

MAINE STATE LEGISLATURE

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Date: 3/17/11

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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 174, L.D. 197, Bill, "An Act To Improve Response to Gas Safety Emergencies"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 25 MRSA §2394, as amended by PL 1973, c. 632, §4, is further amended to read:

§2394. Investigation of fire origin; Attorney General may direct

When property is destroyed or damaged by fire, the municipal fire inspector shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The Attorney General may supervise and direct such investigation whenever ~~he deems it~~ the Attorney General determines it to be expedient or necessary. If arson is suspected, ~~such~~ the municipal fire inspector shall immediately notify the State Fire Marshal or an inspector of ~~his office~~ the Office of the State Fire Marshal, who shall cause a full investigation thereof to be conducted. The State Fire Marshal and his agents or employees ~~shall have the authority to~~ of the Office of the State Fire Marshal may investigate or cause to be investigated any fire or explosion within the State.

1. Certain explosions or fires; investigation and securing of evidence. In accordance with the protocol adopted by the State Fire Marshal pursuant to this subsection, the State Fire Marshal shall investigate and secure evidence of a gas explosion event. For purposes of this subsection, "gas explosion event" means an explosion or fire caused or suspected to be caused by or that involves natural gas or liquefied petroleum gas and that causes injury or substantial property damage, as determined according to the protocol adopted under this subsection. The State Fire Marshal shall develop a protocol for investigating and securing evidence under this section that:

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 174, L.D. 197

1 A. Establishes reasonable standards for determining whether an explosion or fire
2 may have been caused by or involved natural gas or liquefied petroleum gas and
3 whether the explosion or fire caused injury or substantial property damage; and

4 B. Establishes procedures for informing local fire officials of the requirements of this
5 subsection and for coordinating the investigation, as appropriate, with local fire
6 officials, the Public Utilities Commission, the utility or other entity that controlled,
7 transported or delivered the natural gas or liquefied petroleum gas and other relevant
8 entities.

9 **Sec. 2. 35-A MRSA §117, sub-§3**, as corrected by RR 2009, c. 2, §98, is
10 amended to read:

11 **3. Administrative penalties.** Except as provided in this subsection, all
12 administrative penalties collected by the commission must be deposited into the Public
13 Utilities Commission Reimbursement Fund.

14 A. The commission may use amounts collected as administrative penalties and
15 deposited in the Public Utilities Commission Reimbursement Fund to reimburse the
16 commission for additional expenses associated with the enforcement activities that
17 resulted in the collection of the penalty. If the Department of Public Safety, Office of
18 the State Fire Marshal undertakes an investigation of a gas explosion event pursuant
19 to Title 25, section 2394, subsection 1 involving a gas utility or a natural gas pipeline
20 utility subject to the jurisdiction of the commission, the commission, at the request of
21 the State Fire Marshal, may reimburse the Office of the State Fire Marshal for its
22 additional expenses associated with that investigation.

23 B. After deducting any amount used pursuant to paragraph A, the commission may,
24 to the extent practicable and in as equitable and fair a manner as possible, apply
25 administrative penalties, along with any accrued interest, in accordance with this
26 paragraph. The commission shall seek to apply the amount in a manner that benefits
27 those customers affected or potentially affected by the violation, if they can
28 reasonably be identified or, if the commission determines this application of the
29 amount to be impractical or unreasonable, in a manner that benefits the class or group
30 of customers affected or potentially affected by the violation. In order to achieve the
31 purposes of this paragraph, the commission may apply the funds:

32 (1) In the form of a direct payment or credit to the customers or group or class
33 of customers affected or potentially affected by the violation resulting in the
34 administrative penalty;

35 (2) To supplement a low-income assistance or outreach program that the
36 commission determines would benefit customers affected or potentially affected
37 by the violation resulting in the administrative penalty;

38 (3) To supplement the conservation program fund established pursuant to
39 section 10110, subsection 7;

40 (4) To supplement the telecommunications education access fund established
41 pursuant to section 7104-B; or

1 (5) To supplement any other program or fund that the commission determines
2 would benefit customers affected or potentially affected by the violation.

3 Amounts applied pursuant to this paragraph to supplement an existing program or
4 fund may not result in a reduction in other funding provided for the program or fund
5 unless the reduction is outside the commission's control and the commission finds
6 that application of the penalty amount to the fund or program is the most appropriate
7 use of the penalty and the net effect will be an increase in total funding available to
8 the program or fund.

9 In any final order issued by the commission approving or denying the application of
10 administrative penalties to benefit any person affected or potentially affected by the
11 violation, the commission shall make specific findings of fact supporting the
12 commission's decision, including findings supporting any amount the commission
13 approves as well as findings supporting the commission's denial of amounts requested
14 by any person.

15 **Sec. 3. 35-A MRS §4712** is enacted to read:

16 **§4712. Gas emergency response**

17 **1. Definitions.** As used in this section, unless the context otherwise indicates, "gas
18 explosion event" means an explosion or fire that causes property damage or personal
19 injury and that involves natural gas or liquefied petroleum gas controlled, transported or
20 delivered by a gas utility or a natural gas pipeline utility subject to the jurisdiction of the
21 commission.

22 **2. Response.** Following a gas explosion event, the commission shall immediately
23 contact the State Fire Marshal:

24 A. To confirm that the State Fire Marshal is investigating the event and securing
25 evidence in accordance with Title 25, section 2394, subsection 1 and to coordinate
26 the commission's activities with the State Fire Marshal's investigation; or

27 B. To confirm that the event does not warrant investigation by the State Fire Marshal
28 pursuant to the protocol established in accordance with Title 25, section 2394,
29 subsection 1.

30 **3. Proceedings.** In any commission proceeding concerning a gas explosion event,
31 the commission shall afford a person injured by the event or who suffered property
32 damage in the event an opportunity to address the commission regarding the event.

33 **4. Compensation.** In determining pursuant to section 117 whether to apply any
34 administrative penalties relating to the gas explosion event to benefit customers affected
35 or potentially affected by the violation, and in determining the amount to apply, the
36 commission shall consider documented property damages suffered by a person as a result
37 of the event and may apply an amount to equitably compensate that person for losses not
38 otherwise fully compensated.'

39 **SUMMARY**

40 This amendment replaces the bill. This amendment:

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COMMITTEE AMENDMENT "A" to H.P. 174, L.D. 197

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1. Requires the State Fire Marshal to investigate and secure evidence of a gas explosion event in accordance with a protocol adopted by the State Fire Marshal;

2. Allows the Public Utilities Commission to reimburse the State Fire Marshal for expenses associated with investigating a gas explosion event involving a gas utility or a natural gas pipeline utility subject to the jurisdiction of the commission;

3. Directs the Public Utilities Commission to allow a person injured by a gas explosion event or who suffered property damage an opportunity to address the commission in a proceeding concerning the gas explosion event;

4. Requires the Public Utilities Commission, in any final order regarding the application of administrative penalties to benefit any person affected or potentially affected by the underlying violation, to make specific findings of fact supporting the commission's decision, including findings supporting any amount the commission decides to apply as well as findings supporting any denial of a request or portion of a request for an application of the penalties to benefit a person affected or potentially affected by the violation; and

5. Directs the Public Utilities Commission, in determining whether to apply any administrative penalties relating to the gas explosion event to benefit customers affected or potentially affected by the violation, and in determining the amount to apply, to consider documented property losses suffered by a person as a result of the event and allows the commission to apply an amount to equitably compensate the person for losses not otherwise fully compensated.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



125th MAINE LEGISLATURE

LD 197

LR 745(02)

An Act To Improve Response to Gas Safety Emergencies

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Insignificant increase in appeals to the Law Court.

Fiscal Detail and Notes

Requiring the Public Utilities Commission (PUC) to allow persons injured by gas explosion events or who suffer property damage therefrom to address the PUC in a formal proceeding, to make specific findings of fact in any final order including findings regarding administrative penalties arising from the violation and to consider documented property losses and make equitable compensation for such losses may result in minor costs to the PUC which can be absorbed within existing budgeted resources.