

# SENATE . . . . . No. 2073

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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SENATE, March 27, 2014

The committee on Ways and Means, to whom was referred the House Bill relative to natural gas leaks (House, No. 3873, amended); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2073.

For the committee,  
Stephen M. Brewer

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1           SECTION 1. Section 105A of chapter 164 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place  
3 thereof the following paragraph:-

4           Any person, firm or corporation who violates any provision of any code adopted by the  
5 department pertaining to the safety of pipeline facilities and the transportation of gas, or any  
6 regulation or rule thereunder, at a time when the department has submitted and has in effect the  
7 annual certification to the United States Secretary of Transportation provided for in 49 U.S.C. §  
8 60105 shall be subject to civil penalties as specified in 49 U.S.C. § 60122(a)(1) or any successor  
9 statute enacted into federal law for the same purposes as said § 60122(a)(1).

10           SECTION 2. Said chapter 164 of the General Laws is hereby further amended by adding  
11 the following 2 sections:-

12           Section 144. (a) There shall be uniform natural gas leak classification standards in the  
13 commonwealth for all natural gas companies.

14           (b) Gas companies shall access a grade to all reported gas leaks based on the following  
15 system:

16 (1) Grade 1. A leak that represents an existing or probable hazard to persons or property.  
17 Grade 1 leaks require repair and continuous action until the conditions are no longer hazardous.  
18 The gas company shall immediately schedule a completion of repairs and the condition shall be  
19 kept under continuous surveillance until the hazard or source of the leak is eliminated. A gas  
20 company shall immediately notify the fire department and chief law enforcement officer in each  
21 city or town where a Grade 1 leak is identified.

22 (2) Grade 2. A leak that is recognized as non-hazardous to persons or property at the  
23 time of detection, but justifies scheduled repair based on probable future hazard. Grade 2 leaks  
24 The gas company shall be repair or clear Grade 2 leaks within 12 months from the date the leak  
25 was classified. All Grade 2 leaks shall be reevaluated by a gas company at least once every 6  
26 months until eliminated; provided, however, that the frequency of reevaluation shall be  
27 determined by the location and magnitude of the leakage condition.

28 (3) Grade 3. A leak that is recognized as non-hazardous to persons or property at the  
29 time of detection and can be reasonably expected to remain non-hazardous. The gas company  
30 shall reevaluate Grade 3 leaks during the next scheduled survey, or within 12 months from the  
31 date last evaluated, whichever occurs first, until the leak is eliminated or the main is replaced. A  
32 municipal or state public safety official may request a reevaluation of a Grade 3 leak prior to the  
33 next scheduled survey, or sooner than 12 months of the date last evaluated, if the official  
34 reasonably believes the Grade 3 leak poses a threat to public safety.

35 (c) Upon the undertaking of a significant project involving the repair or paving of a  
36 public way exposing confirmed natural gas infrastructure, a municipality or the commonwealth  
37 shall submit written notification of the project to a gas company. The gas company shall survey

38 the project area for the presence of Grade 1 or Grade 2 leaks and set repair and replacement  
39 schedules for any known or newly detected Grade 1 or Grade 2 leaks. The gas company shall  
40 ensure that any shut off valve in the project area has a gate box installed upon it and that the shut  
41 off valve is operational and accessible. A gas company may repair any known or newly detected  
42 Grade 3 leaks at its discretion or after consultation with the municipality or the commonwealth.  
43 The repair and replacement schedule of Grade 1 and Grade 2 leaks shall be provided to the  
44 municipality or the commonwealth and shall include a notification of the presence of any Grade  
45 3 leaks that were detected during the survey.

46 (d) Gas companies shall prioritize any pipeline repairs required under this section for gas  
47 leaks detected within a school zone. For the purposes of this section, the term “school zone”  
48 shall mean on or within 50 feet of the real property comprising a public or private accredited  
49 preschool, accredited Head Start facility, elementary, vocational or secondary school.

50 (e) As part of the annual service quality standards report required by section 1I, each gas  
51 company shall report to the department the location of each Grade 1, Grade 2 and Grade 3 leak  
52 existing as of the date of the report, the date each Grade 1, Grade 2 and Grade 3 leak was  
53 classified and the dates of repairs performed on each Grade 1, Grade 2 and Grade 3 leak. A gas  
54 company shall specify any reclassification of previously identified leaks in its annual report. Gas  
55 leak information shall be made available to any municipal or state public safety official upon  
56 written request.

57 (f) The department shall promulgate regulations necessary to implement the uniform  
58 natural gas leak classification standards as specified in this section and shall oversee and monitor

59 company response and reporting; provided, however, that the regulations shall prevent a gas  
60 company from downgrading a Grade 1 or Grade 2 leak unless the leak is repaired.

61 Section 145. (a) For the purposes of this section, the following words shall, unless  
62 context clearly requires otherwise, have the following meanings:-

63 “Customer”, a retail natural gas customer.

64 “Eligible infrastructure replacement”, a replacement or an improvement of existing  
65 infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to  
66 improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas  
67 company by connecting an improvement for a principal purpose of serving new customers; (iv)  
68 reduces, or has the potential to reduce, lost and unaccounted for natural gas losses through a  
69 reduction in natural gas system leaks; and (v) is not included in the current rate base of the gas  
70 company as determined in the gas company’s most recent rate proceeding or is not included in  
71 any other targeted infrastructure replacement program previously approved by the department.

72 “Plan”, a targeted infrastructure replacement program construction plan that a gas  
73 company files under subsection (b).

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

76 (b) A gas company may file with the department a targeted infrastructure replacement  
77 program construction plan to address aging or leaking natural gas infrastructure within the  
78 commonwealth in the interest of public safety and reducing lost and unaccounted for gas through  
79 a reduction in natural gas system leaks.

80 (c) Any plan filed with the department shall include, but not be limited to: (i) eligible  
81 infrastructure replacement of mains, services, meter sets and other ancillary facilities composed  
82 of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the  
83 federal gas distribution pipeline integrity management plan annually submitted to the department  
84 and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the  
85 completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v)  
86 a description of customer costs and benefits under the plan; and (vi) any other information the  
87 department considers necessary to evaluate the plan.

88 (d) Provided that a gas company files a plan on or before October 31 for the subsequent  
89 construction year, the department shall review the plan within 6 months. The plan shall be  
90 effective as of the date of filing, pending department review. The department may modify a plan  
91 prior to approval at the request of a gas company or make other modifications to a plan as a  
92 condition for approval. The department shall consider the costs and benefits of the plan,  
93 including, but not limited to, impacts on ratepayers, reductions of lost and unaccounted for gas  
94 through a reduction in natural gas system leaks and improvements to public safety. The  
95 department shall give priority to plans narrowly tailored to addressing leak-prone infrastructure  
96 most immediately in need of replacement.

97 (e) If a plan is in compliance with this section and the department determines the plan to  
98 reasonably accelerate eligible infrastructure replacement and provide benefits, the department  
99 shall issue preliminary acceptance of the plan, in whole or in part. A gas company shall then be  
100 permitted to begin recovery of the estimated costs of projects included in the plan beginning on  
101 May 1 of the year following the initial filing and collect any revenue requirement, including  
102 depreciation, property taxes and return associated with the plan.

103 (f) On or before May 1 of each year, a gas company shall file final project documentation  
104 to demonstrate substantial compliance with the plan approved under subsection (e) and that  
105 project costs were reasonably and prudently incurred. The department shall investigate project  
106 costs within 6 months of submission and shall approve and reconcile the authorized rate factor, if  
107 necessary, upon a determination that the costs were reasonable and prudent. Annual changes in  
108 the revenue requirement eligible for recovery shall not exceed 1.5 per cent of the gas company's  
109 most recent calendar year total firm revenues, including gas revenues attributable to sales and  
110 transportation customers. Any revenue requirement approved by the department in excess of the  
111 1.5 per cent total firm revenue cap may be deferred for recovery in the following year.

112 (g) All rate change requests made to the department pursuant to an approved plan shall be  
113 filed annually on a fully reconciling basis. A gas company shall file reconciliation adjustment  
114 rates, which shall be subject to investigation by the department under subsection (f) to determine  
115 whether the company has over-collected or under-collected its requested rate adjustment. The  
116 reconciliation adjustment rates shall become effective pursuant to department order pending the  
117 investigation pursuant to said subsection (f). If the department determines that any of the costs  
118 were not reasonably or prudently incurred, or were not in compliance with the approved plan, the  
119 department shall disallow the costs and shall direct the gas company to refund the full value of  
120 the costs charged to customers in the next reconciliation filing with the appropriate carrying  
121 charges on the over-collected amounts.

122 (h) The department shall promulgate rules and regulations under this section, which shall  
123 include a procedure that discontinues the replacement program and allows a gas company to  
124 refund any costs charged to customers due to failure to substantially comply with a plan or  
125 failure to reasonably and prudently manage project costs.

126 SECTION 3. On or before January 1, 2015, the department of public utilities shall  
127 authorize gas companies to design and offer programs to customers which increase the  
128 availability, affordability and feasibility of natural gas service for new customers.

129 (a) As part of the department's approval of a program and prior to implementation of a  
130 program, the department shall: (i) review each gas company's determination that a main or  
131 service extension is economically feasible; (ii) review each gas company's contribution in aid of  
132 construction policy and methodology; and (iii) consider alternative rate mechanisms or company  
133 project review methodology that facilitate access to natural gas service for new customers,  
134 including, but not limited to, (1) new service-territory-wide surcharges to aid in the financing of  
135 gas service expansion to new off-main customers; (2) new area surcharges applicable only to  
136 zones of new off-main customers to aid in the financing of gas service expansion to new off-  
137 main customers; or (3) both; provided, however, that natural gas distribution system expansion  
138 surcharges shall not unreasonably burden existing customers. Guidelines established under this  
139 subsection shall outline the department's methods and procedures for reviewing proposals,  
140 including factors the department shall consider for program or policy approval.

141 (b) Gas companies may petition the department independently, or in coordination with  
142 the department of energy resources, to approve: (i) financing programs for customer natural gas  
143 conversion costs repaid on participating customer bills; (ii) other financing programs developed  
144 by a gas company; or (iii) other cost effective programs that reasonably accelerate the expansion  
145 of and conversion to natural gas usage in the commonwealth; provided, however, that the  
146 programs do not unreasonably burden existing natural gas customers.

147 (c) The department shall issue a decision on gas company expansion programs filed with  
148 the department pursuant to this section within 8 months of the filing date. Gas companies shall  
149 file appropriate tariff changes and otherwise implement any gas expansion programs or policies  
150 approved under this section.

151 (d) The department shall consider programs that are likely to accelerate the conversion or  
152 expansion to natural gas usage for low-income consumers currently eligible for the federal Low  
153 Income Home Energy Assistance Program, 42 U.S.C. § 8621 et seq., including programs that  
154 exempt new residential low-income heating customers from any new area surcharge developed  
155 under this section. Notwithstanding subsection (b), the department may approve alternative  
156 methods of cost recovery by a gas company for low-income programs, policies or exemptions  
157 including impacts on uncollectible costs.

158 SECTION 4. Notwithstanding any general or special law to the contrary, the department  
159 of public utilities shall open an investigation into gas operator compliance with the directives set  
160 forth in its Order D.T.E.\D.P.U. 06-48-A. The department shall complete its investigation and  
161 submit its findings to the clerks of the house of representatives and the senate and the house and  
162 senate chairs of the joint committee on telecommunications, utilities and energy not later than  
163 June 1, 2015.

164 SECTION 5. Notwithstanding any general or special law to the contrary, the department  
165 of public utilities shall, after determination by a gas company or a local or state public safety  
166 official that a gas leak has caused an explosion, issue written findings as to why an investigation  
167 is or is not necessary to determine the cause of the explosion.

168 SECTION 6. Notwithstanding any general or special law to the contrary, the secretary of  
169 public safety and security or a designee shall issue a report on the adequacy of state regulations  
170 governing the safety standards for utility transformer vaults located within buildings subject to  
171 the state building code. The report shall include, but not necessarily be limited to, an analysis of  
172 the standards for access, structural integrity, ventilation and lighting requirements of the  
173 regulations and the inspection and enforcement requirements, if any, of the regulations. The  
174 report shall further address structural limitations of older buildings containing utility transformer  
175 vaults, any ancillary costs, including the cost of inspections and possible costs to businesses and  
176 municipalities to comply with any proposed new regulations, and any recommendations for  
177 legislation necessary to further implement minimum safety standards for utility transformer  
178 vaults. The report, together with any proposed regulations or legislation necessary to carry out  
179 the recommendations, shall be submitted to the clerks of the house of representatives and the  
180 senate not later than November 15, 2014.

181 SECTION 7. The department shall investigate whether it should require the winter  
182 surveillance and patrol of cast iron gas pipelines in the commonwealth and shall determine  
183 whether the presence of extended frost cap conditions may result in additional stress on cast iron  
184 pipe segments, requiring enhanced surveillance and patrol. The department may establish  
185 minimum uniform procedures for cast iron winter surveillance and patrols consistent with any  
186 federally mandated standards for integrity management programs for distribution pipelines. Gas  
187 companies may establish procedures that exceed any minimum standards, subject to applicable  
188 filing requirements with the department.

189 SECTION 8. Section 145 of chapter 164 of the General Laws shall take effect on  
190 October 1, 2014.