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HOUSE BILL 94

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Bill McCamley

AN ACT

RELATING TO PIPELINE SAFETY; CHANGING THE CIVIL PENALTIES FOR VIOLATIONS OF THE PIPELINE SAFETY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-3-19 NMSA 1978 (being Laws 1969, Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT--PENALTIES.--

A. If as a result of investigation the commission has good cause to believe that any person is violating any provision of Subsection A of Section 70-3-18 NMSA 1978 or any regulation adopted by the commission under the Pipeline Safety Act, the commission shall, when practicable and except in the case of a knowing and willful violation, give the person notice of the violation and an opportunity to comply. If the commission is unable within a reasonable time to obtain

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1 voluntary cooperation to prevent the continuing violation, the
2 commission may apply for an injunction in the district court of
3 the county in which the violation occurs to secure compliance.
4 The failure to give notice and afford an opportunity to comply
5 shall not preclude the granting of injunctive relief.

6 B. The trial before the district court shall be
7 before the court without jury, and the court shall enter
8 judgment and orders enforcing the judgment as the public
9 interest and equities of the case may require.

10 C. Any person owning or operating gas pipeline
11 facilities or engaged in the transportation of gas or owning or
12 operating oil pipeline facilities or engaged in the
13 transportation of oil who has been determined by order of the
14 commission after hearing to have violated any provision of
15 Subsection A of Section 70-3-18 NMSA 1978 or any regulation
16 promulgated under the Pipeline Safety Act applicable to
17 intrastate pipeline facilities shall be subject to a civil
18 penalty in an amount not to exceed [~~one hundred thousand~~
19 ~~dollars (\$100,000) for each violation for each day that the~~
20 ~~violation persists, except that the maximum civil penalty shall~~
21 ~~not exceed one million dollars (\$1,000,000)] the amount, as
22 determined by the commission, established by applicable federal
23 law for any related series of violations.~~

24 D. In determining the amount of the penalty, the
25 commission shall consider the nature, circumstances and gravity

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1 of the violation and, with respect to the person found to have
2 committed the violation, the degree of culpability, any history
3 of prior violations, the effect on ability to continue to do
4 business, any good faith in attempting to achieve compliance,
5 ability to pay the penalty and other matters as justice may
6 require.

7 E. Judicial review of any provision of this section
8 may be accomplished in the same manner as is found in Section
9 70-3-15 NMSA 1978.

10 F. Any person who willfully and knowingly injures
11 or destroys or attempts to injure or destroy an intrastate
12 pipeline facility shall upon conviction be subject for each
13 offense to a fine not to exceed twenty-five thousand dollars
14 (\$25,000) or imprisonment for a term not to exceed fifteen
15 years, or both.

16 G. Any person who willfully and knowingly damages,
17 removes or destroys any pipeline sign, right-of-way marker
18 required by the Pipeline Safety Act or any regulation or
19 order issued pursuant to that act shall upon conviction be
20 subject for each offense to a fine of not more than five
21 thousand dollars (\$5,000) or imprisonment for a term not to
22 exceed one year, or both."

23 SECTION 2. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2018.