

HOUSE No. 4555

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 12, 2020.

The committee on Telecommunications, Utilities and Energy, to whom were referred the petition (accompanied by bill, House, No. 2845) of Carolyn C. Dykema and others for legislation to establish within the Department of Public Utilities an energy infrastructure oversight board to promote gas safety, and the petition (accompanied by bill, House, No. 2901) of Frank A. Moran and others for legislation to provide for field safety in gas infrastructure by requiring that the Department of Public Utilities promulgate regulations establishing requirements for the maintenance, timely updating, accuracy, and security of gas LDC maps and records, reports recommending that the accompanying bill (House, No. 4555) ought to pass.

For the committee,

THOMAS A. GOLDEN, JR..

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act for field safety in gas infrastructure.

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 164 of the General Laws is hereby amended by striking section
2 144, as appearing in the 2016 Official Edition, and inserting in its place the following:

3 Section 144. (a) There shall be uniform natural gas leaks classification for all gas
4 companies.

5 (b)(1) Gas companies shall assess a grade to all reported natural gas leaks based on the
6 system provided in this section.

7 (2) A Grade 1 leak shall be a leak that represents an existing or probable hazard to
8 persons or property. Grade 1 leaks require repair as immediately as possible and continuous
9 action until the conditions are no longer hazardous. The gas company shall immediately schedule
10 a completion of repairs and the condition shall be kept under continuous surveillance until the
11 hazard or source of the leak is eliminated. Whenever appropriate and feasible, a gas company
12 shall notify the fire department and chief law enforcement officer in each city or town where a
13 Grade 1 leak is identified.

14 (3) A Grade 2 leak shall be a leak that is recognized as non-hazardous to persons or
15 property at the time of detection, but justifies scheduled repair based on probable future hazard.
16 The gas company shall repair Grade 2 leaks or replace the main within 6 months from the date
17 the leak was classified; provided, however, that said repair or replacement may take place later
18 than six months from the date the leak is classified, but no later than 12 months from the date the
19 leak is classified, if any required permits for such repair or replacement are temporarily withheld
20 consistent with a seasonal moratorium. All Grade 2 leaks shall be reevaluated by a gas company
21 at least once every 6 months until eliminated; provided, however, that the frequency of
22 reevaluation shall be determined by the location and magnitude of the leakage condition.

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

30 (c)(1) Upon the undertaking of a significant project on a public way exposing confirmed
31 natural gas infrastructure, and with sufficient notice, a municipality or the commonwealth shall
32 submit written notification of the project to a gas company. The gas company shall survey the
33 project area for the presence of Grade 1 or Grade 2 leaks and set repair and replacement
34 schedules for all known or newly detected Grade 1 or Grade 2 leaks. The gas company shall
35 ensure that any shut off valve in the significant project area has a gate box installed upon it or a
36 reasonable alternative that would otherwise ensure continued public safety and that any critical

37 valve that has not been inspected and tested within the past 12 months is verified to be
38 operational and accessible. The gas company shall provide the repair and replacement schedule
39 of gas leaks to the municipality or the commonwealth.

40 (2) Upon the undertaking of any planned project involving excavation for purposes of
41 performing maintenance on or construction involving any gas mains or services by gas company
42 employees, or any blasting work, the gas company shall ensure that its employees first locate and
43 identify and mark all gas gates and valves, and verify that all are cleared, operational and
44 accessible in clear sight at ground level in advance of any excavation; and that said gas gates and
45 valves are left cleared, and operational following any such project.

46 (3) The gas company shall ensure that any shut off valve in the significant project area
47 has a gate box installed upon it by its employees to ensure continued public safety.

48 (4) Failure to undertake verification that gas gates and valves have been cleared, and are
49 both operational and accessible prior to the start of and following an excavation, or blasting
50 work, shall be subject to a fine of up to \$10,000.

51 (d) Gas companies shall prioritize any pipeline repairs required under this section for gas
52 leaks detected within a school zone. For the purposes of this section, "school zone" shall mean on
53 or within 50 feet of the real property comprising a public or private accredited preschool,
54 accredited Head Start facility, elementary, vocational or secondary school.

55 (e) As part of the annual service quality standards report required by section 11, 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 shall be made available to any municipal or state public safety official upon
61 written request to the department.

62 (f) The department shall promulgate regulations necessary to implement the uniform
63 natural gas leak classifications as specified in this section and shall oversee and monitor
64 company response and reporting.

65 (g) Each LDC will maintain an accurate and timely record of any Grade 3 leaks that,
66 upon re-inspection, are upgraded to a Grade 1 or 2 leak. The DPU shall establish a service
67 quality metric for the same, and each LDC will report any upgrades of Grade 3 leaks to the DPU
68 on a monthly basis.

69 (h) As a condition of receiving Chapter 90 funding for any project on a public way, a gas
70 LDC shall undertake an inspection of the areas surrounding the gas infrastructure through a
71 mobile survey to determine whether any gas leaks exist prior to embarking on the road project.

72 (i) The DPU shall promulgate regulations establishing requirements for the maintenance,
73 timely updating, accuracy, and security of gas LDC maps and records. Such regulations shall be
74 promulgated and implemented no later than January 1, 2021.

75 (j) Disruptions in the provision of electronic data, including but not limited to, maps and
76 records relevant to inspections, maintenance, repairs, and construction to its in-house workforce
77 and contractors, lasting more than 30 minutes to field personnel and field contractors will be
78 incorporated as a metric in the DPU's service quality indicators for LDCs.

79 SECTION 2. Chapter 164 of the General Laws is hereby amended by inserting after
80 section 115A, as appearing in the 2018 Official Edition, the following sections:

81 § 115B. Inspection and Repair of Piping Adjacent to Inside Meter

82 The DPU shall promulgate regulations establishing: (1) inspection and reporting
83 requirements for the inspection of pipe, including both the gas LDC's service line connected to
84 an inside meter from the pipeline, and (2) notice to occupants of the inspection process and any
85 findings resulting therefrom, and (3) repair/replacement requirements when a hazard is
86 discovered.

87 Section 105C. Minimum State Standards for the Transportation of Natural and Other Gas
88 by Pipeline

89 Every gas piping system shall be constructed, operated, and maintained in compliance
90 with federal pipeline safety standards as set forth in 49 CFR Part 192: Transportation of Natural
91 and Other Gas by Pipeline: Minimum Federal Safety Standards (MFS Standards)

92 Notwithstanding any general or special law to the contrary, the department of public
93 utilities may establish pipeline safety standards that exceed those set forth in 49 CFR Part 192. In
94 establishing such standards, the department may consider recommended practices issued by
95 industry or non-profit organizations.

96 Section 105D. The department of public utilities shall promulgate regulations for the
97 purpose of improving emergency preparedness and response during emergency situations
98 concerning the transportation or distribution of gas. These regulations shall address

99 communication and coordination between the Commonwealth, municipalities, and other
100 governmental entities. These regulations shall be promulgated no later than December 31, 2021.

101 SECTION 3. The Department shall establish rules and regulations by which the
102 qualifications of contractors shall be evaluated.

103 Contractors who wish to be eligible to receive contracts with a gas company to perform
104 gas work shall be required to register and provide all required documentation to meet
105 certification requirements with the DPU on an annual basis.

106 SECTION 4. Notwithstanding any general or special law to the contrary, the department
107 of public utilities shall conduct, publish, and periodically update a study detailing the degree to
108 which each gas piping system operator adhered to the department's safety standards, reviewing
109 the efficacy of said standards in protecting the physical health and financial prosperity of the
110 Commonwealth's residents, and analyzing recent advancements made in the theory and practice
111 of pipeline safety and operation. The report shall include recommendations to be made by the
112 state legislature or an executive branch entity that would enhance the safety of gas piping
113 systems by utilizing any theoretical or practical advancements in safety analyzed within it. The
114 department may conduct field audits of gas companies operating in the Commonwealth to ensure
115 compliance with all applicable statutes and regulations, and shall include the results of any such
116 audits in the study required under this section or any subsequent updates to said study. The
117 department shall publish the study no later than 1 year after the effective date of this act and shall
118 there publish revisions of the study not less than every 36 months. Said study shall be submitted
119 to the clerks of the house and senate, as well as to the joint committee on telecommunications,
120 utilities and energy.

121 SECTION 5. Section 185 of chapter 149 of the General Laws, as so appearing, is hereby
122 amended by inserting the following definition:-

123 “Public utility employer,” a gas and electricity public utility provider.

124 and hereby further amended by inserting in lines 4, 20, 24, 29, 32, 33, 42, 43, 57, 61, 79,
125 84, 88, 89, 97, 99, and 103 after the word “employer” in each instance thereof the following:- or
126 public utility employer

127 and hereby further amended by inserting in lines 34 and 44 after the word “relationship”
128 in each instance thereof the following:- including private contractors hired to perform work
129 customarily performed by employees of public utility employers.

130 SECTION 6. Section 1F of said chapter 164, as so appearing, is hereby amended by
131 adding the following:-

132 (h) The department shall ensure that all written complaints under this section received
133 from customers and the public regarding gas providers are investigated and a response to the
134 complainant provided in a timely manner. The department shall establish a publicly accessible
135 database of all complaints received, noting the category of complaint, the date it was received,
136 the steps taken to address the complaint and that date it was resolved.

137 SECTION 7. Section 1E of chapter 164 of the General Laws, as so appearing, is hereby
138 amended in line 12 by inserting after the word “levels” the following:- , public safety measures,.

139 SECTION 8. Section 145 of chapter 164 of the General Laws, as so appearing, is hereby
140 amended in line 33 by striking the word “and”, and in line 34 by inserting after the word “plan”:-

141 (vii) the relocations of a meter located inside of a structure to the outside of said structure for the
142 purpose of improving public safety.

143 SECTION 9. Section 145 of said chapter 164, as so appearing, is hereby amended by
144 striking out subsection (b) and inserting in place thereof the following subsection:-

145 (b) A gas company shall file with the department a plan to address aging or leaking
146 natural gas infrastructure within the commonwealth and the leak rate on the gas company's
147 natural gas infrastructure in the interest of public safety and reducing lost and unaccounted for
148 natural gas through a reduction in natural gas system leaks. Each company's gas infrastructure
149 plan shall include interim targets for the department's review. The department shall review these
150 interim targets to ensure each gas company is meeting the appropriate pace to reduce the leak
151 rate on and to replace the gas company's natural gas infrastructure in a safe and timely manner.
152 The interim targets shall be for periods of not to exceed five years. The gas companies shall
153 incorporate these interim targets into timelines for removing all leak-prone infrastructure filed
154 pursuant to subsection(c) and may update them based on overall progress. The department may
155 levy a penalty against any gas company which fails to meet its interim target in an amount up to
156 and including the equivalent of 2.5 per cent of such gas company's transmission and distribution
157 service revenues for the previous calendar year.

158 SECTION 10. The second paragraph of subsection (c) of said section 145 of said chapter
159 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place
160 thereof the following sentence:-

161 As part of each plan filed under this section, a gas company shall include a timeline for
162 removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement

163 pace and program end date with a target end date of either (i) not more than 20 years from the
164 filing of a gas company's initial plan, or (ii) a reasonable target end date considering the
165 allowable recovery cap established pursuant to subsection (f).

166 SECTION 11. Said chapter 82 is hereby amended by striking out section 40E, as so
167 appearing, and inserting in place thereof the following section:-

168 Section 40E. Any person or company found by the department, after a hearing, to have
169 violated any provision of sections 40A to 40E, inclusive, shall be fined not more than \$200,000;
170 provided that nothing herein shall be construed to require the forfeiture of any penal sum by a
171 residential property owner for the failure to pre-mark for an excavation on such person's
172 residential property.

173 SECTION 12. Section 1J of chapter 164 of the General Laws, as so appearing, is hereby
174 amended by striking out, in line 5, the figure "250,000" and inserting in place thereof the
175 following figure:- 500,000.

176 SECTION 13. Said section 1J of said chapter 164, as so appearing, is hereby further
177 amended by striking out, in line 8, the figure "20,000,000" and inserting in place thereof the
178 following figure:-

179 50,000,000.

180 SECTION 14. Section 105A of said chapter 164, as so appearing, is hereby amended by
181 striking out, in lines 21 to 23, inclusive, the words "as specified in 49 U.S.C. section 60122(a)(1)
182 or any successor statute enacted into federal law for the same purposes as said section
183 60122(a)(1)" and inserting in place thereof the following words:- of not more than \$500,000 for

184 each violation; provided, however, that the maximum civil penalty under this section for a
185 related series of violations shall be \$10,000,000; and, provided further that the dollar limits in
186 this sentence shall be doubled in the event that the department determines that the violator has
187 engaged in one or more similar violations in the three years preceding the violation. A separate
188 violation occurs for each day the violation continues.