

the time of his retirement or on July 1, 1967, whichever is greater. Where such payments are hereafter made in violation of this subdivision, it is the duty of the public officer making such payment to recover the amount so paid but without interest. Such recovery may be made by as many as 30 installment deductions from future retirement payments to a retired judge or by action in the District Court. Unrecovered over payments outstanding at the time of the death of a retired judge shall be a lien upon his estate, in favor of the state of Minnesota.

Approved June 6, 1969.

CHAPTER 988—S. F. No. 922

[Coded]

An act relating to the powers and duties of the state fire marshal with respect to safety standards for the transportation of natural and other gas by pipelines; providing penalties.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [73.64] **Natural gas pipeline safety; definitions.** As used in this act:

“The Natural Gas Pipeline Safety Act of 1968 of the United States” shall mean Public Law 90-481, 82 Stat. 720, 90th Congress, S. 1166, approved August 12, 1968.

“Person” means any individual, firm, joint venture, partnership, corporation, association, municipality, cooperative association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

“Gas” means natural gas, flammable gas or gas which is toxic or corrosive, except that “gas” shall not include liquified petroleum gas.

“Transportation of gas” means the gathering, transmission, or distribution of gas by pipeline or its storage; except that it shall not include any such transportation of gas which is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States, or the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development or any similar populated area which the state fire marshal may define as a nonrural area.

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“Pipeline facilities” includes, without limitation, new and existing pipe rights of way and any equipment facility or building used in the transportation of gas or the treatment of gas during the course of transportation, but “rights of way” as used in this act does not authorize the state fire marshal to prescribe the location or routing of any pipeline facility. “Pipeline facilities” shall not include any facilities subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States.

Sec. 2. [73.65] **Minimum safety standards.** Subdivision 1. The state fire marshal shall, by order, establish minimum safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Such safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the state fire marshal shall consider:

- a. relevant available pipeline safety data;
- b. whether such standards are appropriate for the particular type of pipeline transportation;
- c. the reasonableness of any proposed standards;
- d. the extent to which any such standards will contribute to public safety; and
- e. the existing standards established by the Secretary of Transportation of the United States pursuant to the Natural Gas Pipeline Safety Act of 1968 of the United States.

Provided, however, that the state fire marshal shall not be empowered to adopt any such standards as to the transportation of gas or to pipeline facilities which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States.

Subd. 2. Any standards prescribed under this subdivision, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the state fire marshal, for good cause recited, determines an earlier or later effective date is required as the result of the period reasonably necessary for compliance.

Subd. 3. The rule making, contested case and judicial review

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provisions of Minnesota Statutes, Chapter 15, shall apply to all orders establishing, amending, revoking, or waiving compliance with, any standard established under this act or any penalty imposed under this act. The state fire marshal shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views or arguments, with opportunity to present oral testimony and argument.

Subd. 4. Whenever the state fire marshal shall find a particular facility to be hazardous to life or property, he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards.

Subd. 5. Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the state fire marshal may, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standards established under this act, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The state fire marshal shall state his reasons for any such waiver.

Sec. 3. **[73.66] Certifications and reports.** The state fire marshal is authorized to make such certifications and reports to the United States Secretary of Transportation as may be required from time to time under the Natural Gas Pipeline Safety Act of 1968 of the United States.

Sec. 4. **[73.67] Compliance with standards.** Subdivision 1. Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall:

a. at all times after the date any applicable safety standard established under this act takes effect comply with the requirements of such standard;

b. file and comply with a plan of inspection and maintenance required by this act; and

c. permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required by this act.

Subd. 2. Nothing in this act shall affect the common law or statutory tort liability of any person.

Sec. 5. **[73.68] Civil penalties.** Subdivision 1. Whenever the state fire marshal has reason to believe any per-

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son is violating any provision of, or regulation under this act, he may request the Attorney General of the State of Minnesota to bring an action under this act in the District Court for the County wherein the defendant's principal place of business in Minnesota is located, and the District Court may impose a civil penalty of not to exceed \$1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations; provided, however, that for a reasonable period of time, not to exceed one year after the date of enactment of this act, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment. The Minnesota Rules of Civil Procedure shall be applicable to any action brought under this section.

Subd. 2. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged, shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the State of Minnesota to the person charged.

Subd. 3. No person shall be subjected to civil penalties under both this act and under Public Law 90-481, 82 Stat. 720, 90th Congress, S 1166, approved August 12, 1968, for conduct which may give rise to a violation of both acts.

Subd. 4. All penalties collected under this act shall be paid over to the state treasurer for deposit in the state treasury to the credit of the general revenue fund.

Sec. 6. [73.69] **Injunctive relief.** Subdivision 1. The district courts of the State of Minnesota shall have jurisdiction, subject to the provisions of the statutes and the rules of practice and procedure of the State of Minnesota relative to civil actions in the district courts, to restrain violations of this act, including the restraint of transportation of gas or the operation of a pipeline facility, or to enforce standards established hereunder upon petition by the attorney general on behalf of the state of Minnesota. Whenever practicable, the state fire marshal shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

Subd. 2. Actions under this act shall be brought in the district in the state of Minnesota wherein the defendant's principal place of

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business is located, and process in such cases may be served in any other district in the state of Minnesota where the defendant may be found or of which the defendant is an inhabitant or transacts business.

Sec. 7. [73.70] Plan for inspection and maintenance. Each person who engages in the transportation of gas or who owns or operates pipeline facilities subject to this act shall file with the state fire marshal a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the regulations prescribed by the state fire marshal. If the state fire marshal finds that such plan is inadequate to achieve safe operation, he shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the state fire marshal shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the state fire marshal shall consider the following:

- a. relevant available pipeline safety data;
- b. whether the plan is appropriate for the particular type of pipeline transportation;
- c. the reasonableness of the plan; and
- d. the extent to which such plan will contribute to public safety.

Sec. 8. [73.71] Records and reports; inspections; trade secrets. Subdivision 1. Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the state fire marshal may reasonably require to enable him to determine whether such person has acted or is acting in compliance with this act and the standards established under this act. Each such person shall, upon request of an officer, employee, or agent authorized by the state fire marshal, permit such officer, employee, or agent to inspect books, papers, records and documents relevant to determining whether such person has acted or is acting in compliance with this act and the standards established pursuant to this act. For purposes of enforcement of this act, officers, employees, or agents authorized by the state fire marshal, upon presenting appropriate credentials to the individual in charge, are authorized to enter upon, at reasonable times, pipeline facilities, and to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

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Subd. 2. In the course of the exercise of his duties and responsibilities under this act, the state fire marshal shall wherever practicable employ a practice of spot checking and issuance of certificates of compliance, with respect to persons subject to this act, to limit costs of enforcement of the safety standards established pursuant to this act.

Subd. 3. All information reported to or otherwise obtained by the state fire marshal or his representative, which contains or relates to a trade secret, as referred to in section 1905 of title 18 of the United States Code, or otherwise constitutes a trade secret under law, shall be considered confidential for the purpose of such laws, except that such information may be disclosed to other officers or employees concerned with carrying out this act or when relevant in any proceeding under this act.

Sec. 9. [73.72] **Federal moneys.** The state fire marshal may accept any and all moneys provided for or made available to this state by the United States of America or any department or agency thereof with respect to prescribing, setting, and enforcing rules, regulations, and safety standards for the transportation of natural and other gas by pipelines in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and the state fire marshal is further authorized to do any and all things, not contrary to the laws of this state, required of this state by such federal law and the rules and regulations promulgated thereunder in order to obtain such federal moneys.

Approved June 6, 1969.

CHAPTER 989—S. F. No. 1121

[Coded]

An act authorizing counties to appoint a county assessor to value and assess all property in the county; amending Minnesota Statutes 1967, Sections 273.05, Subdivision 1, and 273.051.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [273.052] **Appointment; application.** *Any county in the state of Minnesota, notwithstanding any other provision of law to the contrary, is hereby authorized and empowered to pro-*

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