

SENATE BILL NO. 86—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE PUBLIC UTILITIES
COMMISSION OF NEVADA)

PREFILED DECEMBER 20, 2014

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing pipeline and subsurface safety. (BDR 58-347)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public utilities; increasing the maximum amount of the civil penalty that may be imposed for violating certain regulations adopted by the Public Utilities Commission of Nevada; defining the term “high consequence subsurface installation”; revising the definition of “subsurface installation”; increasing the maximum amount of the civil penalty that may be imposed for certain violations relating to excavation or demolition near a subsurface installation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a person who violates regulations adopted by the
2 Public Utilities Commission of Nevada in conformity with the Natural Gas Pipeline
3 Safety Act of 1968, 49 U.S.C. § 60101 et. seq., is subject to a civil penalty not to
4 exceed \$100,000 for each violation for each day that the violation persists, up to a
5 maximum of \$1,000,000 for any related series of violations. (NRS 704.595)
6 **Section 1** of this bill increases these amounts so that a person may be subject to a
7 civil penalty not to exceed \$200,000 for each violation for each day that the
8 violation persists, with a maximum civil penalty not to exceed \$2,000,000.
9 Existing law provides for civil penalties that may be imposed by the
10 Commission if a person willfully or repeatedly violates the provisions governing
11 excavation or demolition near subsurface installations. (NRS 455.170) **Section 5** of
12 this bill increases the maximum civil penalty for a single violation from not more
13 than \$1,000 per day to not more than \$2,500 per day, and increases the maximum



civil penalty for any related series of violations within a calendar year from not more than \$100,000 to not more than \$250,000. **Section 5** also removes the distinction between negligent and willful or repeated violations and instead imposes the same maximum civil penalty for any violation. **Section 5** further provides additional factors for the Commission to consider when determining the amount of the penalty or the amount agreed upon in a settlement or compromise, to include the: (1) willfulness or negligence of the person charged with the violation; (2) timeliness of the notification of the violation to the Commission by the person charged with the violation; and (3) cooperation of that person in the investigation and repair of any damage caused by the violation. **Section 5** also authorizes the Commission to triple the maximum civil penalty that may be imposed for each violation that involves contact with, or occurs less than 24 inches from a high consequence subsurface installation. **Section 2** of this bill defines the term "high consequence subsurface installation."

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.595 is hereby amended to read as follows:
704.595 1. Any person who violates any provision of any regulation adopted by the Commission in conformity with the Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. §§ 60101 et seq., or with a federal regulation adopted pursuant thereto, ~~shall be~~ **is** subject to a civil penalty not to exceed ~~[\$100,000]~~ **\$200,000** for each violation for each day that the violation persists, but the maximum civil penalty must not exceed ~~[\$1,000,000]~~ **\$2,000,000** for any related series of violations. Unless compromised, the amount of any such civil penalty must be determined by a court of competent jurisdiction.

2. Any civil penalty may be compromised by the Commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, must be considered.

3. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum owing by the State to the person charged or may be recovered in a civil action in any court of competent jurisdiction.

Sec. 2. Chapter 455 of NRS is hereby amended by adding thereto a new section to read as follows:

"High consequence subsurface installation" means the following types of subsurface installations:

1. A high-pressure natural gas pipeline with a normal operating pressure greater than 100 pounds per square inch gauge;

2. A petroleum pipeline;



3. *A pressurized sewage pipeline or force main;*
4. *A high-voltage electric supply line, conductor or cable that has a phase-to-phase potential of 115 kilovolts or more;*
5. *A high-capacity water pipeline that is 18 inches or more in diameter;*
6. *A high-capacity fiber-optic telecommunications line;*
7. *A hazardous materials pipeline; or*
8. *Any other subsurface installation that if damaged will interrupt an essential public service.*

Sec. 3. NRS 455.080 is hereby amended to read as follows:
455.080 As used in NRS 455.080 to 455.180, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 455.082 to 455.105, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 455.101 is hereby amended to read as follows:
455.101 "Subsurface installation" means a pipeline, *force main, supply line, conductor*, conduit, cable, duct, wire, *telecommunications line*, sewer line, storm drain, other drain line or other structure that is located underground.

Sec. 5. NRS 455.170 is hereby amended to read as follows:
455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. ~~[Any]~~ *Except as otherwise provided in subsection 3, in addition to any other penalty provided by law, any* person who willfully, *negligently* or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, *and section 2 of this act* is liable for a civil penalty:

(a) Not to exceed ~~[\$1,000]~~ *\$2,500* per day for each violation; and

(b) Not to exceed ~~[\$100,000]~~ *\$250,000* for any related series of violations within a calendar year.

3. ~~[Any person who negligently violates any such provision is liable for a civil penalty:~~

~~—(a) Not to exceed \$200 per day for each violation; and~~

~~—(b) Not to exceed \$1,000 for any related series of violations within a calendar year.~~

~~—4.]~~ *The maximum civil penalty imposed pursuant to this section may be tripled for each violation that involves contact with, or that occurs less than 24 inches from, a high consequence*



1 *subsurface installation.* The amount of any civil penalty imposed
2 pursuant to this section and the propriety of any settlement or
3 compromise concerning a penalty ~~{must}~~ *shall* be determined by the
4 Public Utilities Commission of Nevada . ~~{upon receipt of a~~
5 ~~complaint by the Attorney General, the Regulatory Operations Staff~~
6 ~~of the Public Utilities Commission of Nevada, a district attorney, a~~
7 ~~city attorney, the agency that issued the permit to excavate or the~~
8 ~~operator or the person responsible for the excavation or demolition.~~

9 ~~—5.}~~ 4. In determining the amount of the penalty or the amount
10 agreed upon in a settlement or compromise, the Public Utilities
11 Commission of Nevada shall consider:

12 (a) The gravity of the violation;

13 (b) The good faith of the person charged with the violation in
14 attempting to comply with the provisions of NRS 455.080 to
15 455.180, inclusive, *and section 2 of this act* before and after
16 ~~{notification of a}~~ the violation; ~~{and}~~

17 (c) Any history of previous violations of ~~{those}~~ *the* provisions
18 *of NRS 455.080 to 455.180, inclusive, and section 2 of this act* by
19 the person charged with the violation ~~{~~

20 ~~—6. A}~~;

21 (d) *The willfulness or negligence of the person charged with*
22 *the violation in failing to comply with the provisions of NRS*
23 *455.080 to 455.180, inclusive, and section 2 of this act;*

24 (e) *The timeliness of notification of the violation to the Public*
25 *Utilities Commission of Nevada by the person charged with the*
26 *violation; and*

27 (f) *The cooperation of the person charged with the violation in*
28 *the investigation and repair of any damage caused by the*
29 *violation.*

30 5. *Except as otherwise provided in this subsection, a* civil
31 penalty recovered pursuant to this section must first be paid to
32 reimburse the person who initiated the action for any cost incurred
33 in prosecuting the matter.

34 ~~{7}~~ *If the Regulatory Operations Staff of the Public Utilities*
35 *Commission of Nevada initiates the action, a civil penalty*
36 *recovered pursuant to this section must be deposited in the State*
37 *General Fund.*

38 6. Any person aggrieved by a determination of the Public
39 Utilities Commission of Nevada pursuant to this section may seek
40 judicial review of the determination in the manner provided by
41 NRS 703.373.

42 **Sec. 6.** This act becomes effective on July 1, 2015.

