

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 985

(Senator Zirkin)

Judicial Proceedings

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**Public Safety - Gas Pipelines - Public Nuisance Suits**

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This bill establishes that a gas pipeline is to be considered a public nuisance if (1) the pipeline is not equipped with automatic shutoff valves or remote controlled sectionalized block valves; (2) the owner or operator of the pipeline does not employ best practices and technology, including in-line inspection devices, for monitoring the condition and safety of the pipeline; or (3) the owner or operator of the pipeline does not comply with all applicable State and federal safety standards and reporting requirements.

The District Court has exclusive original civil jurisdiction in a proceeding to abate a gas pipeline public nuisance. An action to abate a gas pipeline public nuisance may be brought against the owner or operator of the gas pipeline by (1) the State's Attorney of the county in which any portion of the gas pipeline is located; (2) the county attorney or solicitor of the county in which any portion of the gas pipeline is located; (3) a community association within whose boundaries any portion of the gas pipeline is located; or (4) the owner of any real property on which or adjacent to which any portion of the pipeline is located. If, after a hearing, the court determines that a public nuisance exists, the court may order appropriate injunctive or any other equitable relief. The court is authorized to award court costs and reasonable attorney's fees to a community association or an owner of real property that is a prevailing plaintiff in an action brought under the bill.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local finances.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Gas Pipeline Safety*

The Federal Natural Gas Pipeline Safety Act of 1968 requires the Secretary of the U.S. Department of Transportation to establish minimum federal safety standards for the transportation of gas and for pipeline facilities.

The Secretary's authority to prescribe and enforce gas pipeline safety standards does not apply to *intrastate* pipeline transportation if a state agency regulates the safety standards and practices applicable to *intrastate* pipeline transportation and submits certification to the Secretary each year meeting specified criteria. The Public Service Commission (PSC) has adopted the applicable federal safety standards established under the Act and has established the required inspection, documentation, and enforcement program outlined in the Act.

The Act requires the establishment of minimum federal safety standards and provides that any state agency may adopt additional or more stringent regulations that are not incompatible with the minimum federal standards.

PSC, under certification from U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA), assumes safety responsibility with respect to *intrastate* gas facilities, and has statutory authority to establish and enforce safety standards for *intrastate* gas facilities. PSC regulations regarding gas safety require each gas company to exercise reasonable care to reduce the hazards of gas distribution and transmission.

Each gas company must adopt and execute a safety program, odorize the gas, and bury pipe according to specified standards. The gas company must also respond promptly to all reports of gas leaks and investigate the reports in accordance with the Gas Piping and Technology Committee standards.

#### *Interstate Natural Gas Regulation*

The Natural Gas Act (NGA) of 1938 gives the Federal Energy Regulatory Commission (FERC) exclusive jurisdiction over the transportation of natural gas in interstate commerce, the sale in interstate commerce of natural gas for resale, and natural gas companies engaged in that transportation or sale. It also gives FERC the authority to grant certificates allowing construction and operation of facilities used in interstate gas transmission and authorizing the provision of services. A "certificate of public convenience and necessity" issued under NGA permits pipeline companies to charge customers for some of the expenses incurred in pipeline construction and operation.

NGA also requires FERC approval prior to abandonment of any pipeline facility or services. NGA does not apply to the production, gathering, or local distribution of natural gas.

**Background:** In general, natural gas is brought into the State through the interstate transmission system and then allocated as needed through the *intrastate* natural gas distribution systems of the State's gas companies for customer use. These interstate natural gas transmission pipelines are under the regulatory authority of PHMSA. However, three gas companies operate *intrastate* gas transmission systems that transport natural gas from the interstate transmission system to their franchised distribution systems: Baltimore Gas and Electric Company, Washington Gas Light Company, and Columbia Gas of Maryland.

PSC currently manages two pipeline safety programs, one for natural gas and the other for hazardous liquids pipelines. The natural gas pipeline safety program includes the inspection of 77 jurisdictional natural gas and propane pipeline operators. The hazardous liquids pipeline safety program includes the inspection of one jurisdictional hazardous liquids pipeline operator.

According to PHMSA, pipelines are by far the safest method for transporting energy products. However, when pipeline incidents occur, they can present significant risks to the public and the environment. There were 30 "significant incidents" in Maryland from 2002 through 2011, totaling \$12 million in property damage and causing one fatality and 16 injuries.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent, Montgomery, and Worcester counties; Judiciary (Administrative Office of the Courts); Public Service Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2013  
ncs/kdm

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