

HOUSE No. 3353

The Commonwealth of Massachusetts

PRESENTED BY:

Frank A. Moran

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 for field safety in gas infrastructure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/16/2021</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>2/18/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/24/2021</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/12/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>4/2/2021</i>
<i>Maria Duaime Robinson</i>	<i>6th Middlesex</i>	<i>4/2/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>6/30/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>9/7/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/1/2022</i>

HOUSE No. 3353

By Mr. Moran of Lawrence, a petition (accompanied by bill, House, No. 3353) 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. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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

hazard or source of the leak is eliminated. Whenever appropriate and feasible, a gas company shall notify the fire department and chief law enforcement officer in each city or town where a Grade 1 leak is identified.

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

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

(c)(1) 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. The gas company shall survey the

project area for the presence of Grade 1 or Grade 2 leaks and set repair and replacement schedules for all known or newly detected Grade 1 or Grade 2 leaks. The gas company shall ensure that any shut off valve in the significant project area has a gate box installed upon it or a reasonable alternative that would otherwise ensure continued public safety and that any critical valve that has not been inspected and tested within the past 12 months is verified to be operational and accessible. The gas company shall provide the repair and replacement schedule of gas leaks to the municipality or the commonwealth.

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

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

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

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

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

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

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

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

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

(j) Disruptions in the provision of electronic data, including but not limited to, maps and records relevant to inspections, maintenance, repairs, and construction to its in-house workforce

and contractors, lasting more than 30 minutes to field personnel and field contractors will be incorporated as a metric in the DPU's service quality indicators for LDCs.

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

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

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

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

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

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

Section 105D. The department of public utilities shall promulgate regulations for the purpose of improving emergency preparedness and response during emergency situations

concerning the transportation or distribution of gas. These regulations shall address communication and coordination between the Commonwealth, municipalities, and other governmental entities. These regulations shall be promulgated no later than December 31, 2021.

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

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

SECTION 4. Notwithstanding any general or special law to the contrary, the department of public utilities shall conduct, publish, and periodically update a study detailing the degree to which each gas piping system operator adhered to the department's safety standards, reviewing the efficacy of said standards in protecting the physical health and financial prosperity of the Commonwealth's residents, and analyzing recent advancements made in the theory and practice of pipeline safety and operation. The report shall include recommendations to be made by the state legislature or an executive branch entity that would enhance the safety of gas piping systems by utilizing any theoretical or practical advancements in safety analyzed within it. The department may conduct field audits of gas companies operating in the Commonwealth to ensure compliance with all applicable statutes and regulations, and shall include the results of any such audits in the study required under this section or any subsequent updates to said study. The department shall publish the study no later than 1 year after the effective date of this act and shall 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:-

As part of each plan filed under this section, a gas company shall include a timeline for removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement pace and program end date with a target end date of either (i) not more than 20 years from the filing of a gas company's initial plan, or (ii) a reasonable target end date considering the allowable recovery cap established pursuant to subsection (f).

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

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

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

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

50,000,000.

SECTION 14. Section 105A of said chapter 164, as so appearing, is hereby amended by 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.