

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0335.01 Duane Gall x4335

SENATE BILL 21-108

SENATE SPONSORSHIP

Story,

HOUSE SPONSORSHIP

Bernett and Cutter,

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING GAS PIPELINE SAFETY, AND, IN CONNECTION THEREWITH,**
102 **INCREASING AND CLARIFYING THE RULE-MAKING AND**
103 **ENFORCEMENT AUTHORITY OF THE PUBLIC UTILITIES**
104 **COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill declares that, due to recent dramatic increases in both the extraction and transportation of natural gas and the construction of new homes and businesses in close proximity to these

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
May 6, 2021

activities, it is appropriate to consolidate, strengthen, and streamline the safety regulations that apply to natural gas pipeline utilities.

Section 2 updates and clarifies the duty of the public utilities commission (PUC) to collaborate with the United States department of transportation (DOT) on pipeline safety issues by:

- Formally accepting responsibility to enforce DOT pipeline safety rules; and
- Adopting rules at the state level as needed to comply with federal requirements. The PUC's rules may be more stringent than required by federal standards in specified areas.

Section 3 amends existing penalty provisions for pipeline safety violations by:

- Increasing the penalty cap from \$100,000 per violation to \$200,000, and increasing the aggregate total from \$1 million to \$2 million;
- Allowing the PUC to recover court costs if it must sue to recover any penalty assessed against a violator; and
- Requiring any compromise of a penalty to be based on objective metrics and factors, including the severity of the violation, the extent to which the violator has remedied the conditions that led to the violation, and the amount the violator agrees to spend on approved measures to reduce future risk. Any such compromise may not reduce the amount payable as a penalty below \$5,000 per violation.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and determines that:

4 (a) Due to recent innovations in extraction technology leading to
5 ample supplies and reduced prices for natural gas, the number of
6 households and businesses in Colorado that receive natural gas service is
7 at an all-time high;

8 (b) At the same time, the pace of expansion of natural gas
9 infrastructure has stressed the capacity of skilled installation and
10 maintenance personnel and in many cases outstripped the ability of the
11 public utilities commission's gas pipeline safety section to keep up with

1 vital safety inspections and enforcement of applicable rules and standards,
2 with regard not only to new installations but also to older pipelines that
3 continue to age but are working harder than ever; and

4 (c) An issue of special concern in Colorado is the juxtaposition of
5 new gas wells and gathering lines with tracts of new homes, often in close
6 proximity. This raises the stakes of potential mishaps and adds urgency
7 to the need for sound and comprehensive application of common-sense
8 safety measures in the gas industry.

9 (2) Therefore, the general assembly declares that the purpose of
10 this act is to appropriately strengthen and streamline Colorado's laws
11 governing gas pipeline safety to meet these emerging challenges.

12 **SECTION 2.** In Colorado Revised Statutes, **amend** 40-2-115 as
13 follows:

14 **40-2-115. Cooperation with other state and local governments**
15 **and with the United States - rules - definitions.** (1) (a) The commission
16 ~~is authorized to~~ MAY confer with or hold joint hearings with the
17 authorities of any state or any agency of the United States in connection
18 with any matter arising in proceedings under this ~~title~~ TITLE 40, under the
19 laws of any state, or under the laws of the United States; ~~to~~ avail itself of
20 the cooperation, services, records, and facilities of authorities of this state,
21 any other state, or any agency of the United States as may be practicable
22 in the enforcement or administration of the provisions of this ~~title~~ TITLE
23 40; and ~~to~~ enter into cooperative agreements with the various states and
24 with any agency of the United States to enforce the economic and safety
25 laws and rules of this state and of the United States.

26 (b) The commission ~~is authorized to~~ MAY provide for the
27 exchange of information concerning the enforcement of the economic and

1 safety laws and rules of this state, any other state, and the United States
2 relating to public utilities or to safety of transportation of gas by any
3 person, including a municipality. ~~and~~; In particular, THE COMMISSION MAY
4 SUBMIT A CERTIFICATION TO, OR ENTER INTO AN AGREEMENT WITH, THE
5 UNITED STATES SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. SEC.
6 60105 OR 60106, RESPECTIVELY, SO THAT the commission may enforce
7 the rules of the United States department of transportation concerning
8 pipeline safety ~~drug testing~~ promulgated under the federal "Natural Gas
9 Pipeline Safety Act", 49 U.S.C. sec. 60101 et seq. ~~and may~~ THE
10 COMMISSION SHALL adopt such rules as are necessary and proper to
11 comply with federal requirements. ~~under said act.~~

12 (1.5) (c) ~~The commission is authorized to adopt such rules as may~~
13 ~~be necessary to enforce and administer, in cooperation with the United~~
14 ~~States department of transportation, the provisions of the "Natural Gas~~
15 ~~Pipeline Safety Act", 49 U.S.C. sec. 60101 et seq., for the purpose of gas~~
16 ~~pipeline safety. Such~~ COMMISSION'S rules shall ADOPTED PURSUANT TO
17 THIS SECTION MUST apply to ALL PERSONS AND ENTITIES CONSTITUTING
18 THE INTRASTATE PIPELINE SYSTEM TO THE MAXIMUM EXTENT PERMISSIBLE
19 UNDER FEDERAL LAW AND THE COLORADO CONSTITUTION, INCLUDING all:

20 (I) Public utilities and ~~all~~ municipal or quasi-municipal
21 corporations transporting ~~natural~~ gas or providing ~~natural~~ gas service; ~~all~~

22 (II) Operators of NATURAL GAS master ~~meter~~ METERED systems;
23 ~~as defined in 49 CFR 191.3, and all~~

24 (III) OPERATORS OF LIQUID PETROLEUM GAS DISTRIBUTION
25 SYSTEMS;

26 (IV) Operators of pipelines transporting gas in intrastate
27 commerce; AND

1 (V) OPERATORS OF INTRASTATE LIQUEFIED NATURAL GAS
2 FACILITIES.

3 (d) (I) THE COMMISSION SHALL ADOPT PIPELINE SAFETY RULES
4 THAT INCORPORATE THE MOST CURRENT FEDERAL REQUIREMENTS UNDER
5 49 CFR 191, 192, 193, AND 199, AS APPLICABLE, TO MAINTAIN MINIMUM
6 STANDARDS FOR GAS PIPELINE SAFETY.

7 (II) THE COMMISSION'S GAS PIPELINE SAFETY RULES MUST
8 ADDRESS, AND MAY BE MORE STRINGENT THAN REQUIRED BY FEDERAL
9 STANDARDS WITH REGARD TO:

10 (A) QUALIFICATIONS AND VERIFIABLE CREDENTIALS FOR
11 PERSONNEL ENGAGED IN PIPELINE CONSTRUCTION, INSPECTION, AND
12 REPAIR ACTIVITIES;

13 (B) REDUCTION OF THE RISKS POSED BY ABANDONED GAS
14 PIPELINES;

15 (C) MAPPING OF ALL PIPELINES WITHIN THE COMMISSION'S
16 JURISDICTION. FOR THIS PURPOSE THE COMMISSION MAY INCORPORATE
17 INFORMATION FROM ANY EXISTING FLOWLINE MAPS OR OTHER MAPS
18 PREPARED BY THE OIL AND GAS CONSERVATION COMMISSION AND
19 SHOWING PIPELINES SUBJECT TO THE JURISDICTION OF THAT AGENCY. THE
20 PUBLIC UTILITIES COMMISSION'S MAPPING REQUIREMENTS FOR PIPELINES
21 WITHIN ITS JURISDICTION MUST INCORPORATE THE SAME STANDARDS FOR
22 CONFIDENTIALITY, SECURITY, AND PUBLIC ACCESS AND LIMITATIONS ON
23 THE SCALE OF PUBLICLY AVAILABLE IMAGES AS ADOPTED BY THE OIL AND
24 GAS CONSERVATION COMMISSION IN 2 CCR 404-1, RULE 1101.e.

25 (D) INCREASED FREQUENCY OF INSPECTIONS OF ALL PIPELINES
26 WITHIN THE COMMISSION'S JURISDICTION;

27 (E) EXPANSION OF ANNUAL REPORTING REQUIREMENTS FOR

1 PIPELINE OPERATORS; AND

2 (F) REQUIREMENTS FOR COMMISSION INVESTIGATION OF SPECIFIC
3 TYPES OF PIPELINE DAMAGE AND PURSUIT OF APPROPRIATE CIVIL REMEDIES
4 FOR SUCH DAMAGE.

5 (e) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED
6 ON THE COMMISSION BY THIS TITLE 40, THE COMMISSION MAY ISSUE
7 ORDERS REQUIRING ANY PERSON TO COMPLY WITH, OR TO CEASE AND
8 DESIST FROM ANY VIOLATION OF, THE RULES ADOPTED UNDER THIS
9 SECTION.

10 (2) As used in this section:

11 (a) ~~"Transportation of gas" means the gathering, transmission, or~~
12 ~~distribution of gas by pipeline or its storage as defined in 49 CFR 192.3.~~

13 ~~(b)~~ (a) "Gas" means natural gas, flammable gas, ~~or~~ AND ANY gas
14 ~~which~~ THAT is toxic or corrosive.

15 (b) "TRANSPORTATION OF GAS" OR "TRANSPORTING GAS" MEANS
16 THE GATHERING, TRANSMISSION, OR DISTRIBUTION OF GAS BY PIPELINE, AS
17 DEFINED IN 49 CFR 192.3, OR ITS STORAGE.

18 (c) ~~"Manufacturing goods" does not include farming or activities~~
19 ~~associated with the production of oil or natural gas.~~

20 **SECTION 3.** In Colorado Revised Statutes, **amend** 40-7-117 as
21 follows:

22 **40-7-117. Gas pipeline safety rules - civil penalty for violations**
23 **- compromise - other remedies.** (1) Any person violating any rule
24 adopted or order issued by the commission pursuant to the authority
25 granted in ~~section 40-2-115 (1.5)~~ shall be SECTION 40-2-115 (1)(c), (1)(d),
26 OR (1)(e) IS subject to a civil penalty ~~not to exceed one~~ OF UP TO TWO
27 hundred thousand dollars per violation; except that, in the case of a group

1 or series of related violations, the aggregate amount of such penalties
2 shall not exceed ~~one~~ TWO million dollars. Each day of a continuing
3 violation ~~shall constitute~~ CONSTITUTES a separate violation.

4 (2) Any civil penalty authorized by this section may be
5 ~~compromised~~ REDUCED by the commission ~~In determining the amount of~~
6 ~~the penalty or of the amount to be agreed upon in compromise, the~~
7 ~~commission shall consider the gravity of the violation, the size of the~~
8 ~~business of the violator, and the amount of effort expended by the violator~~
9 ~~in any attempts made in good faith to remedy the violation or prevent~~
10 ~~future similar violations~~ BASED ON CONSIDERATION OF OBJECTIVE
11 METRICS AND FACTORS SET FORTH IN RULES. THE METRICS AND FACTORS
12 MUST INCLUDE:

13 (a) AN EVALUATION OF THE GRAVITY OF THE VIOLATION, IN TERMS
14 OF ITS ACTUAL OR POTENTIAL EFFECT ON PUBLIC SAFETY OR PIPELINE
15 SYSTEM INTEGRITY;

16 (b) THE EXTENT TO WHICH THE VIOLATION AND ANY UNDERLYING
17 CONDITIONS THAT MAY HAVE CONTRIBUTED TO THE LIKELIHOOD OR
18 SEVERITY OF THE VIOLATION HAVE BEEN REMEDIED; AND

19 (c) THE EXTENT TO WHICH THE VIOLATOR AGREES TO SPEND, IN
20 LIEU OF PAYMENT OF PART OF THE CIVIL PENALTY, A SPECIFIED DOLLAR
21 AMOUNT ON COMMISSION-APPROVED MEASURES TO REDUCE THE OVERALL
22 RISK TO PIPELINE SYSTEM SAFETY OR INTEGRITY; EXCEPT THAT THE
23 AMOUNT OF THE PENALTY PAYABLE TO THE COMMISSION SHALL BE NO
24 LESS THAN FIVE THOUSAND DOLLARS.

25 (3) IF A VIOLATOR DOES NOT REMIT the ASSESSED penalty or ~~any~~
26 THE lesser amount agreed upon ~~in compromise may be recovered by~~
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION, the commission MAY

1 RECOVER THE AMOUNT DUE PLUS COURT COSTS in a civil action in any
2 court of competent jurisdiction.

3 ~~(3)~~ (4) The remedy provided in this section is in addition to any
4 other remedies available to the commission under the constitution or laws
5 of this state or of the United States.

6 **SECTION 4. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.