

SECOND REGULAR SESSION

SENATE BILL NO. 870

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Pre-filed January 3, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3608S.011

AN ACT

To repeal section 386.570, RSMo, relating to penalties for violation of public service commission orders, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 386.570, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.570, to read as follows:

386.570. 1. Any corporation, person [or] public utility **or gas plant-owning municipality** which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

2. **To the extent that section 60105(b)(7) of the Natural Gas Pipeline Safety Act, 49 U.S.C. Section 60101 et. seq., requires that state remedies for violations of federal safety standards established pursuant to such act shall be substantially the same as remedies provided by such act, then the maximum penalties for violations of such federally mandated safety standards, which shall also constitute violations of the commission's rules, shall be no greater than the maximum penalties permitted to the state by federal law, pursuant to 49 U.S.C. Section 60122(a)(1), for each violation and for any related series of such violations, notwithstanding any provisions of subsection 1 of this section to the contrary. In determining the amount of the penalty, the**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

nature, the circumstances and the gravity of the violation shall be considered and, with respect to the corporation, person, public utility or gas plant-owning municipality found to have committed the violation, the following shall be considered:

- (1) The degree of culpability;**
- (2) Any history of prior violations;**
- (3) The effect of the penalty on the entity's ability to continue operation;**
- (4) Any good faith effort in attempting to achieve compliance;**
- (5) Ability to pay the penalty; and**
- (6) Such other matters as are relevant in this case.**

3. Every violation of the provisions of this or any other law or of any order, decision, decree, rule[, direction, demand] or requirement of the commission, or any part or portion thereof, by any corporation [or], person [or], public utility **or gas plant-owning municipality** is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be [and be deemed to be] a separate and distinct offense.

[3.] **4.** In construing and enforcing the provisions of this chapter relating to penalties, the act, omission or failure of any officer, agent or employee of any corporation, person [or], public utility **or gas plant owning municipality**, acting within the scope of his official duties of employment, shall in every case be [and be deemed to be] the act, omission or failure of such corporation, person [or], public utility **or gas plant-owning municipality**.

Bill

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