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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 443 Session of  
2019

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INTRODUCED BY DINNIMAN, MUTH, KILLION AND KEARNEY,  
MARCH 28, 2019

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 28, 2019

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AN ACT

1 Providing for a moratorium on hazardous liquid pipelines  
2 permitting.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Hazardous  
7 Liquid Pipelines Permitting Moratorium Act.

8 Section 2. Legislative findings.

9 The General Assembly finds that:

10 (1) Hazardous liquids are national commodities, yet are  
11 commodities that pose a threat to the property and health of  
12 Pennsylvanians if not properly transported or stored.

13 (2) Questions have recently arisen regarding hazardous  
14 liquid pipeline siting in Pennsylvania and the responsibility  
15 for monitoring and inspecting these pipelines.

16 (3) The General Assembly recognizes the importance of  
17 being able to balance the benefits of economic development in  
18 this Commonwealth with the protection of the health, safety,

1 welfare and property of its residents.

2 (4) The Governor convened the Pipeline Infrastructure  
3 Task Force in 2015 in an effort to research and recommend  
4 best practices for planning, siting, routing and construction  
5 of pipelines that would both promote economic benefits and  
6 reduce harmful environmental and community impacts.

7 (5) The final report from the Pipeline Infrastructure  
8 Task Force contained 184 separate recommendations aimed at  
9 protecting the public, yet few of these recommendations have  
10 become law.

11 (6) The complex web of Federal and State laws governing  
12 hazardous liquids have left wide gaps in the proper  
13 regulation of the safe transportation of hazardous liquids  
14 across this Commonwealth, including when the dangerous  
15 products are being transported overseas with no direct  
16 benefit to Pennsylvanians, which has created unique and  
17 heightened safety concerns from our residents.

18 (7) Recent hazardous liquid pipeline construction in  
19 Pennsylvania has resulted in over 90 notices of violation  
20 over the past two years from the Department of Environmental  
21 Protection of the Commonwealth for impacts to the environment  
22 and water of this Commonwealth.

23 (8) Recent hazardous liquid pipeline construction in  
24 Pennsylvania has impacted private water wells of our  
25 residents.

26 (9) Recent hazardous liquid pipeline construction  
27 projects in Pennsylvania have been temporarily suspended by  
28 both the Department of Environmental Protection and the  
29 Pennsylvania Public Utility Commission in the past two years  
30 as the construction's impact on the safety of our residents

1 and this Commonwealth's environment was questioned,  
2 highlighting a need for additional clarity in the State law  
3 governing hazardous liquid pipelines.

4 (10) It is the duty of the General Assembly to  
5 temporarily suspend the authorization of new pipeline owners  
6 and operators in order to reexamine whether its existing law  
7 related to hazardous liquid pipeline siting, construction and  
8 operation is adequately protecting this Commonwealth's  
9 environment and the interests of our residents' health,  
10 safety, welfare and property.

11 Section 3. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Commission." The Pennsylvania Public Utility Commission.

16 "Department." The Department of Environmental Protection of  
17 the Commonwealth.

18 "Existing equipment or facilities." Equipment or facilities  
19 of a public utility engaged in the transmission of hazardous  
20 liquids, by pipeline or conduit, constructed and in use prior to  
21 the effective date of this section.

22 "Hazardous liquid." As defined in 49 CFR 195.2 (relating to  
23 definitions).

24 "Public utility." As defined in 66 Pa.C.S. § 102 (relating  
25 to definitions).

26 "Transmission." The transportation, other than gathering, of  
27 hazardous liquids through a pipeline as that term is defined in  
28 49 CFR 195.2.

29 Section 4. Moratorium.

30 (a) Temporary moratorium.--Notwithstanding any other

1 provision of law to the contrary, beginning on the effective  
2 date of this section and until May 31, 2021:

3 (1) The commission may not grant a certificate of public  
4 convenience under 66 Pa.C.S. Ch. 11 (relating to certificates  
5 of public convenience) to a public utility owning or  
6 operating in this Commonwealth equipment or facilities  
7 engaged in the transmission of hazardous liquids, by pipeline  
8 or conduit.

9 (2) The department may not issue any of the following  
10 permits to a public utility owning or operating in this  
11 Commonwealth equipment or facilities engaged in the  
12 transportation of hazardous liquids, by pipeline or conduit,  
13 for such equipment or facilities:

14 (i) An erosion and sedimentation permit under 25 Pa.  
15 Code Ch. 102 (relating to erosion and sediment control).

16 (ii) A water obstruction and encroachment permit  
17 under 25 Pa. Code Ch. 105 (relating to dam safety and  
18 waterway management).

19 (iii) A National Pollutant Discharge Elimination  
20 System (NPDES) general permit for discharges of storm  
21 water associated with construction activities.

22 (b) Exceptions.--The temporary suspension of the issuance of  
23 certificates, approvals or permits provided in subsection (a)  
24 shall not apply to the following activities:

25 (1) maintaining or replacing existing equipment or  
26 facilities in place; or

27 (2) relocating temporary work space for repairs of  
28 existing equipment or facilities.

29 Section 5. Effective date.

30 This act shall take effect immediately.