

By: Nelson

S.B. No. 291

A BILL TO BE ENTITLED

AN ACT

relating to notice requirements for gas utilities entering certain real property; providing an administrative penalty.

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

SECTION 1. Subchapter F, Chapter 104, Utilities Code, is amended by adding Section 104.259 to read as follows:

Sec. 104.259. NOTICE OF ENTRY TO PROPERTY OWNER; ADMINISTRATIVE PENALTY. (a) A gas utility that has an easement in or a right-of-way over or through real property must give written notice, sent to the property's address, to the owner or person in possession of the property before a member, agent, or employee of the gas utility may enter the property for utility business.

(b) A gas utility must give the notice required by this section not later than the fifth day before the date of entry.

(c) This section does not apply to:

(1) an entry to respond to an emergency that endangers life, health, or property;

(2) an entry to reestablish interrupted service or to conduct surveillance, inspection, repair, and maintenance activities or to gain access to a different property;

(3) a regularly scheduled service reading or examination;

(4) an entry to locate underground facilities in response to a one-call locate request; or

1           (5) an entry to attempt to collect on an unpaid utility  
2 bill.

3           (d) The written notice required by Subsection (a) shall be  
4 presumed to have been timely given if the gas utility provides an  
5 affidavit stating that the notice was deposited in the United  
6 States Mail, postage prepaid, first class, at least eight days  
7 before the date of entry.

8           (e) The railroad commission may impose an administrative  
9 penalty on a person who fails to give the notice required by this  
10 section.

11           (f) The amount of the penalty is \$200 for each entry made  
12 without giving the notice required by this section.

13           (g) The enforcement of the penalty may be stayed during the  
14 time the order is under judicial review if the person pays the  
15 penalty to the clerk of the court or files a supersedeas bond with  
16 the court in the amount of the penalty. A person who cannot afford  
17 to pay the penalty or file the bond may stay the enforcement by  
18 filing an affidavit in the manner required by the Texas Rules of  
19 Civil Procedure for a party who cannot afford to file security for  
20 costs, subject to the right of the railroad commission to contest  
21 the affidavit as provided by those rules.

22           (h) The attorney general may sue to collect the penalty.

23           (i) A proceeding to impose the penalty is considered to be a  
24 contested case under Chapter 2001, Government Code.

25           SECTION 2. Section 105.023, Utilities Code, is amended by  
26 adding Subsection (e) to read as follows:

27           (e) This section does not apply to a violation of Section

1 104.259.

2       SECTION 3. Section 105.024, Utilities Code, is amended by  
3 adding Subsection (c) to read as follows:

4       (c) This section does not apply to a violation of Section  
5 104.259.

6       SECTION 4. The change in law made by this Act applies only  
7 to a property entry described by Section 104.259, Utilities Code,  
8 as added by this Act, that occurs on or after October 1, 2013. A  
9 property entry described by Section 104.259, Utilities Code, as  
10 added by this Act, that occurs before October 1, 2013, is governed  
11 by the law in effect before September 1, 2013, and the former law is  
12 continued in effect for that purpose.

13       SECTION 5. This Act takes effect September 1, 2013.