

# HOUSE . . . . . No. 3765

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, November 18, 2013.

The committee on Telecommunications, Utilities and Energy to whom were referred the petition (accompanied by bill, Senate, No. 1580) of Benjamin B. Downing and Cynthia S. Creem for legislation relative to natural gas leaks, the petition (accompanied by bill, Senate, No. 1594) of John Hart, Jr., Michael F. Rush, Tackey Chan, Mark J. Cusack and other members of the General Court for legislation to promote the safe operation of utility vaults, the petition (accompanied by bill, Senate, No. 1596) of John Hart, Jr. for legislation relative to promoting safety by making gas gate boxes easily accessible to gas company service employees and emergency public service personnel, the petition (accompanied by bill, Senate, No. 1597) of John Hart, Jr. for legislation to monitor natural gas, , the petition (accompanied by bill, Senate, No. 1621) of James E. Timilty, Michael F. Rush, Josh S. Cutler, Carl M. Sciortino, Jr. and other members of the General Court for legislation relative to the safety and maintenance of gas shut-off valves, the petition (accompanied by bill, House, No. 2917) of James M. Cantwell, Josh S. Cutler and Thomas M. Stanley relative to the safe operation of utility vaults, the petition (accompanied by bill, House, No. 2924) of Nick Collins and others relative to the safe operation of utility vaults, the petition (accompanied by bill, House, No. 2933) of Lori A. Ehrlich and others relative to natural gas pipeline safety, the petition (accompanied by bill, House, No. 2950) of John D. Keenan and others for legislation to establish winter patrol cast iron survey protocols for utility company inspections of gas pipelines, the petition (accompanied by bill, House, No. 2962) of Paul McMurtry for legislation to increase the availability, affordability or feasibility of natural gas service, and the petition (accompanied by bill, House, No. 2990) of Martha M. Walz and others for legislation to establish a program within the Department of Public Utilities for natural gas distribution companies to replace certain leaking pipes, reports recommending that the accompanying bill (House, No. 3765) ought to pass.

For the committee,

JOHN D. KEENAN.

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act relative to natural gas leaks.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 143 of the General Laws, as appearing in the 2012 Official Edition,  
2 is hereby amended by adding after section 3L the following new section:-

3           Section 3M. The board of fire prevention regulations shall make and promulgate, and  
4 from time to time may alter, amend and repeal, rules and regulations relative to the establishment  
5 of minimum safety standards for access, structural integrity, ventilation, and lighting of utility  
6 transformer vaults located within buildings subject to the state building code. For the purposes of  
7 this section, utility transformer vaults shall mean any totally enclosed structure or room in which  
8 electrified network transformers, network protectors and related electrical equipment are housed.  
9 The board shall require regular inspections of utility transformer vaults, conducted by a local  
10 inspector and an employee of the electric company providing service to the building, to ensure  
11 the enforcement of minimum safety standards.

12           SECTION 2. Section 1I of chapter 164 of the General Laws, as appearing in the 2012  
13 Official Edition, is hereby amended by inserting after the first sentence the following sentence:-

14           Each natural gas distribution company report shall include: (i) the percentage loss of  
15 natural gas for the previous calendar year, as calculated under section 94J; (ii) measures taken, if  
16 any, to reduce avoidable losses from pipelines, including, but not limited to, leakage, meter  
17 inaccuracies and theft; and (iii) unavoidable losses, if any, from pipelines.

18           SECTION 3. Said chapter 164 is hereby further amended by inserting after section 94I  
19 the following section:-

20           Section 94J. The department shall establish a formula for gas companies to use to  
21 calculate lost and unaccounted for gas. A gas company, when filing a schedule required by  
22 section 94, shall state the company's annual percentage of lost and unaccounted for natural gas

23 for each year subsequent to its most recent rate proceeding. The department shall establish an  
24 annual loss benchmark for each gas company. A gas company shall recover, through rates, only  
25 the cost of lost and unaccounted for gas that falls within the benchmark. The benchmark shall  
26 remain in effect until the department approves a new schedule.

27 SECTION 4. Section 105A of said chapter 164 of the General Laws is hereby amended  
28 by striking out the second paragraph and inserting in place thereof the following paragraph:-

29 Any person, firm or corporation who violates any provision of any code adopted by the  
30 department pertaining to the safety of pipeline facilities and the transportation of gas, or any  
31 regulation or rule thereunder, at a time when the department has submitted and has in effect the  
32 annual certification to the United States Secretary of Transportation provided for in section 5(a)  
33 of the Natural Gas Pipeline Safety Act of 1968, as amended, (see section 60101 et seq. of Title  
34 49 of the United States Code), shall be subject to civil penalties as specified in section  
35 60122(a)(1) of Title 49 of the United States Code, as amended, or any successor statute enacted  
36 into federal law for the same purposes as said section 60122(a)(1).

37 SECTION 5. Said chapter 164 of the General Laws is hereby further amended by  
38 inserting the following 4 sections:-

39 Section 144. (a) There shall be established a uniform natural gas leak classification  
40 standard in the commonwealth for all natural gas companies.

41 (b) All reported gas leaks shall be assessed a grade based on the following system:

42 (1) Grade 1. A leak that represents an existing or probable hazard to persons or property.  
43 Such a leak requires repair and continuous action until the conditions are no longer hazardous.  
44 Completion of repairs shall be scheduled immediately and the condition kept under continuous  
45 surveillance until the hazard or source of the leak is permanently eliminated.

46 (2) Grade 2. A leak that is recognized as non-hazardous to persons or property at the  
47 time of detection, but justifies scheduled repair based on probable future hazard. Such leaks shall  
48 be permanently repaired or cleared within 12 months from the date the Grade 2 leak was  
49 classified. The frequency of reevaluation shall be determined by the location and magnitude of  
50 the leakage condition, provided that all Grade 2 leaks shall be reevaluated at least once every 6  
51 months until eliminated.

52 (3) Grade 3. A leak that is recognized as non-hazardous to persons or property at the  
53 time of detection and can be reasonably expected to remain non-hazardous. Such leaks shall be  
54 reevaluated during the next scheduled survey, or within 12 months of the date last evaluated,  
55 whichever occurs first, until the leak is eliminated or main replaced. A Grade 3 leak requiring  
56 immediate upgrade for scheduled repair shall apply to any nuisance Grade 3 leak, as defined by

57 the department, that is certified to be a public safety threat by a municipal or state public safety  
58 official.

59 (c) Gas companies shall survey for the presence of gas leaks and set repair and or  
60 replacement schedules whenever a municipality or the commonwealth, after adequate  
61 notification to a gas company, undertakes a significant and confirmed project involving the  
62 repair and/or paving of a public way exposing natural gas infrastructure, such gas company shall  
63 survey the project area and repair or replace any known or newly detected Grade 1 or Grade 2  
64 leak. Gas companies may also repair any known or newly detected Grade 3 leaks at its discretion  
65 or after consultation with such municipality or the commonwealth.

66 (d) Gas companies shall prioritize any required pipeline repairs under this section for gas  
67 leaks detected within a school zone. For the purposes of this section, the term “school zone”  
68 shall mean in or on, or within fifty feet of the real property comprising a public or private  
69 accredited preschool, accredited Head Start facility, elementary, vocational, or secondary school.

70 (e) Each gas company shall report annually to the department the location of each Grade  
71 1, Grade 2 and Grade 3 leak existing as of that date classified by the company, the date each  
72 Grade 1, Grade 2 and Grade 3 leak was classified, and the dates of temporary and permanent  
73 repairs performed on each Grade 1, Grade 2 and Grade 3 leak as part of its service quality  
74 standards report required by section 11 of this chapter. Gas companies shall specify any  
75 reclassification of previously identified leaks in its annual report. Such gas leak information shall  
76 be made available to any municipal or state public safety official upon written request to the  
77 department.

78 (f) The department shall promulgate regulations necessary to implement the uniform leak  
79 classification standards as specified in this section, and shall oversee and monitor company  
80 response and reporting.

81 Section 145. The department shall investigate whether it should require the winter  
82 surveillance and patrol of cast iron gas pipelines in the commonwealth, and shall determine  
83 whether the presence of extended frost cap conditions may result in additional stress on cast iron  
84 pipe segments, requiring enhanced surveillance and patrol. The department is authorized to  
85 establish minimum uniform procedures for cast iron winter surveillance and patrols consistent  
86 with any federally mandated standards for integrity management programs for distribution  
87 pipelines. Gas companies are authorized to establish procedures that exceed any minimum  
88 standards, subject to approval of the department.

89 Section 146(a) For the purposes of this section, the following words shall, unless context  
90 clearly indicates otherwise, have the following meanings:-

91 “Customer”, a retail natural gas customer.

92 “Eligible infrastructure replacement”, a replacement or an improvement of existing  
93 infrastructure of a gas company that:

94 1) is made on or after May 1, 2015;

95 2) is designed to improve public safety or infrastructure reliability;

96 3) does not increase the revenue of a gas company by connecting an improvement  
97 directly to new customers;

98 4) reduces or has the potential to reduce lost and unaccounted for natural gas losses  
99 through a reduction in natural gas system leaks;

100 5) is not included in the current rate base of the gas company as determined in the gas  
101 company’s most recent rate proceeding, or included in any other targeted infrastructure  
102 replacement program previously approved by the department.

103 “Plan”, an infrastructure replacement program plan that a gas company files under  
104 subsection (b) of this section.

105 “Project”, an eligible infrastructure replacement project proposed by a gas company in a  
106 plan filed under this section.

107 (b) A gas company may file with the department a targeted infrastructure replacement  
108 plan to address aging or leaking natural gas infrastructure within the commonwealth in the  
109 interest of public safety and reducing lost and unaccounted for gas.

110 (1) A plan shall include, but not be limited to, eligible infrastructure replacement of  
111 mains, services, meter sets and other ancillary facilities composed of non-cathodically protected  
112 steel, cast-iron and wrought iron, prioritized based on an assessment of the highest public safety  
113 risk and largest number or volume of leaks as identified by the company.

114 (2) A plan shall also include:

115 a. A timeline for the completion of each eligible infrastructure replacement project;

116 b. The estimated cost of each project;

117 c. Rate change requests;

118 d. A description of customer benefits under the plan, and;

119 e. Any other information the department considers necessary to evaluate the plan.

120 (c) Provided that a gas company files a plan on or before October 31 of a calendar year,  
121 the department shall review the plan within 6 months. The department shall consider the costs

122 and benefits of a plan, including, but not limited to, impacts on ratepayers, reductions of lost or  
123 unaccounted for gas and improving public safety, and give priority to plans narrowly tailored to  
124 addressing leak-prone infrastructure most immediately in need of replacement.

125 (d) If the plan complies with the requirements of this section and the department  
126 determines the plan reasonably accelerates eligible infrastructure replacement and provides  
127 public safety benefits, the department shall issue preliminary approval of the plan, in whole or in  
128 part, and allow the gas company to begin recovery of the reasonable costs of such projects on  
129 May 1 of the year following the filing of the plan to collect any revenue requirement, including  
130 depreciation, property taxes and return associated with the plan.

131 (e) Within 1 year of a preliminary approval of a plan, the gas company shall file final  
132 project documentation to demonstrate substantial compliance with plans and that project costs  
133 were reasonably and prudently incurred. The department shall investigate such costs within 6  
134 months, and the department shall have the authority to approve and reconcile the authorized rate  
135 factor if necessary upon a determination that such costs were reasonable; provided that:

136 1) the approved recovery factor shall include only costs of incremental replacement of  
137 leak-prone gas infrastructure in excess of the depreciation expense allowed during the company's  
138 last general rate case being recovered through current rates; and

139 2) the annual costs allowable shall not exceed 1 per cent of the company's most recent  
140 calendar year distribution revenue.

141 (f) All rate change requests made to the department pursuant to said plans shall be filed  
142 annually on a fully reconciling basis. The company shall file reconciliation adjustment rates,  
143 which shall be subject to investigation by the department under subsection (e) to determine  
144 whether the company has over-collected or under-collected its requested rate adjustment. Said  
145 reconciliation adjustment rates shall become effective pursuant to department order pending the  
146 investigation pursuant to subsection (e).

147 (g) The department shall promulgate rules and regulations in accordance with this  
148 section, including a procedure which discontinues the replacement program and allows the  
149 refund from a gas company any costs charged to customers due to poor management, failure to  
150 substantially comply with the work plans, or failure to properly manage project costs.

151 Section 147. All gas companies shall make easily and immediately accessible any gate  
152 boxes regulating gas distribution in the immediate vicinity of any Grade 1 or Grade 2 leak  
153 requiring repair pursuant to section 144 of this chapter, any gate boxes connected to distribution  
154 mains replaced pursuant to section 146 of this chapter, or any gate boxes connected to  
155 distribution mains replaced as part of any targeted infrastructure replacement program approved  
156 by the department.

157 SECTION 6. The department shall open a docket to examine methods to improve meter  
158 and meter prover accuracy, including but not limited to, a method for determining meter and  
159 meter prover accuracy, and a reasonable level of variance from accuracy. The department may  
160 promulgate rules and regulations based on its findings.

161 SECTION 7. On or before January 1, 2015, the department of public utilities shall  
162 commence a proceeding to investigate new programs and policies that will facilitate and increase  
163 the availability, affordability, and feasibility of natural gas service for new customers.

164 (a) As part of the investigation under this section, the department shall: (1) review each  
165 gas company's process for determining if a main or service extension is economic; (2) review  
166 each company's contribution in aid of construction policy and methodology; and (3) establish  
167 guidelines, if necessary, for alternative rate mechanisms or company project review methodology  
168 that facilitate access to natural gas service for new customers, including, but not limited to, new  
169 area surcharges for zones of new off-main customers; provided that natural gas distribution  
170 system expansion surcharges shall not burden existing customers. Guidelines established under  
171 this subsection shall outline the department's methods and procedures for reviewing proposals,  
172 including factors the department will consider for program or policy approval.

173 (b) The department of energy resources and gas companies may, as part of the  
174 investigation, petition the department to approve: (1) financing programs for customer natural  
175 gas conversion costs repaid on participating customer bills; (2) other financing programs as  
176 petitioned by a gas company; or (3) other cost effective programs that reasonably accelerate the  
177 expansion of and conversion to natural gas usage in the commonwealth; provided that such  
178 programs do not unreasonably burden existing natural gas customers.

179 (c) The department shall complete its investigation under this section and shall issue an  
180 order by January 1, 2016, including final determinations on gas company expansion programs  
181 filed with the department pursuant to subsection (c). Gas companies shall file appropriate tariff  
182 changes and otherwise implement any gas expansion programs or policies approved under this  
183 section.

184 (d) The department shall prioritize programs that are likely to accelerate the conversion to  
185 natural gas usage for low income consumers currently eligible for the LIHEAP program,  
186 including programs that exempt new residential low income heating customers from any new  
187 area surcharge developed under this section. Notwithstanding subsection (b) of this section, the  
188 department may approve alternative methods of cost recovery by a gas company for such low  
189 income programs, policies or exemptions.

190 SECTION 8. Section 146 of chapter 164 of the General Laws shall be effective October  
191 1, 2014.

192 SECTION 9. Whereas, the department of public utilities determined additional electric  
193 generation facilities are needed in the ISO New England Inc.'s Northeastern Massachusetts  
194 Boston electric load zone; a new 674 megawatt, natural gas-fired, quick-start, combined-cycle  
195 generating facility and any ancillary or related facilities has been proposed at 24 Fort Avenue,  
196 Salem, Massachusetts to provide the needed electric generation in such load zone; the proposed  
197 facility will ensure the beneficial remediation, redevelopment, and replacement of the existing,  
198 retiring coal power plant, currently known as Salem Harbor Power Station as required by an act  
199 relative to competitively priced electricity in the commonwealth; as part of the redevelopment,  
200 the owner of the site will fully demolish the retired plant and address environmental remediation  
201 of at such location in a manner consistent with condition F of the final decision of the energy  
202 facilities siting board in docket EFSB 12-2 and special condition 3 of the decision of the  
203 department of environmental protection in its decision on a variance request and written  
204 determination with respect to the proposed facilities; the secretary of energy and environmental  
205 affairs has determined the proposed facilities will provide clear public benefits; the energy  
206 facilities siting board unanimously approved the construction of the proposed facilities in an  
207 order in docket EFSB 12-2; the proposed facilities have obtained the unanimous approval of the  
208 Salem conservation commission, Salem planning board and Salem zoning board of appeals in  
209 obtaining local permits and variances, and the department of environmental protection has issued  
210 a decision on variance request and written determination related to the proposed facilities'  
211 Chapter 91 license and a proposed air quality approval and draft prevention of significant  
212 deterioration permit ; the Salem harbor task force also established pursuant to an act relative to  
213 competitively priced electricity in the commonwealth determined that the development of the  
214 proposed facilities in Salem at this site is the highest and best use of the retiring power plant  
215 location; the further delay in the development and construction of the proposed facilities could  
216 result in brownouts, the need for higher cost emergency electricity transmission projects,  
217 emergency requests for proposals to supply electricity that may come from more  
218 environmentally detrimental facilities; damage to the overall reliability of the electric grid, and  
219 significant public health and safety concerns which impact the commonwealth's compelling  
220 public interests, the General Court finds that notwithstanding any general or special law, rule or  
221 regulation to the contrary, the development, construction and operation of the proposed facilities  
222 to be located on the site of the Salem Harbor Power Station at 24 Fort Avenue, Salem,  
223 Massachusetts in the manner described in the final decision in EFSB 12-2 is in the  
224 commonwealth's public interest and is approved and further determines that:

225 1) the construction and operation of the proposed facilities at said location shall be  
226 exempt from the requirements of G.L. c. 164, §69J¼, provided, however, that the energy  
227 facilities siting board shall retain authority to implement and enforce compliance with the  
228 requirements and conditions of the final decision in EFSB 12-2 and to review and approve any  
229 modifications or revisions to the construction or operation of the proposed facilities as are  
230 otherwise subject to its jurisdiction; and



231 2) that the construction and operation of the proposed facilities at said location shall be  
232 exempt from the requirements of G.L. c. 40A, provided, however, that the city of Salem planning  
233 board and zoning board of appeal shall retain authority to implement and enforce compliance  
234 with the requirements and conditions of the Planned Unit Development Special Permit Site Plan  
235 Review, and Flood Hazard District Special Permit Decision issued by the Salem planning board  
236 on August 1, 2013 and the Decision by the Salem zoning board of appeals on June 28, 2013 and  
237 to review and approve any modifications or revisions to the construction or operation of the  
238 proposed facilities as are otherwise subject to their jurisdiction ; and

239 3) that the construction and operation of the proposed facilities at said location shall be  
240 exempt from the requirements of G.L. c. 111, Section 142 A-J, c. 21C, Section 4 and 6, and c.  
241 21E, Section 6, provided, however, that the department of environmental protection retain  
242 authority to implement and enforce compliance with requirements and conditions of the  
243 proposed air quality approval and draft prevention of significant deterioration permit issued by  
244 the department of environmental protection in Transmittal No. X254064, Application No. NE-  
245 12-022 and to review and approve any modifications to the construction or operation of the  
246 proposed facilities as are otherwise subject to its jurisdiction; and

247 4) that the construction and operation of the proposed facilities at said location shall be  
248 exempt from the requirements of G.L. c. 91, provided, however, that the department of  
249 environmental protection shall retain authority to implement and enforce compliance with  
250 requirements and conditions of the decision on variance request and written determination issued  
251 by the department of environmental protection in waterways file no. W-13-3886-N and to review  
252 and approve any modifications to the construction and operation of the proposed facilities as are  
253 otherwise subject to its jurisdiction; and

254 5) that the developer of the proposed facilities is hereby granted a composite of all state  
255 and local permits, approvals and authorizations that would otherwise be necessary for the  
256 construction and operation of the proposed facilities at said location with the same effect as a  
257 certificate granted pursuant to G.L. c. 164, §69K1/2.

258 This section and the exemptions granted hereunder shall not apply to any other proposed  
259 uses or facilities at said location.