

Amendment No. 474

Senate Amendment to Senate Bill No. 18	(BDR 58-277)
Proposed by: Senate Committee on Growth and Infrastructure	
Amendment Box: Replaces Amendment No. 121.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Adopted	<input type="checkbox"/>
				Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	Concurred In	<input type="checkbox"/>
				Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	Receded	<input type="checkbox"/>
				Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAS/AAK



Date: 4/18/2021

S.B. No. 18—Revises provisions governing penalties for certain violations relating to public utilities. (BDR 58-277)



SENATE BILL NO. 18—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE PUBLIC UTILITIES
COMMISSION OF NEVADA)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing penalties for certain violations relating to public utilities. (BDR 58-277)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public utilities; increasing the maximum amount of administrative fines that the Public Utilities Commission of Nevada is authorized to assess for certain violations relating to public utilities; authorizing the Commission to assess an administrative fine on a person who provides inaccurate or misleading information to the Commission under certain circumstances; revising certain provisions related to determining the amount of certain administrative fines assessed by the Commission; increasing criminal penalties for certain violations relating to public utilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, a person who violates a regulation adopted by the Public Utilities Commission of Nevada relating to the operation and maintenance of storage facilities and intrastate pipelines used to store and transport natural gas or liquefied petroleum gas is liable for an administrative fine not to exceed \$1,000 per day for each day of the violation, up to a maximum of \$200,000 for any related series of violations. (NRS 703.154) **Section 1** of this bill increases this maximum administrative fine to ~~[\$100,000]~~ **\$200,000** per day for each day of the violation, up to a maximum of ~~[\$20,000,000]~~ **\$2,000,000** for any related series of violations.

Under existing law, a person is liable for an administrative fine to be assessed by the Commission if the person: (1) violates certain provisions relating to public utilities; (2) violates any rule or regulation of the Commission; or (3) fails, neglects or refuses to obey an order of the Commission. (NRS 703.380) **Section 2** of this bill increases the maximum administrative fine for such violations that are knowing and willful, or detrimental to public health or safety, from \$1,000 per day to \$200,000 per day for each day of the violation ~~[not to exceed]~~ and increases the maximum total from \$100,000 to \$5,000,000 for any related series of violations. ~~[to \$100,000 per day for each day of the violation not to exceed—\$10,000,000.]~~ For any other violation, section 2 increases the maximum

18 administrative fine to \$100,000 per day, not to exceed \$2,000,000 for any related series of
 19 violations. Section 2 authorizes the Commission to also assess an administrative fine in that
 20 increased maximum amount if a person provides to the Commission information which is
 21 materially inaccurate or misleading and which the person knew or through the exercise of
 22 reasonable care and diligence should have known was materially inaccurate or misleading.

23 Existing law requires the Commission to consider certain factors in determining the
 24 amount of an administrative fine. (NRS 703.380) Section 2 expands these factors to
 25 include: (1) the nature and circumstances of the violation, including the actual or
 26 potential financial impact and actual or potential impact on public health and safety; (2)
 27 whether the violation was willful; (3) the good faith of the person charged in detecting
 28 and voluntarily disclosing the violation to the Commission; (4) the good faith of the
 29 person charged in attempting to achieve compliance after notification of a violation and
 30 to prevent the reoccurrence of similar violations in the future; (5) the history of
 31 compliance or noncompliance; (6) the economic benefit of the violation, or lack thereof,
 32 to the person charged; (7) the amounts of administrative fines assessed previously by the
 33 Commission for similar violations; and (8) such other factors as necessary to determine
 34 the reasonableness of the administrative fine.

35 Section 2 additionally provides that certain limits on administrative fines do not
 36 restrict the Commission's authority to require a public utility to restore funding to a
 37 program or account as necessary to achieve compliance with an applicable statute or
 38 regulation or order of the Commission.

39 Section 3 of this bill increases the maximum amount of a criminal fine that may be
 40 imposed on a person who commits certain violations relating to public utilities from \$500 to
 41 \$50,000. (NRS 704.640)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 703.154 is hereby amended to read as follows:

2 703.154 1. The Commission may adopt such regulations as are necessary to
 3 ensure the safe operation and maintenance of all storage facilities and intrastate
 4 pipelines in this State which are used to store and transport natural gas, liquefied
 5 petroleum gas, in its liquid or vapor form, or any mixture thereof. Regulations
 6 adopted pursuant to this subsection do not apply to activities that are subject to the
 7 provisions of NRS 590.465 to 590.645, inclusive, or chapter 704 of NRS.

8 2. If the Commission and any other governmental entity or agency of the
 9 State have coexisting jurisdiction over the regulation of such storage facilities and
 10 intrastate pipelines, the Commission has the final authority to regulate those
 11 facilities and pipelines and to take such actions as are necessary to carry out the
 12 regulations adopted pursuant to subsection 1.

13 3. A person who violates any of the provisions of a regulation adopted by the
 14 Commission pursuant to subsection 1 is liable for an administrative fine not to
 15 exceed ~~[\$1,000 \$100,000]~~ \$200,000 per day for each day of the violation and not to
 16 exceed ~~[\$200,000 \$2,000,000]~~ \$2,000,000 for any related series of violations. The
 17 amount of the administrative fine must be determined in the manner provided in
 18 NRS 703.380.

19 **Sec. 2.** NRS 703.380 is hereby amended to read as follows:

20 703.380 1. Unless another administrative fine is specifically provided, a
 21 person, including, without limitation, a public utility, alternative seller, provider of
 22 discretionary natural gas service, provider of new electric resources or holder of
 23 any certificate of registration, license or permit issued by the Commission, or any
 24 officer, agent or employee of a public utility, alternative seller, provider of
 25 discretionary natural gas service, provider of new electric resources or holder of
 26 any certificate of registration, license or permit issued by the Commission who:

1 (a) Violates any applicable provision of this chapter or chapter 704, 704B, 705
2 or 708 of NRS, including, without limitation, the failure to pay any applicable tax,
3 fee or assessment;

4 (b) Violates any rule or regulation of the Commission; ~~[(b)]~~

5 (c) Fails, neglects or refuses to obey any order of the Commission or any order
6 of a court requiring compliance with an order of the Commission ~~[(c)]~~; or

7 *(d) Provides to the Commission information which is materially inaccurate*
8 *or misleading and which the person knew or through the exercise of reasonable*
9 *care and diligence should have known was materially inaccurate or misleading,*

10 ~~[(d)]~~ is liable for an administrative fine, to be assessed by the Commission after notice
11 and the opportunity for a hearing. ~~[(d)]~~ ~~in an amount of~~ *If the Commission determines*
12 *that a violation was willful and knowing, or detrimental to public health or safety,*
13 *the administrative fine must not exceed \$200,000 per day* ~~[(d)]~~ ~~exceed~~ ~~[\$1,000-\$100,000]~~ ~~exceed~~
14 ~~[(d)]~~ ~~exceed~~ ~~[\$100,000-\$10,000,000]~~
15 *\$5,000,000 for any related series of violations. For any other violation, the*
16 *administrative fine must not exceed \$100,000 per day and not exceed \$2,000,000*
17 *for any related series of violations.*

18 2. In determining the amount of the administrative fine, *and to ensure that*
19 *the fine is proportional to the violation,* the Commission shall consider ~~[(2)]~~:

20 *(a) The appropriateness of the fine to the size of the business of the person*
21 *charged* ~~[(a)]~~;

22 *(b) The nature, circumstances and gravity of the violation, including, without*
23 *limitation, the actual or potential financial impact and actual or potential impact*
24 *on public health and safety of the violation;*

25 *(c) Whether the violation was willful;*

26 *(d) The good faith of the person charged in detecting and voluntarily*
27 *disclosing the violation to the Commission;*

28 *(e) The good faith of the person charged in attempting to achieve compliance*
29 *after notification of the violation and to prevent the reoccurrence of similar*
30 *violations in the future;*

31 *(f) The history of compliance or noncompliance, including, without*
32 *limitation, any repeated violations committed by the person charged* ~~[(f)]~~;

33 *(g) The economic benefit of the violation, or lack thereof, to the person*
34 *charged;*

35 *(h) The amounts of administrative fines assessed previously by the*
36 *Commission for similar violations, if any; and*

37 *(i) Such other factors as are necessary to determine the reasonableness of*
38 *the administrative fine.*

39 3. *The limitations on the amount of an administrative fine in subsection 1*
40 *do not restrict the authority of the Commission to require a public utility to*
41 *restore funding to a program or account as necessary to achieve compliance with*
42 *an applicable statute or regulation or an order of the Commission.*

43 4. An administrative fine assessed pursuant to this section is not a cost of
44 service of a public utility and may not be included in any new application by a
45 public utility for a rate adjustment or rate increase.

46 ~~[(4)]~~ 5. All money collected by the Commission as an administrative fine
47 pursuant to this section must be deposited in the State General Fund.

48 ~~[(5)]~~ 6. The Commission may bring an appropriate action in its own name for
49 the collection of any administrative fine that is assessed pursuant to this section. A
50 court shall award costs and reasonable attorney's fees to the prevailing party in an
51 action brought pursuant to this subsection.

52 ~~[(6)]~~ 7. The administrative fine prescribed by this section is in addition to any
53 other remedies, other than a monetary fine, provided by law, including, without

1 limitation, the authority of the Commission to revoke a certificate of public
2 convenience and necessity, license or permit pursuant to NRS 703.377.

3 **Sec. 3.** NRS 704.640 is hereby amended to read as follows:

4 704.640 Except as otherwise provided in NRS 704.6881 to 704.6884,
5 inclusive, any person who:

6 1. Operates any public utility to which NRS 704.005 to 704.754, inclusive,
7 704.9901 and 704.993 to 704.999, inclusive, apply without first obtaining a
8 certificate of public convenience and necessity or in violation of its terms;

9 2. Fails to make any return or report required by NRS 704.005 to 704.754,
10 inclusive, 704.9901 and 704.993 to 704.999, inclusive, or by the Commission
11 pursuant to NRS 704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999,
12 inclusive;

13 3. Violates, or procures, aids or abets the violating of any provision of NRS
14 704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999, inclusive;

15 4. Fails to obey any order, decision or regulation of the Commission;

16 5. Procures, aids or abets any person in the failure to obey the order, decision
17 or regulation; or

18 6. Advertises, solicits, proffers bids or otherwise holds himself, herself or
19 itself out to perform as a public utility in violation of any of the provisions of NRS
20 704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999, inclusive,

21 ↪ shall be fined not more than ~~[\$500.]~~ **\$50,000.**

22 **Sec. 4.** This act becomes effective on July 1, 2021.