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HOUSE BILL 94

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Bill McCamley

AN ACT

RELATING TO PIPELINE SAFETY; CHANGING THE CIVIL PENALTIES FOR VIOLATIONS OF THE PIPELINE SAFETY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-3-19 NMSA 1978 (being Laws 1969, Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT--PENALTIES.--

A. If as a result of investigation the commission has good cause to believe that any person is violating any provision of Subsection A of Section 70-3-18 NMSA 1978 or any regulation adopted by the commission under the Pipeline Safety Act, the commission shall, when practicable and except in the case of a knowing and willful violation, give the person notice of the violation and an opportunity to comply. If the commission is unable within a reasonable time to obtain

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1 voluntary cooperation to prevent the continuing violation, the  
2 commission may apply for an injunction in the district court of  
3 the county in which the violation occurs to secure compliance.  
4 The failure to give notice and afford an opportunity to comply  
5 shall not preclude the granting of injunctive relief.

6 B. The trial before the district court shall be  
7 before the court without jury, and the court shall enter  
8 judgment and orders enforcing the judgment as the public  
9 interest and equities of the case may require.

10 C. Any person owning or operating gas pipeline  
11 facilities or engaged in the transportation of gas or owning or  
12 operating oil pipeline facilities or engaged in the  
13 transportation of oil who has been determined by order of the  
14 commission after hearing to have violated any provision of  
15 Subsection A of Section 70-3-18 NMSA 1978 or any regulation  
16 promulgated under the Pipeline Safety Act applicable to  
17 intrastate pipeline facilities shall be subject to a civil  
18 penalty in an amount not to exceed [~~one hundred thousand~~  
19 ~~dollars (\$100,000) for each violation for each day that the~~  
20 ~~violation persists, except that the maximum civil penalty shall~~  
21 ~~not exceed one million dollars (\$1,000,000)] the amount, as  
22 determined by the commission, established by applicable federal  
23 law for any related series of violations.~~

24 D. In determining the amount of the penalty, the  
25 commission shall consider the nature, circumstances and gravity

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1 of the violation and, with respect to the person found to have  
2 committed the violation, the degree of culpability, any history  
3 of prior violations, the effect on ability to continue to do  
4 business, any good faith in attempting to achieve compliance,  
5 ability to pay the penalty and other matters as justice may  
6 require.

7 E. Judicial review of any provision of this section  
8 may be accomplished in the same manner as is found in Section  
9 70-3-15 NMSA 1978.

10 F. Any person who willfully and knowingly injures  
11 or destroys or attempts to injure or destroy an intrastate  
12 pipeline facility shall upon conviction be subject for each  
13 offense to a fine not to exceed twenty-five thousand dollars  
14 (\$25,000) or imprisonment for a term not to exceed fifteen  
15 years, or both.

16 G. Any person who willfully and knowingly damages,  
17 removes or destroys any pipeline sign, right-of-way marker  
18 required by the Pipeline Safety Act or any regulation or  
19 order issued pursuant to that act shall upon conviction be  
20 subject for each offense to a fine of not more than five  
21 thousand dollars (\$5,000) or imprisonment for a term not to  
22 exceed one year, or both."

23 SECTION 2. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2018.

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