

**SENATE . . . . . No. 2095**

---

---

Senate, April 10, 2014 – Text of the Senate amendment to the House Bill relative to natural gas leaks (House, No. 3873, amended) (being the text of Senate, No. 2073, printed as amended)

---

---

The Commonwealth of Massachusetts

—————  
**In the Year Two Thousand Fourteen**  
—————

An Act 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. 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) (1) Gas companies shall assess a grade to all reported gas leaks based on the system  
15 provided in this section.

16           (2) A Grade 1 leak shall be a leak that represents an existing or probable hazard to  
17 persons or property. Grade 1 leaks require repair as immediately as possible and continuous  
18 action until the conditions are no longer hazardous. The gas company shall immediately schedule  
19 a completion of repairs and the condition shall be kept under continuous surveillance until the  
20 hazard or source of the leak is eliminated. A gas company shall immediately notify the fire

21 department and chief law enforcement officer in each city or town where a Grade 1 leak is  
22 identified.

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

29 (4) A Grade 3 leak shall be a leak that is recognized as non-hazardous to persons or  
30 property at the time of detection and can be reasonably expected to remain non-hazardous. The  
31 gas company shall reevaluate Grade 3 leaks during the next scheduled survey, or within 12  
32 months from the date last evaluated, whichever occurs first, until the leak is eliminated or the  
33 main is replaced; provided, however, that Grade 3 leaks shall be repaired or replaced during  
34 significant projects on public ways exposing confirmed natural gas infrastructure under  
35 subsection (c). A municipal or state public safety official may request a reevaluation of a Grade  
36 3 leak prior to the next scheduled survey, or sooner than 12 months of the date last evaluated, if  
37 the official reasonably believes that the Grade 3 leak poses a threat to public safety.

38 (c) Upon the undertaking of a significant project on a public way exposing confirmed  
39 natural gas infrastructure, a municipality or the commonwealth shall submit written notification  
40 of the project to a gas company. The gas company shall survey the project area for the presence  
41 of gas leaks and set repair and replacement schedules for all known or newly detected leaks. The  
42 gas company shall ensure that any shut off valve in the significant project area has a gate box  
43 installed upon it or a reasonable alternative that would otherwise ensure continued public safety  
44 and that any critical valve that has not been inspected and tested within the past 12 months is  
45 verified to be operational and accessible. The gas company shall provide the repair and  
46 replacement schedule of gas leaks to the municipality or the commonwealth.

47 (d) Gas companies shall prioritize any pipeline repairs required under this section for gas  
48 leaks detected within a school zone. For the purposes of this section, "school zone" shall mean  
49 on or within 50 feet of the real property comprising a public or private accredited preschool,  
50 accredited Head Start facility, elementary, vocational or secondary school. The department of  
51 public utilities shall develop a priority list for pipeline repairs, which may include, but need not  
52 be limited to, houses of worship, healthcare facilities, public or elder housing complexes,  
53 councils on aging, correctional facilities, rail or subway stations, courthouses and government  
54 office buildings.

55 (e) As part of the annual service quality standards report required by section 1I, each gas  
56 company shall report to the department the location of each Grade 1, Grade 2 and Grade 3 leak  
57 existing as of the date of the report, the date each Grade 1, Grade 2 and Grade 3 leak was

58 classified and the dates of repairs performed on each Grade 1, Grade 2 and Grade 3 leak. A gas  
59 company shall specify any reclassification of previously identified leaks in its annual report. Gas  
60 leak information may be made available by the department to interested persons upon written  
61 request, provided the department shall respond to all reasonable requests; provided, however,  
62 that gas leak information shall be made available to any municipal or state public safety official  
63 upon written request to the department.

64 (f) The department shall promulgate regulations necessary to implement the uniform  
65 natural gas leak classification standards as specified in this section and shall oversee and monitor  
66 company response and reporting; provided, however, that the regulations shall prevent a gas  
67 company from downgrading a Grade 1 or Grade 2 leak unless the leak is repaired.

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

70 “Customer”, a retail natural gas customer.

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

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

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

83 (b) A gas company may file with the department a plan to address aging or leaking  
84 natural gas infrastructure within the commonwealth in the interest of public safety and reducing  
85 lost and unaccounted for gas through a reduction in natural gas system leaks.

86 (c) Any plan filed with the department shall include, but not be limited to: (i) eligible  
87 infrastructure replacement of mains, services, meter sets and other ancillary facilities composed  
88 of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the  
89 federal gas distribution pipeline integrity management plan annually submitted to the department  
90 and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the  
91 completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v)

92 a description of customer costs and benefits under the plan; and (vi) any other information the  
93 department considers necessary to evaluate the plan.

94       Upon filing a plan under this section, a gas company shall include a timeline for  
95 removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement  
96 pace and program end date with a target end date of not more than 20 years, as adjusted by the  
97 allowable recovery under the cap established in subsection (f); provided, however, that the  
98 department may approve a plan with a target end date of more than 20 years, as adjusted by the  
99 allowable recovery under the cap established in subsection (f), if the target end date of more than  
100 20 years is in the best interest of the ratepayer as determined by the department. After filing the  
101 initial plan, a gas company shall, at 5-year intervals, provide the department with a summary of  
102 its replacement progress to date, a summary of work to be completed during the next 5 years and  
103 any similar information the department may require.

104       (d) If a gas company files a plan on or before October 31 for the subsequent construction  
105 year, the department shall review the plan within 6 months. The plan shall be effective as of the  
106 date of filing, pending department review. The department may modify a plan prior to approval  
107 at the request of a gas company or make other modifications to a plan as a condition for  
108 approval. The department shall consider the costs and benefits of the plan, including, but not  
109 limited to, impacts on ratepayers, reductions of lost and unaccounted for gas through a reduction  
110 in natural gas system leaks and improvements to public safety. The department shall give priority  
111 to plans narrowly tailored to addressing leak-prone infrastructure most immediately in need of  
112 replacement.

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

119       (f) On or before May 1 of each year, a gas company shall file final project documentation  
120 to demonstrate substantial compliance with the plan approved under subsection (e) and that  
121 project costs were reasonably and prudently incurred. The department shall investigate project  
122 costs within 6 months of submission and shall approve and reconcile the authorized rate factor, if  
123 necessary, upon a determination that the costs were reasonable and prudent. Annual changes in  
124 the revenue requirement eligible for recovery shall not exceed 1.5 per cent of the gas company's  
125 most recent calendar year total firm revenues, including gas revenues attributable to sales and  
126 transportation customers. Any revenue requirement approved by the department in excess of the  
127 1.5 per cent total firm revenue cap may be deferred for recovery in the following year.

128 (g) All rate change requests made to the department pursuant to an approved plan, which  
129 provides a public safety benefit, shall be filed annually on a fully reconciling basis. A gas  
130 company shall file reconciliation adjustment rates, which shall be subject to investigation by the  
131 department under subsection (f) to determine whether the company has over-collected or under-  
132 collected its requested rate adjustment. The reconciliation adjustment rates shall become  
133 effective pursuant to a department order pending the investigation under said subsection (f). If  
134 the department determines that any of the costs were not reasonably or prudently incurred or  
135 were not in compliance with the approved plan, the department shall disallow the costs and shall  
136 direct the gas company to refund the full value of the costs charged to customers in the next  
137 reconciliation filing with the appropriate carrying charges on the over-collected amounts.

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

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

145 (a) As part of the department's approval of a program and prior to implementation of a  
146 program, the department shall: (i) review each gas company's determination that a main or  
147 service extension is economically feasible; (ii) review each gas company's contribution in aid of  
148 construction policy and methodology; and (iii) consider alternative rate mechanisms or company  
149 project review methodology that facilitate access to natural gas service for new customers,  
150 including, but not limited to, (1) new service-territory-wide surcharges to aid in the financing of  
151 gas service expansion to new off-main customers; (2) new area surcharges applicable only to  
152 zones of new off-main customers to aid in the financing of gas service expansion to new off-  
153 main customers; or (3) both; provided, however, that natural gas distribution system expansion  
154 surcharges shall not unreasonably burden existing customers. Guidelines established under this  
155 subsection shall outline the department's methods and procedures for reviewing proposals,  
156 including factors the department shall consider for program or policy approval.

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

163 (c) The department shall issue a decision on gas company expansion programs filed with  
164 the department pursuant to this section within 8 months of the filing date. Gas companies shall

165 file appropriate tariff changes and otherwise implement any gas expansion programs or policies  
166 approved under this section.

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

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

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

186 SECTION 6. Notwithstanding any general or special law to the contrary, the secretary of  
187 public safety and security or a designee shall issue a report on the adequacy of state regulations  
188 governing the safety standards for utility transformer vaults located within buildings subject to  
189 the state building code. The report shall include, but not necessarily be limited to, an analysis of  
190 the standards for access, structural integrity, ventilation and lighting requirements of the  
191 regulations and the inspection and enforcement requirements, if any, of the regulations. The  
192 report shall further address structural limitations of older buildings containing utility transformer  
193 vaults, any ancillary costs, including the cost of inspections and possible costs to businesses and  
194 municipalities to comply with any proposed new regulations, and any recommendations for  
195 legislation necessary to further implement minimum safety standards for utility transformer  
196 vaults. The report, together with any proposed regulations or legislation necessary to carry out  
197 the recommendations, shall be submitted to the clerks of the house of representatives and the  
198 senate not later than November 15, 2014.

199 SECTION 7. Notwithstanding any general or special law to the contrary, explosive  
200 material, as defined in 527 CMR 13.03, shall not be used to fire a blast in any blasting operation

201 within 500 feet of a natural gas pipeline or metering and regulation station without written  
202 approval by the department of public utilities.

203 SECTION 8. The department shall investigate whether it should require the winter  
204 surveillance and patrol of cast iron gas pipelines in the commonwealth and shall determine  
205 whether the presence of extended frost cap conditions may result in additional stress on cast iron  
206 pipe segments, requiring enhanced surveillance and patrol. The department may establish  
207 minimum uniform procedures for cast iron winter surveillance and patrols consistent with any  
208 federally mandated standards for integrity management programs for distribution pipelines. Gas  
209 companies may establish procedures that exceed any minimum standards, subject to applicable  
210 filing requirements with the department.

211 SECTION 9. The department of public utilities shall issue a report addressing the  
212 prevalence of gas leaks in the natural gas system. The report shall include, but not be limited to:  
213 (i) the total number of Grade 1, Grade 2 and Grade 3 leaks reported in the previous year; (ii)  
214 estimates for lost and unaccounted for natural gas and methane emissions as a result of Grade 1,  
215 Grade 2 and Grade 3 leaks; and (iii) time and cost estimates for eliminating the backlog of Grade  
216 1, Grade 2 and Grade 3 leaks. The department shall issue the first report not later than 1 year  
217 after the effective date of this act. The second and all subsequent reports shall be filed annually  
218 thereafter until the department determines that the backlog has been sufficiently addressed and  
219 the natural gas pipeline is in a state of good repair. The final annual report issued by the  
220 department pursuant to this section shall detail the total cost of eliminating the backlog and the  
221 annual estimated cost to maintain a state of good repair. The second report and all subsequent  
222 reports shall be filed with the house and senate chairs of the joint committee on  
223 telecommunications, utilities and energy and the house and senate chairs of the joint committee  
224 on public safety and homeland security not later than December 31 of each year.

225 SECTION 10. Section 145 of chapter 164 of the General Laws shall take effect on  
226 October 1, 2014.