

Legislative Analysis



NATURAL GAS SAFETY VIOLATIONS

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Senate Bill 366 as passed by the House
Sponsor: Sen. Sean McCann
**House Committee: Energy, Communications,
and Technology [Discharged]**
Senate Committee: Energy and Environment
Complete to 10-31-24

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 131 of 2024)

SUMMARY:

Senate Bill 366 would amend 1969 PA 165, which authorizes the MPSC (Michigan Public Service Commission) to establish and enforce gas safety standards. The bill would increase the maximum fine that may be imposed for a violation of those standards and change the fine from a civil penalty to an administrative fine. The bill would require the fines to be deposited in the state's general fund and allocate amounts over \$200,000 in a calendar year to the MPSC for safety education and training related to underground facilities. The bill also would require the maximum fine amount to be adjusted annually for inflation.

The act applies to natural gas, flammable gas, and gas that is toxic or corrosive. It authorizes the MPSC to develop and issue rules related to safety standards for *pipeline facilities* and the *transportation of gas*.¹ With some exceptions, the act requires a person who transports gas or owns or operates a pipeline facility to comply with those safety standards, file and comply with a plan of inspection and maintenance, make reports and provide information, allow access to records, and allow entry and inspection as described in the act.

Pipeline facilities includes new and existing pipeline rights-of-way, and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation.

Transportation of gas means the gathering, transmission, or distribution of gas by pipeline or the storage of gas. It does not include the gathering of gas in rural locations that lie outside the limits of an incorporated or unincorporated city, town, village, or other designated residential or commercial area such as a subdivision, business or shopping center, community development, or similar populated area that the MPSC defines as a nonrural area. Transportation of gas includes gathering lines located in or occupying the property of schools, hospitals, churches, parks, or similar public places.

Currently, a person who violates the act or a rule issued under it is subject to a fine, determined by the MPSC, of up to \$10,000 for each violation for each day the violation persists and a maximum *civil penalty* of up to \$500,000 for a related series of violations. This *penalty* can be

¹ See <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20460.20101%20to%20R%20460.20606.pdf&ReturnHTML=True>

and <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20460.2301%20to%20R%20460.2384.pdf&ReturnHTML=True>

See also <https://www.michigan.gov/mpsc/regulatory/natural-gas/michigan-gas-safety-standards>

recovered in a civil action in the Ingham County circuit court or be deducted from any money the state owes the person.

Under the bill, a person that violates the act or a rule issued under it would be subject to an *administrative fine*, determined by the MPSC, of up to \$200,000 for each violation for each day the violation persists and a maximum *administrative fine* of up to \$2.5 million for a related series of violations. This *administrative fine* could be recovered in a civil action in the Ingham County circuit court or be deducted from any money the state owes the person.

The bill would require administrative fines issued under the above provisions to be deposited in the general fund. For each calendar year, any amount of the administrative fines deposited in the general fund that exceeds \$200,000 would have to be credited to the MPSC to be used for underground facilities safety education and training, as civil fines are used under the MISS DIG Underground Facility Damage Prevention and Safety Act.

The bill also would require the MPSC to issue orders adjusting the maximum fine amounts for inflation using the Consumer Price Index for the Detroit area from the federal Bureau of Labor Statistics. The first adjustment could be made at any time after August 31, 2024, and before October 1, 2025. The subsequent adjustments would have to be made by October 1 each year beginning with October 1, 2025.

MCL 483.161

BRIEF DISCUSSION:

According to committee testimony, Michigan's maximum civil fine penalty limits for pipeline safety violations, which have not been changed in 30 years, are among the lowest in the nation. Under the federal Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Michigan's maximum penalty limits must be substantially the same as those limits under federal law in order for the state to retain authority to determine whether civil penalties are warranted for pipeline safety violations and, if so, to determine the penalty amount. Unless the current maximum penalty limits are increased, the state's certification to administer the safety program would be converted to an agreement under which the federal Pipeline and Hazardous Materials Safety Administration determines relevant violations and civil penalty amounts. It was also noted that, by providing greater flexibility to impose penalties that are appropriately scaled to the magnitude of violations, the bill could increase public confidence in the MPSC's pipeline safety oversight activities.²

HOUSE FLOOR ACTION:

The House amended the bill to statutorily provide for the administrative fines to be deposited in the general fund and to require amounts over \$200,000 in a calendar year to be used by the MPSC for safety and education training as described above.

² https://www.house.mi.gov/Document/?Path=2023_2024_session/committee/house/standing/energy,_communications,_and_technology/meetings/2024-03-13-1/documents/testimony/SB366DanScripps.pdf

FISCAL IMPACT:

Senate Bill 366 would have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact on the state would depend on the number of administrative fines issued and, subsequently, the amount of fine revenue collected. Under the bill, revenue collected from payment of administrative fines would be deposited into the state's general fund, and an amount collected over \$200,000 would be paid to the MPSC to be used for underground facilities safety education and training. The state could realize an increase in general fund revenue. Also, under the bill, fines would be adjusted annually for inflation, so fine revenue collected could increase on an annual basis. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, estimates of the amount of additional revenue for the state or costs to local courts cannot be made.

POSITIONS:

Representatives of the Michigan Public Service Commission testified in support of the bill.
(3-13-24)

The United States Department of Transportation Pipeline and Hazardous Materials Safety Administration indicated support for the bill. (1-19-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.