

P.L. 2019, CHAPTER 4, *approved January 31, 2019*

Senate, No. 679

1 **AN ACT** concerning civil penalties for certain natural gas or
2 hazardous liquid facility safety violations, and amending various
3 parts of the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 14 of P.L.1994, c.118 (C.48:2-86) is amended to
9 read as follows:

10 14. a. Whenever it appears to the board that a person has
11 violated any provision of P.L.1994, c.118 (C.48:2-73 et al.), or any
12 rule, regulation, or order adopted pursuant thereto, it may issue an
13 order specifying the provision **【or provisions】** of P.L.1994, c.118,
14 (C.48:2-73 et al.) or the rule, regulation, or order of which the
15 person is in violation, citing the action which constituted the
16 violation, ordering abatement of the violation, and giving notice to
17 the person of **【his】** the person's right to a hearing on the matters
18 contained in the order. **【Such】** The order shall be effective upon
19 receipt and any person to whom **【such】** the order is directed shall
20 comply with the order immediately.

21 b. The board may institute an action or proceeding in the
22 Superior Court for injunctive and other relief for any violation of
23 P.L.1994, c.118 (C.48:2-73 et al.), or of any rule **【or】** , regulation,
24 or order adopted pursuant to P.L.1994, c.118 (C.48:2-73 et al.) and
25 the court may proceed in the action in a summary manner. In **【any】**
26 such a proceeding the court may grant temporary or interlocutory
27 relief, notwithstanding the provisions of R.S.48:2-24.

28 **【Such】** The relief may include, singly or in combination:

29 (1) A temporary or permanent injunction; and

30 (2) Assessment of the violator for the costs of any investigation,
31 inspection, or monitoring survey which led to the establishment of
32 the violation, and for the reasonable costs of preparing and
33 litigating the case under this subsection. **【Assessments】** An
34 assessment of the violator under this subsection shall be paid to the
35 State Treasurer.

36 The board or an affected operator may institute an action in the
37 Superior Court to enjoin a person whose repeated failure to comply
38 with the provisions of P.L.1994, c.118 (C.48:2-73 et al.) constitutes
39 a threat to public safety from engaging in any further excavation or
40 demolition work within the State, except under **【such】** terms and

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.

1 conditions as the Superior Court may prescribe to ensure the safety
2 of the public.

3 c. The provisions of section 16 of P.L.1994, c.118 (C.48:2-88)
4 to the contrary notwithstanding, a person who is determined by the
5 board, after notice and opportunity to be heard, to have violated any
6 provision of P.L.1994, c.118 (C.48:2-73 et al.) or any rule,
7 regulation, or order adopted pursuant thereto with respect to a
8 natural gas underground pipeline or distribution facility, or a
9 hazardous liquid underground pipeline or distribution facility, shall
10 be liable to a civil penalty not to exceed **[\$100,000]** \$200,000 for
11 each violation for each day the violation continues, except that the
12 maximum civil penalty may not exceed **[\$1,000,000]** \$2,000,000
13 for any related series of violations.

14 Any civil penalty imposed pursuant to this subsection may be
15 compromised by the board. In determining the amount of the
16 penalty, or the amount agreed upon in compromise, the board shall
17 consider the nature, circumstances, and gravity of the violation; the
18 degree of the violator's culpability; any history of prior violations;
19 the prospective effect of the penalty on the ability of the violator to
20 conduct business; any good faith effort on the part of the violator in
21 attempting to achieve compliance; the violator's ability to pay the
22 penalty; and other factors the board determines to be appropriate.

23 The amount of the penalty when finally determined, or the
24 amount agreed upon in compromise, may be deducted from any
25 sums owing by the State to the person charged, or may be
26 recovered, if necessary, in a summary proceeding pursuant to the
27 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
28 et seq.). The Superior Court shall have jurisdiction to enforce the
29 provisions of the "Penalty Enforcement Law of 1999" in connection
30 with P.L.1994, c.118 (C.48:2-73 et al.).

31 d. Pursuit of any remedy specified in this section shall not
32 preclude the pursuit of any other remedy, including any civil
33 remedy for damage to an operator's underground facilities or for
34 damage to a person's property, provided by any other law.
35 Administrative and judicial remedies provided in this section may
36 be pursued simultaneously.

37 (cf: P.L.2007, c.118, s.1)

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39 2. Section 1 of P.L.1989, c.80 (C.48:9-33) is amended to read
40 as follows:

41 1. a. Any person who is determined by the Board of Public
42 Utilities, after notice and opportunity to be heard, to have violated
43 the provisions of any law, rule, regulation, or order relating to
44 natural gas pipeline safety shall be subject to a civil penalty of not
45 more than **[\$100,000]** \$200,000 for each **[such]** violation for each
46 day that the violation persists, except that the maximum civil
47 penalty shall not exceed **[\$1,000,000]** \$2,000,000 for any related
48 series of violations.

1 b. Any civil penalty imposed pursuant to subsection a. of this
2 section may be compromised by the board. In determining the
3 amount of the penalty, or the amount agreed upon in compromise,
4 the board shall consider the nature, circumstances, and gravity of
5 the violation; the degree of the violator's culpability; any history of
6 prior violations; the prospective effect of the penalty on the ability
7 of the violator to conduct business; any good faith on the part of the
8 violator in attempting to achieve compliance; **his** the violator's
9 ability to pay the penalty; and any other factors justice may require.
10 The amount of the penalty, when finally determined, or the amount
11 agreed upon in compromise, may be deducted from any sums owing
12 by the State to the person charged, or may be recovered in a
13 summary proceeding instituted by the board in Superior Court **in**
14 **accordance with** pursuant to the "Penalty Enforcement Law of
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

16 c. Whenever it shall appear to the board that a person has
17 violated, intends to violate, or will violate any provision of any law,
18 rule, regulation, or order relating to natural gas pipeline safety, the
19 board may institute a civil action in Superior Court for injunctive
20 relief or for any other appropriate relief under the circumstances,
21 and the court may proceed on **any such** the action in a summary
22 manner.

23 (cf: P.L.2007, c.118, s.2)

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25 3. Section 1 of P.L.1971, c.62 (C.48:10-11) is amended to
26 read as follows:

27 1. a. Any person who violates any provision of the Natural Gas
28 Safety Act, P.L.1952, c.166 (C.48:10-2 et seq.) as amended and
29 supplemented or any order, rule, or regulation issued thereunder,
30 shall be subject to a civil penalty of not more than **\$100,000**
31 \$200,000 for each violation for each day that the violation persists;
32 however, the maximum civil penalty shall not exceed **\$1,000,000**
33 \$2,000,000 for any related series of violations.

34 b. Any civil penalty imposed pursuant to subsection a. of this
35 section may be compromised by the Board of Public Utilities. In
36 determining the amount of the penalty, or the amount agreed upon
37 in compromise, the appropriateness of the penalty to the size of the
38 business of the person charged, the gravity of the violation, and the
39 good faith of the person charged in attempting to achieve
40 compliance, after notification of a violation, shall be considered.
41 The amount of the penalty, when finally determined, or the amount
42 agreed upon in compromise, may be deducted from any sums owing
43 by the State to the person charged or may be recovered in a
44 summary proceeding in accordance with the "Penalty Enforcement
45 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
46 Court and the municipal court shall have jurisdiction to enforce the

1 provisions of P.L.1952, c.166 (C.48:10-2 et seq.).
2 (cf: P.L.2007, c.118, s.3)

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4 4. (New section) Notwithstanding any provisions of the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), the Board of Public Utilities shall, within 180 days after the
7 enactment of P.L. , c. (C.) (pending before the Legislature
8 as this bill), implement the provisions of this act. The standards
9 adopted by the Board of Public Utilities shall be effective as
10 regulations immediately upon filing with the Office of
11 Administrative Law and shall be effective for a period not to exceed
12 18 months, and may, thereafter, be amended, adopted, or readopted
13 by the board in accordance with the provisions of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

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17 5. This act shall take effect immediately.

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22 Increases civil penalties for certain natural gas or hazardous
23 liquid facility safety violations.