

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 242

H. P. 193

House of Representatives, January 31, 1979

Referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wood of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Authorize the Public Utilities Commission to Prescribe or Adopt Safety Standards for the Storage and Transportation of Liquefied Petroleum and other Gas by Pipeline.

Be it enacted by the People of the State of Maine, as follows:

35 MRSA c. 8 is enacted to read:

CHAPTER 8

**SAFETY STANDARDS FOR THE STORAGE AND TRANSPORTATION OF
GAS BY PIPELINE**

§ 151. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Gas. "Gas" means natural gas, manufactured gas, liquid petroleum gas, flammable gas or gas that is toxic or corrosive.

2. Person. "Person" means any individual, firm, joint venture, partnership, corporation, association, municipality, cooperative associates or joint stock association, and includes any trustee, reciever, assignee or personal representative.

3. Pipeline facilities. "Pipeline facilities" means all facilities used for the gathering, transmission or distribution of gas and shall include, but shall not be limited to, new and existing pipelines, rights-of-way and any equipment facility, including central tank installations or building used in the transportation of gas or treatment of gas during the course of transportation.

4. Transportation of gas. "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline within the State of Maine or its storage within the State.

§ 152. Standards established

1. Minimum safety standards established. Not later than 12 months after the enactment of this chapter, the Public Utilities Commission shall, by order, adopt or prescribe minimum safety standards for pipeline facilities and the transportation of gas within the State, provided that these standards are not incompatible with the federal standard adopted by the Secretary of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended, United States Code, Title 49, section 1671. These standards may apply to the inspection, testing, construction, extension, operation and maintenance of pipeline facilities but shall not apply to the design or installation of the facilities to the extent that the design or installation is otherwise subject to the control of any other state or municipal agency acting in accordance with its lawful authority. Whenever the commission shall find a particular pipeline facility to be hazardous to life or property, it shall be empowered to require the person operating the facility to take those steps necessary to correct the hazards. These safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing or adopting these standards the commission shall consider:

- A. Relevant available pipeline safety data;
- B. Whether these standards are appropriate for the particular type of pipeline transportation;
- C. The reasonableness of any proposed standards; and
- D. The extent to which these standards will contribute to public safety.

2. Provisions applicable. Title 5, chapter 373, subchapter II shall apply to all orders adopting, prescribing, amending or revoking any standard established under this chapter.

§ 153. Compliance

1. Requirements for compliance. Each person who engages in the transportation of gas within the State of Maine or who owns or operates pipeline facilities within the State shall:

- A. At all times after the date any applicable safety standards established under this chapter take effect, comply with the requirements of those standards;

B. File and comply with a plan of inspection, operational and maintenance required by section 156; and

C. Permit access to or copying of records, and make reports or provide information and permit entry and inspection as required under section 157.

2. Effect on other laws, rights or liabilities. Nothing in this chapter shall affect the common law or statutory liability, rights and remedies of any person.

§ 154. Civil Penalty

1. Penalty. Any person who violates any provision of section 152, subsection 1, or any regulation or order issued under the authority of this chapter, shall be subject to a civil penalty not in excess of \$1,000 for each violation for each day that the violation persists; provided that for a reasonable period of time, not to exceed one year after the effective date of safety standards adopted pursuant to section 152, the civil penalties shall not be applicable to pipeline facilities existing on the effective date.

2. Compromise of penalty. Any civil penalty may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance after notification of violation, shall be considered.

§ 155. Injunction and jurisdiction

1. Jurisdiction. The Superior Court of this State shall have jurisdiction, subject to the Maine Rules of Civil Procedure, Rule 65, to restrain violations of this chapter including the restraint of transportation of gas or the operation of a pipeline facility or to enforce standards established hereunder.

2. Court in which actions may be brought. Actions under this section and under section 154 may be brought in the Superior Court of the county wherein any act or transaction constituting the violations occurred, or the county wherein the defendant is found or is an inhabitant or transacts business.

§ 156. Inspection, operational and maintenance plans

1. Filing of plan. Each person who engages in the transportation of gas or who owns or operates pipeline facilities within the State shall file with the Public Utilities Commission, a plan for inspection, operation and maintenance of each pipeline facility owned or operated by that person, and any changes in the plan, in accordance with regulations or orders prescribed or adopted by the commission. If, at any time, the Public Utilities Commission finds that the plan is inadequate to achieve safe operations, the commission shall, after notice or opportunity for hearing, require the plan to be revised. The plan required by the commission shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any plan, the commission shall consider:

- A. Relevant available pipeline safety data;
- B. Whether the plan is appropriate for the particular type of pipeline transportation;
- C. The reasonableness of the plan; and
- D. The extent to which the plan will contribute to public safety.

§ 157. Records, reports and inspection for compliance

1. Records, reports and information. Each person who engages in the transportation of gas or who runs or operates pipeline facilities in the State shall establish and maintain such records, make such reports and provide such information as the Public Utilities Commission may reasonably require to enable it to determine whether the person has acted or is acting in compliance with this chapter and the standards established under this chapter. Each person shall, upon request of an employee or agent authorized by the commission, permit the employee or agent to inspect books, papers, records, plans and documents relevant to determining whether the person has acted or is acting in compliance with this chapter and with the standards established pursuant to this chapter.

2. Authorized entries by the commission for inspection. For the purposes of enforcement of this chapter, employees or agents authorized by the commission are authorized to:

- A. Enter upon, at reasonable times, pipeline facilities; and
- B. Inspect, at reasonable times, and within reasonable limits and in a reasonable manner, the facilities. Each inspection shall be commenced and completed with reasonable promptness.

§ 158. Limitations on Public Utilities Commission jurisdiction

The authority granted the Public Utilities Commission by virtue of this chapter is limited to the adoption, prescription and enforcement of safety standards for the transportation of gas by pipeline and for pipeline facilities within the State of Maine. Nothing herein shall be construed to alter or amend any definition contained in section 15 or to confer upon the Public Utilities Commission over any pipeline facilities any of the powers or authority contained in chapters 1 to 17 not otherwise conferred upon it by chapters 1 to 17; provided that the Public Utilities Commission shall not have any jurisdiction or authority over the rates or charges of any gas pipeline facility serving less than 25 customers.

STATEMENT OF FACT

The Public Utilities Commission is presently inspecting gas pipeline facilities within the State pursuant to an agreement with the United States Government under the authority of the Natural Gas Pipeline Safety Act of 1968, United States Code, Title 49, section 1671. Under this agreement, the Public Utilities

Commission ensures that the safety standards imposed by United States Code, Title 49, section 1671, are being complied with by all gas pipeline facilities, including liquid propane gas facilities. The commission is the only state agency that has undertaken this task. In the event that no state agency is willing or authorized to make those inspections, the Federal Government will be obliged to enforce these standards through its own agencies. The purpose of this bill is to remove any possible doubt as to the safety jurisdiction of the Public Utilities Commission over all intrastate pipeline facilities. This bill does not expand the rate-making authority of the Public Utilities Commission to any gas pipeline facility beyond that already contained in Title 35, chapters 1 to 17.