

HOUSE BILL No. 5556

May 8, 2014, Introduced by Reps. Townsend, Nesbitt, Dianda and Yonker and referred to the Committee on Energy and Technology.

A bill to amend 1969 PA 165, entitled

"An act to authorize the public service commission to establish and enforce gas safety standards; and to provide penalties for violations thereof,"

by amending sections 4, 9, and 11 (MCL 483.154, 483.159, and 483.161), section 11 as amended by 1992 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. Any person who engages in the transportation of gas or
2 who owns or operates pipeline facilities shall ~~file~~ **DO BOTH OF THE**
3 **FOLLOWING:**

4 **(A) FILE** with the commission a plan for inspection and
5 maintenance of each pipeline facility owned or operated by the
6 person and any changes in the plan, in accordance with rules
7 prescribed by the commission. If at any time the commission finds

1 that the plan is inadequate to achieve pipeline safety, after
2 notice and opportunity for a hearing, it shall require the plan to
3 be revised. In determining the adequacy of any plan the commission
4 shall consider:

5 (i) ~~(a)~~ Relevant available pipeline safety data.

6 (ii) ~~(b)~~ Whether the plan is appropriate for the particular
7 type of pipeline transportation.

8 (iii) ~~(c)~~ The extent to which such plan will contribute to the
9 public safety.

10 (B) COMMUNICATE ANNUALLY WITH COUNTY AND LOCAL EMERGENCY
11 MANAGEMENT COORDINATORS IN THE LOCAL UNITS OF GOVERNMENT WHERE THE
12 PERSON'S PIPELINE FACILITIES ARE LOCATED TO REVIEW THE PERSON'S
13 PUBLIC EDUCATION PROGRAM UNDER 49 CFR 192.616.

14 Sec. 9. (1) The commission may conduct research, testing,
15 development, and training necessary to carry out the provisions of
16 this act.

17 (2) Upon request, the commission shall furnish to the federal
18 department of transportation any information ~~it~~ **THE COMMISSION** has
19 concerning the safety of any materials, operations, devices, or
20 processes relating to the transportation of gas or the operation of
21 pipeline facilities.

22 (3) The commission is authorized to advise, assist, and
23 cooperate with other state departments and agencies and other
24 interested public and private agencies and persons, in the planning
25 and development of safety standards, and methods for inspecting and
26 testing to determine compliance with safety standards.

27 (4) **THE COMMISSION SHALL POST ON THE COMMISSION'S WEBSITE THE**

1 REPORT THE COMMISSION IS REQUIRED TO SUBMIT UNDER 49 USC 60105. THE
2 COMMISSION SHALL NOT POST ANY STATE EMPLOYEE INFORMATION REQUIRED
3 BY FEDERAL LAW WITH THAT REPORT.

4 Sec. 11. (1) A person who violates this act or a rule
5 promulgated under this act is subject to ~~a~~AN ADMINISTRATIVE fine
6 of not more than ~~\$10,000.00~~\$20,000.00 for each violation for each
7 day that the violation persists, except that the maximum ~~civil~~
8 ~~penalty~~ADMINISTRATIVE FINE shall not exceed ~~\$500,000.00~~
9 \$800,000.00 for any related series of violations.

10 (2) BEFORE ISSUING A FINE UNDER THIS SECTION, THE COMMISSION
11 SHALL DO BOTH OF THE FOLLOWING:

12 (A) PROVIDE NOTICE OF A PROBABLE VIOLATION AND PROPOSED FINE
13 TO THE PERSON THAT THE COMMISSION CONCLUDES HAS COMMITTED A
14 PROBABLE VIOLATION OF THIS ACT OR A RULE PROMULGATED UNDER THIS
15 ACT.

16 (B) PROVIDE AN OPPORTUNITY TO THE PERSON THAT HAS RECEIVED A
17 NOTICE OF PROBABLE VIOLATION TO INFORMALLY DISCUSS THE PROBABLE
18 VIOLATION AND THE PROPOSED FINE ON A MUTUALLY AGREEABLE DATE. AFTER
19 A MEETING HELD UNDER THIS SUBDIVISION, 1 OF THE FOLLOWING MAY
20 OCCUR:

21 (i) THE COMMISSION MAY ADJUST THE COMMISSION'S INITIAL
22 RECOMMENDATION TO REDUCE OR ELIMINATE THE PROBABLE VIOLATION AND
23 DECREASE OR ELIMINATE THE PROPOSED FINE.

24 (ii) THE COMMISSION AND THE PERSON THAT HAS RECEIVED A NOTICE
25 OF PROBABLE VIOLATION MAY MUTUALLY AGREE ON AN ADJUSTMENT TO THE
26 PROBABLE VIOLATION AND FINE.

27 (iii) THE PROBABLE VIOLATION AND FINE REMAIN UNCHANGED.

1 (3) A PERSON THAT HAS RECEIVED THE NOTICE OF PROBABLE
2 VIOLATION UNDER SUBSECTION (2) MAY FILE A PETITION FOR REVIEW WITH
3 THE COMMISSION TO INITIATE A FORMAL PROCEEDING IN ACCORDANCE WITH
4 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
5 TO 24.328.

6 (4) ~~(2)~~—In determining the amount of the **ADMINISTRATIVE** fine
7 **UNDER SUBSECTION (1)**, the commission shall consider all of the
8 following:

9 (a) The effect on the ability of the person charged to
10 continue in business.

11 (b) The nature, circumstances, and gravity of the violation.

12 (c) Any good-faith effort by the person ~~charged~~ to comply with
13 the requirements of this act.

14 (d) The degree of culpability of the person. ~~charged.~~

15 (e) The history of prior violations of the person. ~~charged.~~

16 (f) The ability of the person ~~charged~~ to pay.

17 (g) Other matters as justice may require.

18 (5) ~~(3)~~—The amount of the ~~penalty stipulated~~ **ADMINISTRATIVE**
19 **FINE ASSESSED UNDER THIS SECTION** may be deducted from a sum the
20 state owes the person ~~charged~~ **RESPONSIBLE FOR THE VIOLATION** or may
21 be recovered in a civil action in the Ingham county circuit court.

22 (6) ~~(4)~~—A person who willfully and knowingly defaces, damages,
23 removes, or destroys a pipeline sign or right-of-way marker
24 required by this act is guilty of a misdemeanor punishable by
25 imprisonment for not more than 1 year, or by a fine of not more
26 than \$5,000.00, or both, for each offense.