199 (relating to drug and alcohol  
25 testing). The commission may not adopt a rule or regulation  
26 to implement this chapter that is inconsistent with or more  
27 stringent than the pipeline safety regulations promulgated by  
28 the Federal Government.

29 (7) To advise, consult and cooperate with the Federal  
30 Government, other State agencies and other states as may be

1 necessary to administer its duties under this chapter.

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

6 (9) For purposes of petroleum gas, the commission's  
7 jurisdiction under this chapter shall be limited to those  
8 petroleum gas systems that are subject to the Federal  
9 pipeline safety laws and not a public utility.

10 § 3204. Registry of pipeline operators.

11 (a) Duty to establish and maintain registry.--The commission  
12 shall establish and maintain a registry of all gas and hazardous  
13 liquids pipeline operators.

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

17 (c) Duty to register.--

18 (1) A pipeline operator shall register with the  
19 commission.

20 (2) A pipeline operator that fails to register in  
21 accordance with this chapter shall be subject to the civil  
22 penalty provided in section 3301(c) (relating to civil  
23 penalties for violations).

24 (d) Exemptions.--No application or registration fee shall be  
25 required of a petroleum gas distributor who is registered under  
26 the act of June 19, 2002 (P.L.421, No.61), known as the Propane  
27 and Liquefied Petroleum Gas Act, and provides proof of  
28 registration to the commission. It shall be the responsibility  
29 of the commission to verify registrations of petroleum gas  
30 distributors with the Department of Labor and Industry before

1 requiring a petroleum gas distributor to register under this  
2 section. This exemption shall not apply to assessments.  
3 § 3205. Assessments.

4 (a) Duty to determine.--The commission shall by regulation  
5 or order determine the assessments of pipeline operators in  
6 accordance with this section.

7 (b) Fees.--

8 (1) The commission shall determine an appropriate annual  
9 assessment based on intrastate regulated transmission,  
10 distribution and regulated on-shore gathering pipeline miles,  
11 which fee shall be designed to collect the commission's total  
12 costs, plus a reasonable allocation of indirect costs, of its  
13 gas and hazardous liquids pipeline safety program, excluding  
14 the costs otherwise reimbursed by the Federal Government.

15 (2) The assessment shall be paid by all pipeline  
16 operators. The assessment shall not be applicable to natural  
17 gas public utilities.

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

24 (d) Reporting of miles.--Each pipeline operator shall, on or  
25 before March 31 of each calendar year, report to the commission  
26 its total intrastate regulated transmission, distribution and  
27 regulated on-shore gathering pipeline miles in operation in this  
28 Commonwealth during the prior calendar year.

29 (e) Estimated assessments.--The estimated assessments to be  
30 collected under this section for each fiscal year shall be



1 subtracted from the final estimate of total expenditures used to  
2 calculate the total assessment on public utilities under section  
3 510(a).

4 § 3206. Regulations.

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

8 § 3207. Jurisdiction and authority of commission.

9 (a) Jurisdiction.--Nothing in this chapter shall give the  
10 commission jurisdiction over any pipeline, not otherwise a  
11 public utility, for purposes of rates or ratemaking or any  
12 purpose other than those set forth in this chapter.

13 (b) Landfill gas distribution systems.--The jurisdiction of  
14 the commission over a landfill gas distribution system, not  
15 otherwise a public utility, shall be limited to systems subject  
16 to Federal pipeline safety laws. The commission shall not have  
17 jurisdiction over operations and systems within the property  
18 boundary of the landfill.

19 (c) Authority.--Nothing in this chapter grants the  
20 commission additional authority to determine or regulate a  
21 pipeline operator as a public utility as defined in section 102  
22 (relating to definitions) or as a natural gas supplier or  
23 natural gas supply services as defined in section 2202 (relating  
24 to definitions).

25 Section 3. Section 3301(c) of Title 66 is amended to read:

26 § 3301. Civil penalties for violations.

27 \* \* \*

28 (c) Gas pipeline safety violations.--Any person or  
29 corporation, defined as a public utility or pipeline operator in  
30 this part, who violates any provisions of this part governing

1 the safety of pipeline or conduit facilities in the  
2 transportation of natural gas, flammable gas, or gas which is  
3 toxic or corrosive, or of any regulation or order issued  
4 thereunder, shall be subject to a civil penalty [of] not to  
5 exceed [\$10,000] \$100,000 for each violation for each day that  
6 the violation persists, except that the maximum civil penalty  
7 shall not exceed [\$500,000] \$1,000,000 for any related series of  
8 violations.

9 \* \* \*

10 Section 4. This act shall take effect in 60 days.