

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,
FLECK, HESS, PERRY, GABLER, SONNEY, GIBBONS, MILNE AND
PRESTON, JANUARY 31, 2011

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 1, 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

1 indicates otherwise, the meanings given to them in this section:

2 * * *

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

6 * * *

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

11 "Public utility."

12 * * *

13 (2) The term does not include:

14 * * *

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

21 (viii) Any person supplying petroleum gas:

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

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

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

6 * * *

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

8 CHAPTER 32

9 SAFETY REGULATION OF NONPUBLIC UTILITY PIPELINES

10 Sec.

11 3201. Definitions.

12 3202. Adoption of Federal pipeline safety laws.

13 3203. Scope of commission regulation.

14 3204. Registry of pipeline operators.

15 3205. Assessments.

16 3206. Regulations.

17 3207. Jurisdiction and authority of commission.

18 § 3201. Definitions.

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

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

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

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

petroleum products or anhydrous ammonia.

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

"Pipeline." Any part of the physical facilities through which gas or hazardous liquids move in transportation AND THAT IS REGULATED BY FEDERAL PIPELINE SAFETY LAWS, including 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 only includes facilities~~ AND THAT IS 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.

1 "Transportation of hazardous liquids." The gathering,
2 transmission or distribution of hazardous liquids by pipeline.
3 § 3202. Adoption of Federal pipeline safety laws.

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

10 (b) Amendments to Federal law.--

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

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

18 § 3203. Scope of commission regulation.

19 The commission shall have general administrative authority to
20 supervise and regulate pipeline operators within this
21 Commonwealth consistent with Federal pipeline safety laws. The
22 commission may adopt regulations, consistent with the Federal
23 pipeline safety laws, as may be necessary or proper in the
24 exercise of its powers and perform its duties under this
25 chapter. The regulations shall not be inconsistent with or
26 greater or more stringent than the minimum standards and
27 regulations adopted under the Federal pipeline safety laws. The
28 commission shall have the following powers and duties:

29 (1) To investigate any service, act, practice, policy or
30 omission by a pipeline operator to determine compliance with

1 this chapter.

2 (2) To investigate any pipeline facility to determine if
3 it is hazardous to life or property under the Federal
4 pipeline safety laws.

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

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

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

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

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

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

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

12 § 3204. Registry of pipeline operators.

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

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

19 (c) Duty to register.--

20 (1) A pipeline operator shall register with the
21 commission.

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

26 (d) Exemptions.--No application or registration fee shall be ←

27 (1) NO APPLICATION OR REGISTRATION FEE SHALL BE required ←
28 of a petroleum gas distributor who is registered under the
29 act of June 19, 2002 (P.L.421, No.61), known as the Propane
30 and Liquefied Petroleum Gas Act, and provides proof of

registration to the commission. ~~It shall be the~~
~~responsibility of the commission to~~

(2) THE COMMISSION SHALL 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.~~

(3) NO REGISTRATION FEE OR ANNUAL RENEWAL REGISTRATION
FEE SHALL BE REQUIRED OF A BOROUGH.

(4) THIS SUBSECTION SHALL NOT APPLY TO ASSESSMENTS OR
BOROUGH.

§ 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 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
gas and hazardous liquids pipeline safety program, excluding
the costs otherwise reimbursed by the Federal Government.

(2) The assessment shall be paid by all pipeline
operators. The assessment shall not be applicable to natural
gas public utilities, CITY NATURAL GAS DISTRIBUTION
OPERATIONS OR A PIPELINE OPERATOR THAT IS A BOROUGH.

(c) Time for payment.--The assessment shall be due and
payable within 30 days of the notice of amount due from the
commission. The amount of the assessment may be challenged

1 consistent with the provisions of section 510(c), (d) and (e)
2 (relating to assessment for regulatory expenses upon public
3 utilities).

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

9 (e) Estimated assessments.--The estimated assessments to be
10 collected under this section for each fiscal year shall be
11 subtracted from the final estimate of total expenditures used to
12 calculate the total assessment on public utilities under section
13 510(a).

14 § 3206. Regulations.

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

18 § 3207. Jurisdiction and authority of commission.

19 (a) Jurisdiction.--Nothing in this chapter shall give the
20 commission jurisdiction over any pipeline, not otherwise a
21 public utility OR CITY NATURAL GAS DISTRIBUTION OPERATION, for
22 purposes of rates or ratemaking or any purpose other than those
23 set forth in this chapter.

24 (b) Landfill gas distribution systems.--The jurisdiction of
25 the commission over a landfill gas distribution system, not
26 otherwise a public utility, shall be limited to systems subject
27 to Federal pipeline safety laws. The commission shall not have
28 jurisdiction over operations and systems within the property
29 boundary of the landfill.

30 (c) Authority.--Nothing in this chapter grants the



1 commission additional authority to determine or regulate a
2 pipeline operator as a public utility as defined in section 102
3 (relating to definitions) or as a natural gas supplier or
4 natural gas supply services as defined in section 2202 (relating
5 to definitions).

6 Section 3. Section 3301(c) of Title 66 is amended to read:
7 § 3301. Civil penalties for violations.

8 * * *

9 (c) Gas pipeline safety violations.--Any person or
10 corporation, defined as a public utility or pipeline operator in
11 this part, who violates any provisions of this part governing
12 the safety of pipeline or conduit facilities in the
13 transportation of natural gas, flammable gas, or gas which is
14 toxic or corrosive, or of any regulation or order issued
15 thereunder, shall be subject to a civil penalty [of] not to
16 exceed [\$10,000] \$100,000 for each violation for each day that
17 the violation persists, except that the maximum civil penalty
18 shall not exceed [\$500,000] \$1,000,000 for any related series of
19 violations.

20 * * *

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