

## LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 48:9-33 (Natural gas safety-- increase penalties)

**LAWS OF:** 1989 **CHAPTER:** 80

**BILL NO:** A2523

**SPONSOR(S):** Kyrillos, Smith and Bennett

**Date Introduced:** February 18, 1988

**Committee:** **Assembly:** Conservation, Natural Resources and Energy  
**Senate:** Law, Public Safety and Defense

**Amended during passage:** Yes Amendments denoted by asterisks.

**Date of Passage:** **Assembly:** March 14, 1988 Re-enacted 2-27-89  
**Senate:** December 8, 1988 Re-enacted 5-8-89

**Date of Approval:** May 16, 1989

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement:** **Assembly** Yes  
**Senate** Yes

**Fiscal Note:** No

**Veto Message:** Yes

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

RDV

[FIRST REPRINT]  
ASSEMBLY, No. 2523

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 18, 1988

By Assemblyman KYRILLOS, Assemblywoman SMITH  
and Assemblyman Bennett

1 AN ACT concerning natural gas pipeline safety, and  
2 supplementing chapter <sup>1</sup>[10] <sup>9</sup> of Title 48 of the Revised  
3 Statutes.

5 BE IT ENACTED *by the Senate and General Assembly of the  
6 State of New Jersey:*

7 1. a. Any person who is determined by the Board of Public  
8 Utilities <sup>1</sup>after notice and opportunity to be heard,<sup>1</sup> to have  
9 violated the provisions of any law, rule, regulation, or order  
10 relating to natural gas pipeline safety shall be subject to a civil  
11 penalty of not more than <sup>1</sup>[\$1,000] \$10,000<sup>1</sup> for each such  
12 violation for each day that the violation persists, except that the  
13 maximum civil penalty shall not exceed <sup>1</sup>[\$200,000] \$500,000<sup>1</sup> for  
14 any related series of violations.

15 b. Any civil penalty imposed pursuant to subsection a. of this  
16 section may be compromised by the board. In determining the  
17 amount of the penalty, or the amount agreed upon in compromise,  
18 the board shall consider the nature, circumstances, and gravity of  
19 the violation; the degree of the violator's culpability; any history  
20 of prior violations; the prospective effect of the penalty on the  
21 ability of the violator to conduct business; any good faith on the  
22 part of the violator in attempting to achieve compliance; his  
23 ability to pay the penalty; and any other factors justice may  
24 require. The amount of the penalty, when finally determined, or  
25 the amount agreed upon in compromise, may be deducted from  
26 any sums owing by the State to the person charged, or may be  
27 recovered in a summary proceeding instituted by the board in  
28 Superior Court in accordance with "the penalty enforcement  
29 law," N.J.S.2A:58-1 et seq.

30 c. Whenever it shall appear to the board that a person has  
31 violated, intends to violate, or will violate any provision of any  
law, rule, regulation, or order relating to natural <sup>1</sup>[pipeline]<sup>1</sup> gas

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly amendments adopted in accordance with Governor's  
recommendations January 26, 1989.

1 pipeline<sup>1</sup> safety, the board may institute a civil action in  
Superior Court for injunctive relief or for any other appropriate  
3 relief under the circumstances, and the court may proceed on any  
such action in a summary manner.

5 2. This act shall take effect immediately.

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ENERGY

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Public Utilities

11 Imposes maximum penalties and injunctive powers for violations  
of natural gas safety laws.

1       2. This act shall take effect immediately.

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#### STATEMENT

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7       This measure imposes a civil penalty not to exceed \$1,000 per  
 violation per day, or \$200,000 for a related series of violations, of  
 any State statute concerning natural gas pipeline safety, or any  
 9 rule, regulation, or order issued pursuant to any such law. The  
 bill further authorizes the board to compromise penalties for  
 11 violations consistent with the nature and gravity of the violation,  
 the violator's record and degree of culpability, the effect of any  
 13 prospective penalty on his ability to continue in business, and other  
 relevant factors dictated by justice. Finally, the bill would  
 15 authorize the board to seek injunctive relief in cases where it  
 perceives or anticipates a violation.

17       Enactment of this measure in substantially this form, together  
 with the adoption of certain prescribed regulations, would grant  
 19 "certification" status to the State with respect to the regulation  
 of intrastate natural gas pipeline safety, as provided under the  
 21 federal "Natural Gas Pipeline Safety Act of 1968," U.S.C. 49 §  
 1671 et seq. Currently, New Jersey, as an "agreement" State,  
 23 retains only inspection and surveillance responsibility, and thus  
 must defer enforcement actions to the federal Department of  
 25 Transportation. "Certification" status would grant to the State  
 authority to adopt regulations more stringent than the federal  
 27 regulations, as well as to enforce State and federal natural gas  
 safety regulations and impose sanctions for violations.

29       The transfer of enforcement powers to the State as a result of  
 this measure will increase public safety with respect to the  
 31 intrastate transportation of natural gas, and is consistent with  
 the recommendation of the federal government.

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#### ENERGY Public Utilities

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39       Imposes maximum penalties and injunctive powers for violations  
 of natural gas safety laws.

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ASSEMBLY COMMITTEE ON CONSERVATION,  
NATURAL RESOURCES AND ENERGY

STATEMENT TO

ASSEMBLY, No. 2523

STATE OF NEW JERSEY

DATED: FEBRUARY 29, 1988

A-2523 is reported favorably by the committee.

This measure imposes a civil penalty not to exceed \$1,000 per violation per day, or \$200,000 for a related series of violations, of any State statute concerning natural gas pipeline safety, or any rule, regulation, or order issued pursuant to any such law. The bill further authorizes the board to compromise penalties for violations consistent with the nature and gravity of the violation, the violator's record and degree of culpability, the effect of any prospective penalty on his ability to continue in business, and other relevant factors dictated by justice. Finally, the bill would authorize the board to seek injunctive relief in cases where it perceives or anticipates a violation.

It is the intent of this bill that its enactment in substantially this form would allow the State to be granted "certification" status with respect to the regulation of intrastate natural gas pipeline safety, as provided under the federal "Natural Gas Pipeline Safety Act of 1968," (49 U.S.C. § 1671 et seq.) Currently, New Jersey, as an "agreement" State, retains only inspection and surveillance responsibility, and thus must defer enforcement actions to the federal Department of Transportation. "Certification" status would grant to the State authority to adopt regulations more stringent than the federal regulations, as well as to enforce State and federal natural gas safety regulations and impose sanctions for violations. The Board of Public Utilities already has the authority to regulate the natural gas pipelines under the State Natural Gas Safety Act, P.L. 1952, c. 166 (C. 48:10-2 et seq.). The State has met all certification criteria except the power to impose sanctions which this bill would provide. New Jersey is one of only two states in the nation, the other being Delaware, that has not been granted certification status.

The transfer of enforcement powers to the State as a result of this measure will increase public safety with respect to the intrastate transportation of natural gas, and is consistent with the recommendation of the federal government.

SENATE LAW, PUBLIC SAFETY, AND DEFENSE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2523

STATE OF NEW JERSEY

DATED: JUNE 16, 1988

The Senate Law, Public Safety and Defense Committee reports favorably Assembly Bill No. 2523.

Assembly Bill No. 2523 establishes the sanctions to be imposed for violations of any law concerning natural gas pipeline safety. Under the bill, the fine for a violation would not exceed \$1,000.00 per violation per day, or \$200,000.00 for a related series of violations. The bill permits the Board of Public Utilities to compromise the fines imposed for a violation by considering the nature and gravity of the violation, the violator's record and degree of culpability, the effect of any prospective penalty on the violator's ability to continue in business, and other relevant factors. Additionally, the bill authorizes the board to seek injunctive relief when it perceives or anticipates a violation. The Board of Public Utilities currently has the authority to regulate natural gas pipelines under the State Natural Gas Safety Act, P.L. 1952, c. 166 (C. 48:10-2 et seq.).

The enactment of this bill would allow the State to be granted certification status with respect to the regulation of intrastate natural gas pipeline safety pursuant to the federal "Natural Gas Pipeline Safety Act of 1968" (49 U.S.C. § 1671 et seq.). Currently, New Jersey is simply an agreement State and only has inspection and surveillance authority; enforcement actions against violators continue to be conducted by the federal Department of Transportation.

Certification status would permit the State to adopt regulations which are more stringent than federal regulations, to directly enforce State and federal natural gas safety regulations, and to impose penalties for violations. The State has met all other requirements for certification set by the federal government except the requirement that the State have the power to impose sanctions for violations. The enactment of this bill into law would meet that final requirement.

New Jersey is one of only two states in the nation (the other is Delaware) that has not been granted certification status.

The transfer of enforcement powers to the State as a result of this measure will increase public safety with respect to the intrastate transportation of natural gas and is consistent with recommendations of the federal government.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 23, 1989

ASSEMBLY BILL NO. 2523

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 2523 with my objections for reconsideration.

This bill provides for the enforcement of statutes, regulations, rules or orders relating to natural gas pipeline safety by way of monetary and injunctive relief. Specifically, the bill authorizes the Board of Public Utilities to impose on any person it determines has violated a statute, regulation, rule or order a civil penalty up to \$1,000 for each day the violation persists, not to exceed \$200,000 for any related series of violations. The bill also authorizes the Board of Public Utilities to institute a civil action in Superior Court for injunctive or any other appropriate relief whenever the Board determines that a person has violated, intends to violate, or will violate any provision of any statute, regulation, rule or order relating to natural gas pipeline safety.

The purpose of this bill is to bring New Jersey into compliance with the federal Natural Gas Pipeline Safety Act of 1968 so as to allow New Jersey to enforce State and federal safety regulations. Presently, New Jersey surveys and inspects pipelines to ensure that safety standards are met, but suspected violations must be referred to the federal Department of Transportation for enforcement. Bringing New Jersey into compliance with federal law will give us an opportunity to take a more active role in matters which directly affect our State. It would increase public safety and enable us to place more stringent restrictions on the transportation of natural gas.

However, despite my support for this legislation, I cannot sign the bill in its present form. It has come to my attention that the federal law with which we are seeking to comply was recently amended, and Assembly Bill No. 2523 no longer meets the federal criteria. As amended by Public Law 100-561 which was signed by President Reagan on October 31, 1988, the monetary limits in the federal law were raised to \$10,000 for each violation for each day the violation persists, not to exceed \$500,000. Assembly Bill No. 2523 contains the former limits of \$1,000 and \$200,000, respectively, and it is possible that New Jersey will not be able to achieve certification status by virtue of Assembly Bill No. 2523, as it now reads.



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Therefore, in order to remove this ambiguity I return Assembly Bill No. 2523 and recommend that it be amended as follows:

Page 1, Title, Line 2: After "chapter" delete "10" and insert "9"

Page 1, Section 1, Line 7: After "Utilities" insert "after notice and an opportunity to be heard"

Page 1, Section 1, Line 9: After "than" delete "\$1,000" and insert "\$10,000"

Page 1, Section 1, Line 11: After "exceed" delete "\$200,000" and insert "\$500,000"

Page 1, Section 1, Line 30: After "natural" delete "pipeline" and after "gas" insert "pipeline"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel