

By: West

H.B. No. 2161

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the power of the Railroad Commission of Texas to adopt  
3 and enforce safety standards and practices applicable to the  
4 transportation by pipeline of certain substances and to certain  
5 pipeline facilities; imposing an administrative penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Sections 121.201(a) and (b), Utilities Code, are  
8 amended to read as follows:

9 (a) The railroad commission [~~by rule~~] may:

10 (1) by rule prescribe or adopt safety standards for  
11 the transportation of gas and for gas pipeline facilities,  
12 including safety standards related to the prevention of damage to  
13 such a facility resulting from the movement of earth by a person in  
14 the vicinity of the facility;

15 (2) require an operator that does not file operator  
16 organization information under Section 91.142, Natural Resources  
17 Code, to provide the information to the commission in the form of an  
18 application;

19 (3) require record maintenance and reports;

20 (4) inspect records and facilities to determine  
21 compliance with [~~adopted~~] safety standards prescribed or adopted  
22 under Subdivision (1);

23 (5) make certifications and reports from time to time;

24 (6) seek designation by the United States secretary of

1 transportation as an agent to conduct safety inspections of  
2 interstate gas pipeline facilities located in this state; and

3 (7) take any other requisite action in accordance with  
4 49 U.S.C. Section 60101 et seq., or a succeeding law.

5 (b) The power granted by Subsection (a):

6 (1) does not apply to the transportation of gas or to  
7 gas facilities subject to the exclusive control of the United  
8 States but applies to the transportation of gas and gas pipeline  
9 facilities in this state to the maximum degree permissible under 49  
10 U.S.C. Section 60101 et seq., or a succeeding law; and

11 (2) is granted to provide exclusive state control over  
12 safety standards and practices applicable to the transportation of  
13 gas and gas pipeline facilities within the borders of this state to  
14 the maximum degree permissible under that law.

15 SECTION 2. Sections 121.206(a) and (d), Utilities Code, are  
16 amended to read as follows:

17 (a) The railroad commission may assess an administrative  
18 penalty against a person who violates Section 121.201 [~~or~~  
19 ~~Subchapter I~~] or a safety standard or other rule prescribed or  
20 ~~[relating to the transportation of gas and gas pipeline facilities]~~  
21 adopted under that section [~~those provisions~~].

22 (d) The railroad commission by rule shall adopt guidelines  
23 to be used in determining the amount of a penalty under this  
24 subchapter. The guidelines shall include a penalty calculation  
25 worksheet that specifies the typical penalty for certain  
26 violations, circumstances justifying enhancement of a penalty and  
27 the amount of the enhancement, and circumstances justifying a

1 reduction in a penalty and the amount of the reduction. The  
2 guidelines shall take into account:

3 (1) the person's history of previous violations of  
4 Section 121.201 or a safety standard or other rule prescribed or  
5 ~~[relating to the transportation of gas and gas pipeline facilities]~~  
6 adopted under that section, including the number of previous  
7 violations;

8 (2) the seriousness of the violation and of any  
9 pollution resulting from the violation;

10 (3) any hazard to the health or safety of the public;

11 (4) the degree of culpability;

12 (5) the demonstrated good faith of the person charged;

13 and

14 (6) any other factor the commission considers  
15 relevant.

16 SECTION 3. Section 117.012(a), Natural Resources Code, is  
17 amended to read as follows:

18 (a) The commission shall adopt rules that include safety  
19 standards for and practices applicable to the intrastate  
20 transportation of hazardous liquids or carbon dioxide by pipeline  
21 and intrastate hazardous liquid or carbon dioxide pipeline  
22 facilities, including safety standards related to the prevention of  
23 damage to such a facility resulting from the movement of earth by a  
24 person in the vicinity of the facility.

25 SECTION 4. (a) The change in law made by this Act to Section  
26 121.206, Utilities Code, applies only to a violation committed on  
27 or after the effective date of this Act. For purposes of this

1 section, a violation is committed before the effective date of this  
2 Act if any element of the violation occurred before that date.

3 (b) A violation committed before the effective date of this  
4 Act is covered by the law in effect when the violation was  
5 committed, and the former law is continued in effect for that  
6 purpose.

7 SECTION 5. This Act takes effect September 1, 2005.