

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0335.01 Duane Gall x4335

SENATE BILL 21-108

SENATE SPONSORSHIP

Story, Moreno, Pettersen, Winter

HOUSE SPONSORSHIP

Bernett and Cutter, Amabile, Bird, Boesenecker, Caraveo, Froelich, Gonzales-Gutierrez,
Kipp, Lontine, Sirota

Senate Committees

Transportation & Energy
Appropriations

House Committees

Energy & Environment
Appropriations

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, AND MAKING AN APPROPRIATION.**

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.

HOUSE
3rd Reading Unamended
May 28, 2021

HOUSE
Amended 2nd Reading
May 27, 2021

SENATE
3rd Reading Unamended
May 7, 2021

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; █

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; and

9 (d) Leaks in natural gas gathering and distribution pipelines pose
10 safety risks and environmental harm due to methane emissions that
11 contribute to near-term climate change and other hydrocarbon emissions
12 that pose a threat to public health and safety.

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

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

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

1 United States to enforce the economic and safety laws and rules of this
2 state and of the United States.

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

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

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

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

1 (III) OPERATORS OF LIQUID PETROLEUM GAS DISTRIBUTION
2 SYSTEMS;

3 (IV) Operators of pipelines transporting gas in intrastate
4 commerce; AND

5 (V) OPERATORS OF INTRASTATE LIQUEFIED NATURAL GAS
6 FACILITIES.

7 (d) (I) THE COMMISSION SHALL ADOPT PIPELINE SAFETY RULES
8 THAT INCORPORATE THE MOST CURRENT FEDERAL REQUIREMENTS UNDER
9 49 CFR 191, 192, 193, AND 199, AS APPLICABLE, TO MAINTAIN MINIMUM
10 STANDARDS FOR GAS PIPELINE SAFETY.

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

14 (A) QUALIFICATIONS AND VERIFIABLE CREDENTIALS FOR
15 PERSONNEL ENGAGED IN PIPELINE CONSTRUCTION, INSPECTION, AND
16 REPAIR ACTIVITIES;

17 (B) REDUCTION OF THE RISKS POSED BY ABANDONED GAS
18 PIPELINES;

19 (C) MAPPING OF ALL PIPELINES WITHIN THE COMMISSION'S
20 JURISDICTION. FOR THIS PURPOSE THE COMMISSION MAY INCORPORATE
21 INFORMATION FROM ANY EXISTING FLOWLINE MAPS OR OTHER MAPS
22 PREPARED BY THE OIL AND GAS CONSERVATION COMMISSION AND
23 SHOWING PIPELINES SUBJECT TO THE JURISDICTION OF THAT AGENCY. THE
24 PUBLIC UTILITIES COMMISSION'S MAPPING REQUIREMENTS FOR PIPELINES
25 WITHIN ITS JURISDICTION MUST INCORPORATE THE SAME STANDARDS FOR
26 CONFIDENTIALITY, SECURITY, AND PUBLIC ACCESS AND LIMITATIONS ON
27 THE SCALE OF PUBLICLY AVAILABLE IMAGES AS ADOPTED BY THE OIL AND

1 GAS CONSERVATION COMMISSION IN 2 CCR 404-1, RULE 1101.e.

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

4 (E) USE OF ADVANCED LEAK DETECTION TECHNOLOGY TO MEET
5 THE NEED FOR PIPELINE SAFETY AND PROTECTION OF THE ENVIRONMENT;

6 (F) EXPANSION OF ANNUAL REPORTING REQUIREMENTS FOR
7 PIPELINE OPERATORS; AND

8 (G) REQUIREMENTS FOR COMMISSION INVESTIGATION OF SPECIFIC
9 TYPES OF PIPELINE DAMAGE AND PURSUIT OF APPROPRIATE CIVIL REMEDIES
10 FOR SUCH DAMAGE.

11 (e) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED
12 ON THE COMMISSION BY THIS TITLE 40, THE COMMISSION MAY ISSUE
13 ORDERS REQUIRING ANY PERSON TO COMPLY WITH, OR TO CEASE AND
14 DESIST FROM ANY VIOLATION OF, THE RULES ADOPTED UNDER THIS
15 SECTION.

16 (2) As used in this section:

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

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

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

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

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

1 **40-7-117. Gas pipeline safety rules - civil penalty for violations**
2 **- compromise - other remedies.** (1) Any person violating any rule
3 adopted or order issued by the commission pursuant to the authority
4 granted in ~~section 40-2-115 (1.5)~~ shall be SECTION 40-2-115 (1)(c), (1)(d),
5 OR (1)(e) IS subject to a civil penalty ~~not to exceed one~~ OF UP TO TWO
6 hundred thousand dollars per violation; except that, in the case of a group
7 or series of related violations, the aggregate amount of such penalties
8 shall not exceed ~~one~~ TWO million dollars. Each day of a continuing
9 violation ~~shall constitute~~ CONSTITUTES a separate violation.

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

19 (a) AN EVALUATION OF THE **SEVERITY** OF THE VIOLATION, IN
20 TERMS OF ITS ACTUAL OR POTENTIAL EFFECT ON PUBLIC SAFETY OR
21 PIPELINE SYSTEM INTEGRITY;

22 (b) THE EXTENT TO WHICH THE VIOLATION AND ANY UNDERLYING
23 CONDITIONS THAT MAY HAVE CONTRIBUTED TO THE LIKELIHOOD OR
24 SEVERITY OF THE VIOLATION HAVE BEEN REMEDIED; AND

25 (c) THE EXTENT TO WHICH THE VIOLATOR AGREES TO SPEND, IN
26 LIEU OF PAYMENT OF PART OF THE CIVIL PENALTY, A SPECIFIED DOLLAR
27 AMOUNT ON COMMISSION-APPROVED MEASURES TO REDUCE THE OVERALL

1 RISK TO PIPELINE SYSTEM SAFETY OR INTEGRITY; EXCEPT THAT THE
2 AMOUNT OF THE PENALTY PAYABLE TO THE COMMISSION SHALL BE NO
3 LESS THAN FIVE THOUSAND DOLLARS.

4 (3) IF A VIOLATOR DOES NOT REMIT THE ASSESSED PENALTY OR ANY
5 THE LESSER AMOUNT AGREED UPON IN COMPROMISE MAY BE RECOVERED BY
6 PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COMMISSION MAY
7 RECOVER THE AMOUNT DUE PLUS COURT COSTS IN A CIVIL ACTION IN ANY
8 COURT OF COMPETENT JURISDICTION.

9 (3) (4) THE REMEDY PROVIDED IN THIS SECTION IS IN ADDITION TO ANY
10 OTHER REMEDIES AVAILABLE TO THE COMMISSION UNDER THE CONSTITUTION OR LAWS
11 OF THIS STATE OR OF THE UNITED STATES.

12 **SECTION 4. Appropriation.** (1) For the 2021-22 state fiscal
13 year, \$423,448 is appropriated to the department of regulatory agencies.
14 This appropriation is from the general fund. To implement this act, the
15 department may use this appropriation as follows:

16 (a) \$264,878 for use by the public utilities commission for
17 personal services, which amount is based on an assumption that the
18 commission will require an additional 3.7 FTE;

19 (b) \$105,400 for use by the public utilities commission for
20 operating expenses; and

21 (c) \$53,170 for the purchase of legal services.

22 (2) For the 2021-22 state fiscal year, \$53,170 is appropriated to
23 the department of law. This appropriation is from reappropriated funds
24 received from the department of regulatory agencies under subsection
25 (1)(c) of this section and is based on an assumption that the department
26 of law will require an additional 0.3 FTE. To implement this act, the
27 department of law may use this appropriation to provide legal services for

1 the department of regulatory agencies.

2 **SECTION 5. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.