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AN ACT

RELATING TO OIL AND GAS; ENHANCING CIVIL PENALTIES FOR VIOLATION OF THE PIPELINE SAFETY ACT TO CONFORM TO FEDERAL GUIDELINES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-3-19 NMSA 1978 (being Laws 1969, Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT--PENALTIES.--

A. If, as a result of investigation, the commission has good cause to believe that any person is violating any provision of Subsection A of Section 70-3-18 NMSA 1978 or any regulation adopted by the commission under the Pipeline Safety Act, the commission shall, when practicable and except in the case of a knowing and willful violation, give the person notice of the violation and an opportunity to comply. If the commission is unable within a reasonable time to obtain voluntary cooperation to prevent the continuing violation, the commission may apply for an injunction in the district court of the county in which the violation occurs to secure compliance. The failure to give notice and afford an opportunity to comply shall not preclude the granting of injunctive relief.

B. The trial before the district court shall be before the court without jury, and the court shall enter

1 judgment and orders enforcing the judgment as the public  
2 interest and equities of the case may require.

3 C. Any person owning or operating gas pipeline  
4 facilities or engaged in the transportation of gas or owning  
5 or operating oil pipeline facilities or engaged in the  
6 transportation of oil who has been determined by order of the  
7 commission after hearing to have violated any provision of  
8 Subsection A of Section 70-3-18 NMSA 1978 or any regulation  
9 promulgated under the Pipeline Safety Act applicable to  
10 intrastate pipeline facilities shall be subject to a  
11 civil penalty in an amount not to exceed the maximum civil  
12 penalty provided pursuant to 49 U.S.C. Section 60122 and  
13 49 C.F.R. 190.223.

14 D. In determining the amount of the penalty, the  
15 commission shall consider the nature, circumstances and  
16 gravity of the violation and, with respect to the person  
17 found to have committed the violation, the degree of  
18 culpability, any history of prior violations, the effect on  
19 ability to continue to do business, any good faith in  
20 attempting to achieve compliance, ability to pay the penalty  
21 and other matters as justice may require.

22 E. Judicial review of any provision of this  
23 section may be accomplished in the same manner as is found in  
24 Section 70-3-15 NMSA 1978.

25 F. Any person who willfully and knowingly injures

1 or destroys or attempts to injure or destroy an intrastate  
2 pipeline facility shall upon conviction be subject for each  
3 offense to a fine not to exceed twenty-five thousand dollars  
4 (\$25,000) or imprisonment for a term not to exceed fifteen  
5 years, or both.

6 G. Any person who willfully and knowingly damages,  
7 removes or destroys any pipeline sign, right-of-way marker  
8 required by the Pipeline Safety Act or any regulation or  
9 order issued pursuant to that act shall upon conviction be  
10 subject for each offense to a fine of not more than five  
11 thousand dollars (\$5,000) or imprisonment for a term not to  
12 exceed one year, or both." \_\_\_\_\_

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