

SENATE No. 1967

The Commonwealth of Massachusetts

PRESENTED BY:

Barry R. Finegold

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to natural gas safety and responsibility.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/29/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2019</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>1/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/31/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/1/2019</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/8/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>2/8/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/8/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/11/2019</i>

SENATE No. 1967

By Mr. Finegold, a petition (accompanied by bill, Senate, No. 1967) of Barry R. Finegold, Jason M. Lewis, Rebecca L. Rausch, James B. Eldridge and other members of the General Court for legislation relative to natural gas safety and responsibility. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act relative to natural gas safety and responsibility.

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. Notwithstanding the provisions of any other general or special law to the
2 contrary, for the purposes of the act, the following terms shall have the following meanings:-

3 “Declared Public Utility Emergency” shall mean a state of emergency declared primarily
4 as the result of the failure of a public utility system, including, but not limited to, a natural gas
5 pipeline leak or explosion.

6 “Gas company” shall have the meaning given to the term in Section 1F of chapter 164 of
7 the General Laws, as appearing in the 2016 Official Edition.

8 SECTION 2. Section 4B of chapter 25 , as appearing in the 2016 Official Edition of the
9 General Laws, is hereby amended by inserting after the word “ends.”, in line 39, the following
10 paragraphs:-

11 “In the event of a Declared Public Utility Emergency resulting in the termination of gas
12 service, the chairperson of the department of public utilities may set a reasonable date by which
13 gas service terminated as a result of the emergency shall be restored. If the relevant gas company
14 fails to restore service by that date, the chairperson shall have the authority to fine the gas
15 company up to \$2,000,000 per day beyond the restoration deadline that gas service has not been
16 restored.

17 If the National Transportation Safety Board or any other federal entity with relevant
18 oversight authority determines through an investigation of the emergency that the emergency
19 was caused due to the relevant gas company’s failure to maintain its infrastructure, then the
20 chairperson may fine the gas company up to \$5,000,000 per day that gas service is not restored,
21 starting with the date of the initial service interruption. The chairperson may also require the gas
22 company to pay all or a portion of the emergency response costs incurred by municipalities
23 affected by the Declared Public Utility Emergency. These fines shall not limit the imposition of
24 any other applicable fines or damage awards against the relevant gas company.”

25 SECTION 3. Section 3 of chapter 142, as appearing in the 2016 Official Edition of the
26 General Laws, is hereby amended by striking, in lines 18 through 20, the words "said employees
27 shall not require a gas fitter's license while performing work for said gas company." and inserting
28 in place thereof the following words:-

29 "except in the case of a state of emergency declared by the governor, employees of any
30 gas company shall not perform work within fifteen feet of the costumer side of the meter."

31 SECTION 4. Section 53 of chapter 146 of the General Laws, as amended by chapter 6 of
32 the acts of 2017, is hereby further amended by adding the following subsection:-

(h) The exemptions under subsections (e), (f) and (g) shall not apply to a public utility company or other company performing work for a public utility company during the course of an employee strike or lockout unless: (i) the employees of the public utility company or other company performing work for a public utility company who are not part of the strike or lockout have obtained a company license from an approved in-service training program of the public utility company for which they are performing work or other company specially authorized by the department pursuant to said subsection (g); or (ii) during a period of a declared emergency by the governor.

SECTION 5. Section 1F of chapter 164, as appearing in the 2016 Official Edition of the General Laws, is hereby amended by inserting the following paragraphs:-

(10) If a gas company is unable to provide gas service to a customer for a period of 24 hours or more, the gas company shall credit all of the customer's charges for the monthly billing period in which the service outage occurred. This credit must be processed before payment for the affected billing period would have been due absent the service outage.

(11) If a gas company temporarily suspends the collection of gas bills, the gas company shall provide an affected customer with written notice of all charges still accruing to the customer's account.

SECTION 6. Section 133 of said chapter 164, as so appearing, as, is hereby amended by striking out, in line 19, the words "have the power to".

SECTION 7. Said section 133 of chapter 164, as so appearing, is hereby amended by inserting after the word "council.", in line 44, the following paragraph:-

54 “The department of public utilities shall create a task force comprised of representatives
55 of the department and each of the gas companies in Massachusetts to create emergency response
56 plans specific to all foreseeable causes of a gas pipeline failure. Such plans shall be updated at
57 least every three years and as necessary to remain in compliance with generally accepted
58 industry best practices and any relevant guidance from the federal Pipeline and Hazardous
59 Materials Safety Administration.”

60 SECTION 8. Subsection (b)(2) of section 144 of said chapter 164, as so appearing, is
61 hereby amended by striking out, in line 11, the words “whenever appropriate and feasible,”.

62 SECTION 9. Said subsection (b)(2) of section 144 of chapter 164, as so appearing, is
63 hereby amended by inserting, in line 12, after the word “notify” the following words:-

64 “within an hour or less of detection”.

65 SECTION 10. Subsection (b)(3) of said section 144 of chapter 164, as so appearing, is
66 hereby amended by striking out, lines 16 through 22, after the word “future”, and inserting in
67 place thereof the following:-

68 “hazard to be completed as immediately as possible. The gas company shall immediately
69 schedule a completion of repairs, such repair to be completed within 6 months, and the condition
70 of such leak shall be kept under surveillance at a frequency of not less than once every two
71 weeks until the hazard or source of the leak is eliminated. For the purposes of this section, a
72 Grade 2 leak shall include: (i) any leak migrating into the root zone of a tree, defined as co-
73 extensive with the canopy of such tree; (ii) any leak within 10 feet of any foundation or wall; (iii)
74 any gas-in-air reading of up to 1 per cent in any manhole or confined space; (iv) any leak deemed
75 of sufficient magnitude by the fire chief of a municipality to be hazardous or to be a public

76 nuisance; and (v) any gas leak within 150 feet of a school zone, as defined in subsection (d). A
77 gas company shall notify within an hour or less of detection the fire department and chief law
78 enforcement officer in each city or town where a Grade 2 leak is identified.

79 (A) A municipality or person whose property is alleged to have been damaged by a gas
80 company may submit a claim for such damages with the department, which shall follow the
81 procedures of chapter 30A for the resolution of any such claim.

82 (B) Any suspected damage to a tree due to a natural gas leak should be reported to the gas
83 company for mandatory inspection by a qualified arborist. If a qualified arborist determines that
84 a tree is damaged or killed by a natural gas leak, the gas company shall provide the entity which
85 owns the tree with the funds of equal or greater value to replace the compromised tree. The
86 department shall promulgate rules and regulations to implement this section.

87 SECTION 11. Subsection (b) (4) of said section 144 of chapter 164, as so appearing, is
88 hereby amended by inserting after the word “safety.”, in line 32, the following:-

89 “A gas company shall notify within an hour or less of detection the fire department and
90 chief law enforcement officer in each city or town where a Grade 3 leak is identified.”

91 SECTION 12. Said section 144 of chapter 164, as so appearing, is here by amended by
92 striking out subsection (c), in lines 33 through 48, and inserting in place thereof the following:-

93 (c) (1) For the purposes of this subsection, a Grade 3 leak identified as having a
94 significant environmental impact shall be defined by the department, and such definition shall
95 include those leaks whose estimated gas emissions per day are in the top 7% of all Grade 3 leaks
96 in the commonwealth.

(2) Upon the undertaking of a significant project on a public way exposing confirmed natural gas infrastructure, and with sufficient notice, a municipality or the commonwealth shall submit written notification of the project to a gas company. In response to such notice from the municipality or upon seeking a permit from a municipality to open a public way for the purpose of repairing or replacing leak-prone infrastructure, the gas company shall survey the project area for the presence of Grade 1 leaks, Grade 2 leaks and Grade 3 leaks identified as having a significant environmental impact and shall set repair and replacement schedules for all known or newly detected Grade 1 leaks, Grade 2 leaks and Grade 3 leaks identified as having a significant environmental impact. The gas company shall provide to such municipality for each such leak, the location, history, and grade classification as defined in this section, and for each such pipeline, the age, type, condition, operating pressure, size and material. Upon completion of any repair or replacement of leak-prone infrastructure, the gas company shall provide to such municipality a report from a certified gas inspector that (i) all pipes are installed at the proper depth and all new joints are sealed; (ii) all gas shutoff valves and gate boxes are uncovered, accessible, operational, tested and capable of accepting a gate key; (iii) the repaired or replaced infrastructure is free from defects that could cause new leaks; and (iv) the repair or replacement has otherwise been properly completed according to state and federal regulations.

SECTION 13. Said section 144 of chapter 164, as so appearing, is here by amended by striking out subsection (d), in lines 49 through 54, and inserting in place thereof the following:-

(d) A gas company shall survey pipelines in every school zone at least once every 12 months or during the next scheduled survey, whichever is sooner. Grade 3 gas leaks detected in a school zone shall be repaired by the gas company no later than 6 months from the date the leak was detected. Grade 1 leaks and Grade 2 leaks shall be repaired as required in subsection (b) of

this section. For the purposes of this section, "school zone" shall mean on or within 150 feet of the real property comprising a public or private accredited preschool, accredited Head Start facility, elementary, vocational or secondary school.

SECTION 14. Said section 144 of chapter 164, as so appearing, is here by amended by striking out subsection (e), in lines 55 through 63, and inserting in place thereof the following:-

(e) (1) For the purposes of this subsection, the following words shall have the following meaning:-

“global positioning system,” a positioning system using satellites that continuously transmit coded information. The information transmitted from the satellites is interpreted by receivers to precisely identify locations on earth by measuring distance from the satellites.

(2) As part of the annual service quality standards report required by section 11, each gas company shall report to the department the following data as of the time of the report: (i) the location of each Grade 1, Grade 2 and Grade 3 leak; (ii) the date each Grade 1, Grade 2 and Grade 3 leak was classified; (iii) the dates of repairs performed on each Grade 1, Grade 2 and Grade 3 leak; and (iv) the positioning of each such leak according to the global positioning system. A gas company shall specify any reclassification of previously identified leaks in its annual report.

(3) The annual service quality standards report shall be posted electronically and publically by March 1 by the department in spreadsheet format, which shall include, or be accompanied by, definitions of terms or acronyms, methodologies and instrumentation used to detect a gas leak and to determine its grade, emissions, volume and emissions impact. The report shall include the cost to ratepayers of (i) lost and unaccounted for gas; (ii) system maintenance;

(iii) leak-prone infrastructure replacements and percent remaining under plans mandated by subsection (b) of section 145; (iv) safety violations by each gas company, including but not limited to, over pressurization incidents, third-party hits, and natural force pipe failures, reported both as absolute numbers as well as by incidents per linear mile of pipe; (v) the cost of replacing all leak-prone infrastructure as compared to repairing all known gas leaks in the commonwealth; and (vi) progress by the department and the gas companies regulated under this chapter towards achieving the targets and benchmarks mandated by chapter 21N. The department shall post a map of all leaks by grade classification, updated quarterly, showing the location of such leaks throughout the commonwealth.

SECTION 15. Said section 144 of chapter 164, as so appearing, is hereby amended by inserting after subsection (f), the following:-

(g) The department shall promulgate regulations establishing uniform standards for winter surveillance and patrol of cast iron pipes subject to hazardous frost cap conditions. Such standards shall meet or exceed federally mandated standards for integrity management requirements for distribution pipelines and shall include criteria to determine the conditions of weather, the duration and oscillation of temperatures around and below 32 degrees Fahrenheit, the type and size of cast iron pipe segments that are prone to cracks and leaks as a result of extended frost cap conditions and the frequency of surveillance and patrol necessary to ensure public safety from hazardous leaks caused by such cracks. Such winter surveillance and patrol standards shall be in effect from December 15 to March 15 unless weather conditions warrant an earlier start or later end date. Such regulations shall be promulgated by the department within 6 months of the effective date of this provision.

SECTION 16. Section 145 of said chapter 164, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

SECTION 17. Section 145 of said chapter 164, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) (1) For the purposes of this subsection, a Grade 3 leak identified as having a significant environmental impact shall be defined by the department, and such definition shall include those leaks whose estimated gas emissions per day are in the top 7% of all Grade 3 leaks in the commonwealth.

(2) Any plan filed with the department shall include, but not be limited to: (i) eligible infrastructure replacement or repair of mains, services, meter sets and other ancillary facilities composed of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the federal gas distribution pipeline integrity management plan annually submitted to the department and consistent with subpart P of 49 C.F.R. part 192; (ii) replacement infrastructure proposed; (iii) an anticipated timeline for the completion of each project; (iv) the estimated cost of each project; (v) rate change requests; (vi) a description of customer costs and benefits under the plan; (vii) work plans including location by street segments of leak-prone infrastructure scheduled to be replaced as required by this section; and (viii) any other information the department considers necessary to evaluate the plan. Such improvement of

existing infrastructure may include repair rather than replacement of a pipe having a grade 3 leak identified as having a significant environmental impact as classified by section 144 (c), provided, however that such repair shall be cost effective and shall comply with applicable safety regulations related to pipeline infrastructure.

SECTION 18. Subsection (d) of said section 145 of said chapter 164, as so appearing, is hereby amended by inserting, in line 63, after the word “public” the following words:-

“health and”.

SECTION 19. Said section 145 of chapter 164, as so appearing, is hereby amended by inserting after subsection (h) the following subsection:-

(i) Within 30 days of approval of any plan submitted to the department by a gas company for replacement or improvement of any existing infrastructure pursuant to this section, the department shall send such plan and such approval to the municipality whose service territory is covered by such plan.

SECTION 20. Chapter 175, as appearing in the 2016 Official Edition of the General Laws, is hereby amended by adding the following section:-

Section 230: (a) A business interruption insurance policy provided to a business entity domiciled in the Commonwealth of Massachusetts shall provide coverage for an interruption of business caused by a Declared Public Utility Emergency.

(b) An insurance company with a homeowners insurance or business interruption insurance policyholder in an area affected by a Declared Public Utility Emergency shall send a representative to the affected area no more than 72 hours after the emergency is declared.

SECTION 21. Notwithstanding any general or special law to the contrary, the department of public utilities shall conduct an independent analysis of its gas pipeline inspector staffing and compensation levels within 180 days of the effective date of this Act.

SECTION 22. Notwithstanding any general or special law to the contrary, the department of public utilities shall develop, promulgate, and maintain regulations to ensure that natural gas pressure is monitored by qualified personnel on each site where work is being performed that involves the pressurization or depressurization of transmission lines, as is necessary to protect public safety and to prevent damage to property. The department shall promulgate initial regulations pursuant to this section not later than 180 days following the passage of this Act.

SECTION 23. Notwithstanding any general or special law to the contrary, the department of public utilities shall promulgate regulations requiring gas companies to establish communication plans with each of the municipalities they serve. The regulations must require the gas companies and municipalities to formalize a protocol for regular communication regardless of whether a state of emergency has been declared.

SECTION 24. Notwithstanding any general or special law to the contrary, in the event of a Declared Public Utility Emergency, the relevant local authority in a municipality affected by the emergency may, in its discretion, determine that any school days lost as a result of the emergency do not need to be added back to the end of the school year.