

FIRST REGULAR SESSION

# SENATE BILL NO. 491

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

Read 1st time February 24, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1567S.02I

## AN ACT

To repeal sections 319.045 and 386.572, RSMo, and to enact in lieu thereof two new sections relating to civil penalties for violations of certain safety standards, with penalty provisions.

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

Section A. Sections 319.045 and 386.572, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 319.045 and 386.572, to read as follows:

319.045. 1. Any person who violates in any material respect the provisions of section 319.022, 319.025, 319.026, 319.030, 319.037, or this section or who willfully damages an underground facility shall be liable to the state of Missouri for a civil penalty of up to [ten] **fifty** thousand dollars for each violation for each day such violation persists, except that the maximum penalty for violation of the provisions of sections 319.010 to 319.050 shall not exceed five hundred thousand dollars for any related series of violations. An action to recover such civil penalty may be brought by the attorney general or a prosecuting attorney on behalf of the state of Missouri in any appropriate circuit court of this state. Trial thereof shall be before the court, which shall consider the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require in determining the amount of penalty imposed.

2. The attorney general may bring an action in any appropriate circuit

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

18 court of this state for equitable relief to redress or restrain a violation by any  
19 person of any provision of sections 319.010 to 319.050. The court may grant such  
20 relief as is necessary or appropriate, including mandatory or prohibitive  
21 injunctive relief, temporary or permanent.

22 3. The attorney general shall make public the aggregate number of  
23 enforcement actions for the previously completed calendar year prior to March  
24 thirty-first of the current year.

386.572. 1. No corporation, person, public utility, or municipality that  
2 owns any gas plant shall violate any law or any order, decision, decree, rule,  
3 direction, demand, or requirement of the commission or any part or portion  
4 thereof relating to federally mandated natural gas safety  
5 standards. Notwithstanding the above, a municipality that owns any gas plant  
6 shall be subject to the provisions of this section only for violations of natural gas  
7 safety laws, rules, or orders.

8 2. The maximum penalties for violations of federally mandated natural  
9 gas safety standards, or such stricter natural gas safety standards or rules as  
10 may be approved by the commission, shall [not be greater than fifteen thousand  
11 dollars for each violation with a maximum penalty for a continuing violation or  
12 a multiple series of violations of the same standard or rule provision not to exceed  
13 one hundred fifty thousand dollars,] **be subject to a civil penalty not to**  
14 **exceed an amount as determined by the United States Secretary of**  
15 **Transportation pursuant to 49 CFR Part 190.223(a)** notwithstanding any  
16 provisions of subsection 1 of section 386.570 to the contrary. [The maximum  
17 penalty for each violation shall increase to twenty thousand dollars, effective  
18 January 1, 2015, twenty-five thousand dollars, effective January 1, 2025, thirty  
19 thousand dollars, effective January 1, 2035, and forty thousand dollars, effective  
20 January 1, 2040. The maximum penalty for a continuing violation or a multiple  
21 series of violations of the same standard or rule provision shall increase to two  
22 hundred thousand dollars, effective January 1, 2015, two hundred fifty thousand  
23 dollars, effective January 1, 2025, three hundred thousand dollars, effective  
24 January 1, 2035, and four hundred thousand dollars, effective January 1, 2040.]  
25 In determining the amount of the penalty, the commission shall consider the  
26 nature, circumstances, and gravity of the violation, and also shall consider, with  
27 respect to the entity found to have committed the violation:

- 28 (1) The degree of culpability;  
29 (2) Any history of prior violations;

- 30 (3) The effect of the penalty on the entity's ability to continue operation;  
31 (4) Any good faith effort in attempting to achieve compliance;  
32 (5) Ability to pay the penalty; and  
33 (6) Such other matters as are relevant in the case.

34 3. Every violation of a specific natural gas safety standard or rule by any  
35 corporation, person, public utility, or municipality that owns any gas plant is a  
36 separate and distinct offense, regardless of whether such violations relate to the  
37 same incident. In case of a continuing violation, each day's continuance thereof  
38 shall be a separate and distinct offense.

39 4. In construing and enforcing the provisions of this section, the act,  
40 omission, or failure of any officer, agent, or employee of any corporation, person,  
41 public utility, or municipality that owns any gas plant acting within the scope of  
42 official duties of employment shall in every case be considered the act, omission,  
43 or failure of such corporation, person, public utility, or municipality that owns  
44 any gas plant.

✓  
Bill

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