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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 283 Session of  
2019

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INTRODUCED BY KILLION, DINNIMAN, HAYWOOD, KEARNEY AND SCHWANK,  
FEBRUARY 26, 2019

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
FEBRUARY 26, 2019

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AN ACT

1 Amending the act of December 22, 2011 (P.L.586, No.127),  
2 entitled "An act providing for gas and hazardous liquids  
3 pipelines and for powers and duties of the Pennsylvania  
4 Public Utility Commission; and imposing civil penalties,"  
5 replacing the Pennsylvania Public Utility Commission with the  
6 Department of Transportation of the Commonwealth; and  
7 providing for Federal delegation.

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

10 Section 1. The title of the act of December 22, 2011  
11 (P.L.586, No.127), known as the Gas and Hazardous Liquids  
12 Pipelines Act, is amended to read:

13 An Act

14 Providing for gas and hazardous liquids pipelines and for powers  
15 and duties of the [Pennsylvania Public Utility Commission]  
16 Department of Transportation; and imposing civil penalties.

17 Section 2. Sections 102 and 301 of the act are amended to  
18 read:

19 Section 102. Definitions.

20 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 ["Commission." The Pennsylvania Public Utility Commission.]  
4 "Department." The Department of Transportation of the  
5 Commonwealth.

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

11 "Gas." Natural gas, liquefied natural gas, landfill gas,  
12 synthetic natural gas and other gas as defined under the Federal  
13 pipeline safety laws.

14 "Hazardous liquids." Petroleum, a petroleum product,  
15 anhydrous ammonia and other hazardous liquids as defined under  
16 the Federal pipeline safety laws.

17 "Person." An individual, firm, joint venture, partnership,  
18 corporation, association, municipality, cooperative association  
19 or joint stock association, including any trustee, receiver,  
20 assignee or personal representative thereof. The term does not  
21 include a public utility.

22 "Pipeline." A part of the physical facilities through which  
23 gas or hazardous liquids move in transportation, including a  
24 pipe valve and other appurtenance attached to the pipe,  
25 compressor unit, metering station, regulator station, delivery  
26 station, holder and fabricated assembly. The term only includes  
27 pipeline regulated by Federal pipeline safety laws. The term  
28 does not include a pipeline subject to the exclusive  
29 jurisdiction of the Federal Energy Regulatory Commission.

30 "Pipeline facility." A new or existing pipeline, right-of-

1 way and any equipment, facility or building used in the  
2 transportation of gas or hazardous liquids or in the treatment  
3 of gas or hazardous liquids during the course of transportation.  
4 The term does not include a pipeline facility subject to the  
5 exclusive jurisdiction of the Federal Energy Regulatory  
6 Commission.

7 "Pipeline operator." A person that owns or operates  
8 equipment or facilities in this Commonwealth for the  
9 transportation of gas or hazardous liquids by pipeline or  
10 pipeline facility regulated under Federal pipeline safety laws.  
11 The term does not include a public utility or an ultimate  
12 consumer who owns a service line on his real property.

13 "Public utility." The term shall mean:

14 (1) A public utility as defined in 66 Pa.C.S. § 102  
15 (relating to definitions).

16 (2) A city natural gas distribution operation as defined  
17 in 66 Pa.C.S. § 102.

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

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

22 "Unconventional formation." A geological shale formation  
23 existing below the base of the Elk Sandstone or its geologic  
24 equivalent stratigraphic interval where natural gas generally  
25 cannot be produced at economic flow rates or in economic volumes  
26 except by vertical or horizontal well bores stimulated by  
27 hydraulic fracture treatments or by using multilateral well  
28 bores or other techniques to expose more of the formation of the  
29 well bore.

30 "Unconventional well." A borehole drilled or being drilled

1 for the purpose of or to be used for the production of natural  
2 gas from an unconventional formation.

3 Section 301. Registry of pipeline operators.

4 (a) Registry.--The [commission] department shall establish  
5 and maintain a registry of all pipeline operators.

6 (b) Application.--The [commission] department may develop an  
7 application for registration under subsection (a) and may charge  
8 a reasonable registration fee and annual renewal fee.

9 (c) Registration with [commission] department.--

10 (1) A pipeline operator shall register with the  
11 [commission] department.

12 (2) Failure to register shall subject the pipeline  
13 operator to a civil penalty under section 502.

14 (3) The operator of a pipeline in a Class 1 location  
15 that collects or transports gas from an unconventional well  
16 shall report the location of the pipeline by class location  
17 and approximate aggregate miles for inclusion in the  
18 [commission's] department's registry.

19 (d) Disclosure.--The [commission] department shall require  
20 each pipeline operator, regardless of class location, to  
21 disclose in its initial registration and in each annual renewal  
22 the country of manufacture for all tubular steel products used  
23 in the exploration, gathering or transportation of natural gas  
24 or hazardous liquids. The [commission] department may develop a  
25 disclosure form and require its use.

26 (e) Exemptions.--

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

1 registration to the [commission] department.

2 (2) The [commission] department shall verify  
3 registrations of petroleum gas distributors within the  
4 Department of Labor and Industry before requiring a petroleum  
5 gas distributor to register under this section.

6 (3) No registration fee or annual renewal registration  
7 fee shall be required of a borough.

8 Section 3. The heading of Chapter 5 of the act is amended to  
9 read:

10 CHAPTER 5

11 [COMMISSION] DEPARTMENT AUTHORITY AND ENFORCEMENT

12 Section 4. Sections 501, 502, 503 and 504 of the act are  
13 amended to read:

14 Section 501. General powers of [commission] department.

15 (a) [Commission authority] Authority.--The [commission]  
16 department shall have general administrative authority to  
17 supervise and regulate pipeline operators within this  
18 Commonwealth consistent with Federal pipeline safety laws. The  
19 [commission] department may adopt regulations, consistent with  
20 the Federal pipeline safety laws, as may be necessary or proper  
21 in the exercise of its powers and perform its duties under this  
22 act. The regulations shall not be inconsistent with or greater  
23 or more stringent than the minimum standards and regulations  
24 adopted under the Federal pipeline safety law. The [commission]  
25 department shall have the following duties:

26 (1) To investigate a service, act, practice, policy or  
27 omission by a pipeline operator to determine compliance with  
28 this act.

29 (2) To investigate a pipeline transportation facility to  
30 determine if it is hazardous to life or property.

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

4 (4) To enter into contracts or agreements with the  
5 United States Department of Transportation to inspect  
6 intrastate or interstate transmission facilities.

7 (5) Accept grants-in-aid, cash and reimbursements made  
8 available to the Commonwealth by the Federal Government to  
9 implement Federal pipeline safety laws or other Federal law.

10 (6) To advise, consult and cooperate with the Federal  
11 Government, other states and other agencies as may be  
12 necessary to carry out the purposes of this act.

13 (7) To enforce the Federal pipeline safety laws and,  
14 after notice and opportunity for a hearing, impose civil  
15 penalties and fines and take other appropriate enforcement  
16 action.

17 (8) For purposes of petroleum gas, the [commission's]  
18 department's jurisdiction under this act shall be limited to  
19 those petroleum gas systems that are the following:

20 (i) Subject to the Federal pipeline safety laws.

21 (ii) Not a public utility.

22 (b) Compliance.--Each pipeline operator, its officers,  
23 agents and employees, and other persons subject to this act, or  
24 to an order of the [commission] department, or a court under  
25 this act, shall observe, obey and comply with this act and the  
26 terms and conditions of the orders issued hereunder.

27 Section 502. Civil penalties.

28 (a) Violations.--Any pipeline operator who violates this act  
29 shall be subject to a penalty provided under the Federal  
30 pipeline safety laws or 66 Pa.C.S. § 3301(c) (relating to civil

1 penalties for violations), whichever is greater.

2 (b) Disposition of fines and penalties.--Fines imposed and  
3 civil penalties recovered under this act shall be paid to the  
4 [commission] department. The funds received by the [commission]  
5 department under this subsection shall be paid into the State  
6 Treasury, through the Department of Revenue, to the credit of  
7 the General Fund.

8 Section 503. Assessments.

9 (a) Duty to determine.--The [commission] department shall by  
10 regulation or order determine the assessments of pipeline  
11 operators in accordance with this section.

12 (b) Assessments.--

13 (1) The [commission] department shall determine an  
14 appropriate annual assessment based on intrastate regulated  
15 transmission, regulated distribution and regulated onshore  
16 gathering pipeline miles. The assessment shall be adjusted to  
17 collect the [commission's] department's total costs of the  
18 pipeline operators' portion, excluding the costs otherwise  
19 reimbursed by the Federal Government, of:

20 (i) The gas pipeline safety program, plus a  
21 reasonable allocation of indirect costs.

22 (ii) The hazardous liquids pipeline safety program.

23 (2) The assessment shall be paid by pipeline operators  
24 and shall not be applicable to natural gas public utilities.

25 (3) The assessment under this subsection shall not apply  
26 to boroughs.

27 (c) Time for payment.--The assessment shall be due and  
28 payable within 30 days from the notice of amount due from the  
29 [commission] department. The amount of the assessment may be  
30 challenged by a pipeline operator consistent with the provisions

1 of 66 Pa.C.S. § 510(c), (d) and (e) (relating to assessment for  
2 regulatory expenses upon public utilities).

3 (d) Reporting of miles.--Following the submission of the  
4 original application, each pipeline operator shall, on or before  
5 March 31 of each calendar year, report to the [commission]  
6 department its total intrastate regulated transmission,  
7 regulated distribution and regulated onshore gathering pipeline  
8 miles in operation for the transportation of gas and hazardous  
9 liquids in this Commonwealth during the prior calendar year.

10 (e) Estimated fees.--The estimated fees to be collected  
11 under this section for each fiscal year shall be subtracted from  
12 the final estimate of total expenditures used to calculate the  
13 total assessment on public utilities under 66 Pa.C.S. § 510.  
14 Section 504. Jurisdiction and authority of [commission]  
15 department.

16 (a) Jurisdiction.--Nothing in this act shall give the  
17 [commission] department jurisdiction over any pipeline operator  
18 for purposes of rates or ratemaking or any purpose other than  
19 those set forth in this act.

20 (b) Landfill gas distribution systems.--The jurisdiction of  
21 the [commission] department over landfill gas distribution  
22 systems under this act shall be limited to systems subject to  
23 Federal pipeline safety laws. The [commission] department shall  
24 not have jurisdiction over operations and systems within the  
25 property boundary of the landfill.

26 (c) Authority.--Nothing in this act grants the [commission]  
27 department additional authority to determine or regulate a  
28 pipeline operator as a public utility as defined in 66 Pa.C.S. §  
29 102 (relating to definitions) or as a natural gas supplier or  
30 natural gas supply services as defined in 66 Pa.C.S. § 2202

1 (relating to definitions).

2 Section 5. The act is amended by adding a section to read:

3 Section 505. Federal delegation.

4 (a) Pipeline safety.--

5 (1) The department shall apply for Federal delegation  
6 for Commonwealth pipeline safety for the purposes of  
7 enforcement of Federal hazardous liquid pipeline safety  
8 requirements. If the United States Secretary of  
9 Transportation delegates inspection authority to the  
10 Commonwealth as provided under this subsection, the  
11 department, at a minimum, shall do the following:

12 (i) Inspect hazardous liquid pipelines periodically  
13 as specified in the inspection program.

14 (ii) Collect fees.

15 (iii) Order and oversee the testing of hazardous  
16 liquid pipelines as authorized by Federal law and  
17 regulation.

18 (iv) File reports with the United States Secretary  
19 of Transportation as required to maintain the delegated  
20 authority.

21 (2) The department shall seek Federal authority to adopt  
22 safety standards related to the monitoring and testing of  
23 interstate hazardous liquid pipelines.

24 (3) Upon delegation under paragraph (1) or under a grant  
25 of authority under paragraph (2), to the extent authorized by  
26 Federal law, the department shall adopt rules for interstate  
27 pipelines that are no less stringent than the Commonwealth's  
28 laws for intrastate hazardous liquid pipelines.

29 (b) Inspectors.--

30 (1) The department shall seek and accept Federal

1 delegation for the department's inspectors as Federal agents  
2 for the purposes of enforcement of Federal laws covering gas  
3 pipeline safety and associated Federal rules, in existence on  
4 the effective date of this section. The department shall  
5 establish and submit to the United States Secretary of  
6 Transportation an inspection program that complies with  
7 requirements for delegated interstate agent inspection  
8 authority. If the United States Secretary of Transportation  
9 delegates inspection authority to the Commonwealth as  
10 provided under this subsection, the department, at a minimum,  
11 shall do the following:

12 (i) Inspect gas pipelines periodically as specified  
13 in the inspection program.

14 (ii) Collect fees.

15 (iii) Order and oversee the testing of gas pipelines  
16 as authorized by Federal law and regulation.

17 (iv) File reports with the United States Secretary  
18 of Transportation as required to maintain the delegated  
19 authority.

20 (2) The department shall seek Federal authority to adopt  
21 safety standards related to the monitoring and testing of  
22 interstate gas pipelines.

23 (3) Upon designation under paragraph (1) or under a  
24 grant of authority under paragraph (2), to the extent  
25 authorized by Federal law, the department shall adopt rules  
26 for interstate gas pipelines that are no less stringent than  
27 the Commonwealth's laws for intrastate gas pipelines.

28 (c) Inspection.--The department may inspect a record, map or  
29 written procedure required by Federal law to be kept by:

30 (1) a hazardous liquid pipeline company concerning the

1 reportable releases and the design, construction, testing or  
2 operation and maintenance of hazardous liquid pipelines; and  
3 (2) a gas pipeline company concerning the reporting of  
4 gas releases and the design, construction, testing or  
5 operation and maintenance of gas pipelines.

6 Section 6. This act shall take effect in six months.