

# HOUSE BILL No. 5908

September 21, 2016, Introduced by Rep. Townsend and referred to the Committee on Energy Policy.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4       (2) Upon request, the commission shall furnish to the federal  
5       ~~department~~**DEPARTMENT** of ~~transportation~~**TRANSPORTATION** any  
6       information ~~it~~**THE COMMISSION** has concerning the safety of any  
7       materials, operations, devices, or processes ~~relating~~**THAT RELATES**  
8       to the transportation of gas or the operation of pipeline  
9       facilities.

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

**(4) THE COMMISSION SHALL POST ON THE COMMISSION'S WEBSITE THE REPORT THE COMMISSION IS REQUIRED TO SUBMIT UNDER 49 USC 60105. THE COMMISSION SHALL NOT POST ANY STATE EMPLOYEE INFORMATION REQUIRED BY FEDERAL LAW WITH THAT REPORT.**

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

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

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

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

**(i) THE COMMISSION MAY ADJUST THE COMMISSION'S INITIAL**

1 RECOMMENDATION TO REDUCE OR ELIMINATE THE PROBABLE VIOLATION AND  
2 DECREASE OR ELIMINATE THE PROPOSED FINE.

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

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

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

12 (4) ~~(2)~~—In determining the amount of the **ADMINISTRATIVE** fine  
13 **UNDER SUBSECTION (1)**, the commission shall consider all of the  
14 following:

15 (a) The effect on the ability of the person ~~charged to~~  
16 continue in business.

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

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

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

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

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

23 (g) Other matters as justice may require.

24 (5) ~~(3)~~—The amount of the ~~penalty stipulated~~ **ADMINISTRATIVE**  
25 **FINE ASSESSED UNDER THIS SECTION** may be deducted from a sum the  
26 state owes the person ~~charged~~ **RESPONSIBLE FOR THE VIOLATION** or may  
27 be recovered in a civil action in the Ingham ~~county~~ **COUNTY** circuit

1 court.

2           **(6)** ~~+(4)~~—A person who willfully and knowingly defaces, damages,  
3 removes, or destroys a pipeline sign or right-of-way marker  
4 required by this act is guilty of a misdemeanor punishable by  
5 imprisonment for not more than 1 year ~~—~~or by a fine of not more  
6 than \$5,000.00, or both, for each offense.