

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0365

SENATE BILL NO. 18

Introduced by: The Committee on Commerce and Energy at the request of the Public Utilities Commission

1 FOR AN ACT ENTITLED, An Act to update certain references to federal laws and regulations
2 regarding pipeline safety inspections and to increase the maximum civil penalty for certain
3 pipeline safety violations.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-34B-1 be amended to read:

6 49-34B-1. Terms used in this chapter mean:

- 7 (1) "Commission," the Public Utilities Commission;
- 8 (2) "Emergency release," a release of a quantity of gas that is great enough to pose a clear
9 and immediate danger to life, health, environment, or that threatens a significant loss
10 of property;
- 11 (3) "Gas," natural gas, liquefied natural gas, flammable gas, gas which is toxic or
12 corrosive, or liquefied petroleum gas in distribution systems;
- 13 (4) "Gas pipeline," all parts of those physical facilities through which gas moves in
14 transportation, including pipe, valves, and other appurtenances attached to pipe,
15 compressor units, metering stations, regulator stations, delivery stations, holders, and



- 1 fabricated assemblies;
- 2 (5) "Gas pipeline facilities," new and existing pipelines, rights-of-way, master meter
3 systems, pipeline facilities within this state which transport gas from an interstate gas
4 pipeline to a direct sales customer within this state purchasing gas for its own
5 consumption, and any equipment, facility, or building used in the transportation of
6 gas or in the treatment of gas during the course of transportation;
- 7 (6) "Inspection fee," any fee assessed to pipeline operators based on the expenses and
8 obligations incurred by the commission in implementing and administering this
9 chapter;
- 10 (7) "Intrastate pipeline," any pipeline or that part of a pipeline to which this part applies
11 that is not an interstate pipeline;
- 12 (8) "Interstate pipeline," pipeline facilities used in the transportation of gas which are
13 subject to the jurisdiction of the Federal Energy Regulatory Commission under the
14 Natural Gas Act, United States Code, Title 15, sections 717 to 717z, inclusive, as
15 amended to January 1, ~~2016~~ 2019, except that it does not include any pipeline
16 facilities within this state which transport gas from an interstate gas pipeline to a
17 direct sales customer within this state purchasing gas for its own consumption;
- 18 (9) "Liquefied natural gas," natural gas or synthetic gas having methane (CH₄) as its
19 major constituent that has been changed to a liquid or semisolid;
- 20 (10) "Master meter system," any pipeline system for distributing gas within a definable
21 area, such as a mobile home park, housing project, or apartment complex, where the
22 operator purchases metered gas from an outside source for resale through a gas
23 distribution pipeline system and the gas distribution pipeline system supplies the
24 ultimate consumer who either purchases the gas directly through a meter or by other

1 means, such as by rents;

2 (11) "Pipeline operator," any person who owns or operates a pipeline;

3 (12) "Release," a spilling, leaking, pumping, pouring, emitting, emptying, discharging,
4 injecting, leaching, dumping, disposing, flowing, or any uncontrolled escape of a gas
5 from a pipeline; and

6 (13) "Transportation of gas," the gathering, transmission, or distribution of gas by pipeline
7 or the storage of gas.

8 Section 2. That § 49-34B-3 be amended to read:

9 49-34B-3. There is created a pipeline safety inspection program. The federal safety standards
10 adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199 as
11 amended to January 1, ~~2016~~ 2019, are adopted as minimum safety standards for this chapter.
12 The commission shall establish and implement a compliance program to enforce these safety
13 standards. The program shall be established and implemented in a manner that fully complies
14 with requirements for state certification under the United States Code, title 49, section 60105,
15 as amended to January 1, ~~2016~~ 2019.

16 Section 3. That § 49-34B-4 be amended to read:

17 49-34B-4. The commission may, by rules promulgated pursuant to chapter 1-26, establish
18 safety standards, but not more stringent than federal safety standards as provided by § 49-34B-3,
19 for the intrastate transportation of gas and gas pipeline facilities. The standards may apply to the
20 design, installation, inspection, testing, construction, extension, operation, replacement, and
21 maintenance of gas pipeline facilities. Standards affecting the design, installation, construction,
22 initial inspection, and initial testing do not apply to pipeline facilities in existence on the date
23 the standards are adopted by either this state or the federal government. The safety standards
24 shall be practicable and designed to meet the need for pipeline safety. In prescribing the

1 standards, the commission shall consider:

- 2 (1) Relevant available pipeline safety data;
- 3 (2) Whether the standards are appropriate for the particular type of pipeline
4 transportation of gas;
- 5 (3) The reasonableness of any proposed standards;
- 6 (4) The extent to which the standard will contribute to public safety; and
- 7 (5) The existing standards established by the secretary of the United States Department
8 of Transportation pursuant to the United States Code, title 49, section 60101 et seq.
9 as amended to January 1, ~~2016~~ 2019.

10 Section 4. That § 49-34B-12 be amended to read:

11 49-34B-12. Any person who violates any provision of this chapter or any rule promulgated
12 pursuant to this chapter is subject to a civil penalty to be imposed by the commission, after
13 notice and opportunity for hearing. The civil penalty may not exceed ~~one~~ two hundred thousand
14 dollars for each violation each day that the violation persists, except that the maximum civil
15 penalty may not exceed ~~one~~ two million dollars for any related series of violations. In
16 determining the amount of the penalty upon finding a violation, or the amount of a compromise
17 settlement, the commission shall consider the appropriateness of the penalty to the size of the
18 business of the person charged, the gravity of the violation, prior offenses and compliance
19 history, the good faith of the person charged in attempting to achieve compliance, and such
20 other matters as justice may require. All penalties collected pursuant to this chapter shall be
21 deposited in the state treasury to the credit of the pipeline safety account, established pursuant
22 to § 49-34B-9. This section does not apply to interstate gas pipeline facilities.

23 Section 5. That § 49-34B-13 be amended to read:

24 49-34B-13. No person is subject to civil penalties under this chapter if prior civil penalties

1 have been imposed under the United States Code, title 49, section 60101 et seq. as amended to
2 January 1, ~~2016~~ 2019, for conduct that may give rise to a violation of both acts. Nothing in this
3 chapter limits the powers of the commission, or precludes the pursuit of any other
4 administrative, civil, injunctive, or criminal remedies by the commission or any other person.
5 Administrative remedies need not be exhausted in order to proceed under this chapter. The
6 remedies provided by this chapter are in addition to those provided under existing statutory or
7 common law.

8 Section 6. That § 49-34B-14 be amended to read:

9 49-34B-14. The commission may, to the extent authorized by agreement with the secretary
10 of the United States Department of Transportation, act as agent for the secretary of
11 transportation to implement the United States Code, title 49, section 60101 et seq. as amended
12 to January 1, ~~2016~~ 2019, and any federal pipeline safety regulations promulgated thereto with
13 respect to interstate gas pipelines located within this state, as necessary to obtain annual federal
14 certification. The commission shall, to the extent authorized by federal law, inspect pipelines
15 in the state as authorized by the provisions of this chapter.

16 Section 7. That § 49-34B-15 be amended to read:

17 49-34B-15. The commission may seek and accept federal designation of the commission's
18 pipeline inspectors as federal agents for the purposes of inspection pursuant to the United States
19 Code, title 49, section 60101 et seq. as amended to January 1, ~~2016~~ 2019, and federal rules
20 adopted to implement those acts. If the Department of Transportation delegates inspection
21 authority to the state as provided in this section, the commission shall do what is necessary to
22 carry out its delegated federal authority.

23 Section 8. That § 49-34B-19 be amended to read:

24 49-34B-19. The commission may promulgate pipeline inspection and safety rules, pursuant

1 to chapter 1-26, to the extent necessary to enable the state to qualify for annual federal
2 certification to operate the federal pipeline inspection program of intrastate and interstate gas
3 pipelines as authorized by the United States Code, title 49, section 60101 et seq. as amended to
4 January 1, ~~2016~~ 2019.

5 Section 9. That § 49-34B-22 be amended to read:

6 49-34B-22. All information reported to or obtained by the commission under this chapter
7 that contains or relates to a trade secret referred to in United States Code, title 18, section 1905,
8 as amended to January 1, ~~2016~~ 2019, or that is granted by chapter 37-29 is confidential for the
9 purpose of that section, except that the information may be disclosed to the commission or
10 commission employee or agent concerned with enforcing this chapter. Nothing in this section
11 authorizes the withholding of information by the commission from a committee of the
12 Legislature.