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No. 338

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984



ENROLLED
Committee Substitute for
SENATE BILL NO. 338

(By Mr. Boether)



PASSED March 8, 1984

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 338
(MR. BOETTNER, *original sponsor*)

[Passed March 8, 1984; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and two, article one, chapter twenty-four-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one and four, article two, of said chapter; and to amend and reenact sections one, two and three, article five, of said chapter, all relating to the authority of the public service commission to regulate pipeline safety; permitting the public service commission to regulate hazardous liquid pipelines in accordance with the provisions of the "Hazardous Liquid Pipeline Safety Act of 1979"; and limiting the commission to the regulation of hazardous liquid pipelines to the extent hazardous liquids are defined by regulations lawfully promulgated under such act of 1979.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article one, chapter twenty-four-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections one and four, article two of said chapter be amended and

reenacted; and that sections one, two and three, article five of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. PURPOSE AND DEFINITIONS.

§24B-1-1. Purpose.

1 It is hereby declared to be the purpose and policy of the
2 Legislature in enacting this chapter to empower the public
3 service commission of West Virginia, in addition to all other
4 powers conferred and duties imposed upon it by law, to
5 prescribe and enforce safety standards for pipeline
6 facilities as hereinafter defined, and to regulate safety
7 practices of persons engaged in the transportation of gas or
8 hazardous liquids as hereinafter defined.

§24B-1-2. Definitions.

1 When used in this chapter:

2 (1) "Person" means any individual, firm, joint venture,
3 partnership, corporation, association, state, municipality,
4 cooperative association, or joint-stock association, and
5 includes any trustee, receiver, assignee or personal
6 representative thereof;

7 (2) "Gas" means natural gas, flammable gas, or gas
8 which is toxic or corrosive;

9 (3) "Transportation of gas" means the gathering,
10 transmission or distribution of gas by pipeline or its
11 storage;

12 (4) "Hazardous liquid" means:

13 (a) Petroleum or any petroleum product; and

14 (b) Any substance or material which is in liquid state
15 (excluding liquified natural gas) when transported by
16 pipeline facilities and which, as determined by the
17 commission, may pose an unreasonable risk to life or
18 property when transported by pipeline facilities: *Provided*,
19 That a hazardous liquid as herein defined shall not be
20 construed so as to include or permit the regulation of any
21 substance transported through pipeline or otherwise when
22 used in the operation of coal mines, coal processing plants
23 or coal slurry pipelines: *Provided, however*, That the
24 commission shall not determine that any substance or
25 material is a hazardous liquid under this section if the
26 Secretary has not determined that the substance or material

27 is a hazardous liquid under regulations promulgated in
28 accordance with Section 202(2) of the Hazardous Liquid
29 Pipeline Safety Act of 1979.

30 (5) "Transportation of hazardous liquids" means the
31 movement of hazardous liquids by pipeline, or their storage
32 incidental to such movements; except that it shall not
33 include any such movement through gathering lines in rural
34 locations or on shore production, refining or manufacturing
35 facilities or storage or in-plant piping systems associated
36 with any of such facilities;

37 (6) "Pipeline facilities" means without limitation, new
38 and existing pipe, pipe rights-of-way and any equipment,
39 facility, or building used in the transportation of gas or the
40 treatment of gas during the course of transportation, or
41 used in the transportation of hazardous liquid or the
42 treatment of hazardous liquid during the course of
43 transportation: but "rights-of-way" as used in this chapter
44 does not authorize the commission to prescribe the location
45 or routing of any pipeline facility;

46 (7) "Municipality" means a city, county, or any other
47 political subdivision of the state;

48 (8) "Interstate transmission facilities" means facilities
49 used in the transportation of gas which are subject to the
50 jurisdiction of the federal power commission under the act
51 of Congress known as the Natural Gas Act;

52 (9) "Interstate pipeline facilities" means the pipeline
53 facilities used in the transportation of hazardous liquids in
54 interstate or foreign commerce;

55 (10) "Director" means the director of the gas pipeline
56 safety section of the commission;

57 (11) "Commission" means the public service
58 commission of West Virginia;

59 (12) "Secretary" means the United States secretary of
60 transportation;

61 (13) "Pipeline company" means a person engaged in the
62 operation of pipeline facilities or the transportation of gas
63 or hazardous liquids subject to the provisions of this
64 chapter;

65 (14) "Act of 1968" means the act of Congress known as
66 the Natural Gas Pipeline Safety Act of 1968; and

67 (15) "Act of 1979" means the act of Congress known as
68 the "Hazardous Liquid Pipeline Safety Act of 1979."

ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION.

§24B-2-1. Jurisdiction.

1 The commission shall have power and authority to
2 prescribe and enforce safety standards for pipeline
3 facilities, and to regulate safety practices of persons
4 engaged in the transportation of gas or hazardous liquids,
5 to the extent permitted by the "Act of 1968" and the "Act of
6 1979" and any amendments thereto. Such standards may
7 apply to the design, installation, inspection, testing,
8 construction, extension, operation, replacement and
9 maintenance of pipeline facilities. Standards affecting the
10 design, installation, construction, initial inspection and
11 initial testing shall not be applicable to pipeline facilities in
12 existence on the date such standards are adopted.
13 Whenever the commission shall find a particular facility to
14 be hazardous to life or property, it shall be empowered to
15 require the person operating such facility to take such steps
16 necessary to remove such hazards. Such safety standards
17 shall be practicable and designed to meet the need for
18 pipeline safety. In prescribing such standards, the
19 commission shall consider:

- 20 (a) Relevant available pipeline safety data;
- 21 (b) Whether such standards are appropriate for the
22 particular type of pipeline transportation;
- 23 (c) The reasonableness of any proposed standards; and
- 24 (d) The extent to which such standards will contribute
25 to public safety.

§24B-2-4. Cooperation with the federal government.

1 The commission shall cooperate with the secretary and
2 other agencies of the United States in the enforcement of
3 this chapter and the "Act of 1968" and amendments
4 thereto; and to this end, the commission shall take such
5 steps as may be necessary to make annual certifications to
6 the secretary under section five (a) of the "Act of 1968," and
7 shall file such certificates with the secretary. The
8 commission is hereby authorized and empowered (a) to act
9 as the secretary's agent in the enforcement of the "Act of
10 1968" and amendments thereto with respect to interstate
11 transmission facilities; and (b) to accept for the state of
12 West Virginia, and to expend for the purpose designated,

13 any funds that may hereafter be made available to the
14 commission out of the federal treasury by an act or acts of
15 Congress and allocated to this state for the purpose of
16 carrying out the provisions of this chapter and the "Act of
17 1968" and amendments thereto.

18 The commission shall further cooperate with the
19 secretary and other agencies of the United States in the
20 enforcement of the "Act of 1979" and amendments thereto;
21 and to this end the commission shall take such steps as may
22 be necessary to make annual certifications to the secretary
23 under section two hundred five-a of the "Act of 1979" and
24 shall file such certificates with the secretary. The
25 commission is hereby authorized and empowered (a) to act
26 as the secretary's agent in the enforcement of the "Act of
27 1979" and amendments thereto with respect to interstate
28 pipeline facilities; and (b) to accept for the state of West
29 Virginia and expend for the purpose designated, any funds
30 that may hereafter be made available to the commission out
31 of the federal treasury by an act or acts of Congress and
32 allocated to this state for the purpose of carrying out the
33 "Act of 1979" and amendments thereto.

ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.

§24B-5-1. Employees.

1 The commission shall appoint a director of the pipeline
2 safety section of the public service commission and such
3 employees as may be necessary to carry out the provisions of
4 this chapter, and shall fix their respective salaries or
5 compensation. The commission may designate such
6 employees as it deems necessary to take evidence at any
7 hearing held or required by the provisions of this chapter,
8 which employees are hereby empowered to administer
9 oaths in all parts of this state so far as the exercise of such
10 power is properly incidental to the performance of their
11 duties in connection with the provisions of this chapter.

§24B-5-2. Compensation to commissioners.

1 Each member of the commission shall receive a salary in
2 the amount set forth in section three, article one, chapter
3 twenty-four of this code as compensation for the
4 administration of this chapter in addition to all other salary

5 or compensation otherwise provided for by law, to be paid
6 in monthly installments from the public service commission
7 pipeline safety fund.

§24B-5-3. Funding; property and revenue license fees.

1 (a) Every pipeline company shall pay a special license
2 fee in addition to those now required by law. The amount of
3 such fees shall be fixed by the public service commission
4 and levied by it upon each of such pipeline companies
5 according to the number of three-inch equivalent pipeline
6 miles included in its pipeline facilities, and shall be
7 apportioned among such pipeline companies upon the basis
8 of the pipeline companies' reports submitted to the
9 commission in such form as the commission may prescribe,
10 so as to produce a revenue of not more than three hundred
11 thousand dollars per annum, which fees shall be paid on or
12 before the first day of July in each year.

13 (b) Such sums collected under subsection (a) of this
14 section shall be paid into the state treasury and kept as a
15 special fund, designated "public service commission
16 pipeline safety fund," to be appropriated as provided by
17 law for the purpose of paying the salaries, compensation,
18 costs and expenses of its employees. Any balance in said
19 fund at the end of any fiscal year shall not revert to the
20 treasury, but shall remain in said fund and may be
21 appropriated as provided in this subsection. All funds
22 which heretofore were in the "public service commission
23 gas pipeline safety fund" shall be transferred to the "public
24 service commission pipeline fund."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Harold E. Peltier
.....
Chairman Senate Committee

Donald Auello
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jedd C. Willis
.....
Clerk of the Senate

Donald L. Fogg
.....
Clerk of the House of Delegates

Walter McLean
.....
President of the Senate

John M. Lee, Jr.
.....
Speaker House of Delegates

The within... *is approved* this the... *32*
day of ... *March*, 1984.

..... *John M. Lee, Jr.*
Governor



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