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AB-2931 Pipeline safety: records. (2021-2022)

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Assembly Bill No. 2931

CHAPTER 536

An act to amend Sections 51010, 51010.5, 51010.6, 51011, 51014, 51015, 51015.05, 51017, 51018, and 51018.6 of, and to repeal Section 51012.3 of, the Government Code, relating to pipeline safety.

[Approved by Governor September 25, 2022. Filed with Secretary of State September 25, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2931, Bloom. Pipeline safety: records.

The Elder California Pipeline Safety Act of 1981 requires the State Fire Marshal to administer provisions regulating the inspection of intrastate pipelines that transport hazardous liquids. The act requires a pipeline operator to make available to the State Fire Marshal, or any officers or employees authorized by the State Fire Marshal, upon presentation of appropriate credentials, any records, maps, or written procedures that are required by the act to be kept by the pipeline operator and that concern accident reporting, design, construction, testing, or operation and maintenance. The act authorizes the State Fire Marshal, or any officer or employee authorized by the State Fire Marshal, to enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with the act. A person who willfully and knowingly violates the act or a regulation issued pursuant to the act is, upon conviction, subject to a fine, imprisonment, or both a fine and imprisonment, as provided.

Existing law authorizes the State Fire Marshal to act as agent for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act of 1979 and federal pipeline safety regulations as to those portions of interstate pipelines located within the state, as necessary to obtain annual federal certification.

This bill would revise and recast those state provisions relating to record maintenance and inspection and would authorize the State Fire Marshal, for purposes of carrying out the requirements of state or federal law relating to hazardous liquid pipeline safety, to require the owner or operator of a pipeline to establish and maintain records, make reports, and provide any information that the State Fire Marshal reasonably requires, as provided. The bill would authorize the State Fire Marshal to disclose records, reports, or other information required to be maintained pursuant to the act to an officer, employee, or authorized representative of the state or the United States for purposes of carrying out the requirements of the act or the federal act, or when relevant to a proceeding pursuant to the act. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would revise the act to conform references to the federal act. The bill would make other nonsubstantive changes to, and repeal an obsolete provision of, the act.

The act defines "pipeline" for its purposes, and excludes from that definition a pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

This bill would expand the definition of "pipeline" by repealing that exclusion, subjecting these additional pipelines to regulation pursuant to the act. Because the bill would expand the application of a crime, this bill would impose a state-mandated local

program.

Existing law requires pressure tests on certain pipelines be conducted in accordance with certain federal pipeline safety regulations and requires results from those pressure tests not show an hourly change for each section of the pipeline under test at the time that violates specified standards.

This bill would repeal those specific test result requirements.

Existing law requires the State Fire Marshal to establish and maintain a centralized database containing information and data regarding certain intrastate pipelines. Existing law requires the State Fire Marshal to regularly update the database and to make the information in the database available to the public. Existing law provides that the cost of implementing this requirement is to be funded from federal block grant funds and is operative only upon receipt of the federal block grant funds as determined by the State Fire Marshal.

This bill would repeal the funding and contingent operation provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 51010 of the Government Code is amended to read:

51010. It is the intent of the Legislature, in enacting this chapter, that the State Fire Marshal shall exercise exclusive safety regulatory and enforcement authority over intrastate hazardous liquid pipelines and, to the extent authorized by agreement between the State Fire Marshal and the United States Secretary of Transportation, and may act as agent for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 60101 et seq.) and federal pipeline safety regulations as to those portions of interstate pipelines located within this state, as necessary to obtain annual federal certification.

SEC. 2. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility that is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five of these facilities in the state. "Pipeline" does not include the following:

(1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.

(2) A pipeline for the transportation of a hazardous liquid substance in a gaseous state.

(3) Transportation of petroleum in onshore gathering lines located in rural areas.

(4) A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.

(5) Transportation of a hazardous liquid by a flow line.

(6) A pipeline for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or inplant piping system associated with that facility.

(7) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between those modes of transportation.

(b) "Flow line" means a pipeline that transports hazardous liquid substances from the well head to a treating facility or production storage facility.

(c) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing a liquid test medium.

(d) "Local agency" means a city, county, or fire protection district.

(e) "Rural area" means a location that lies outside the limits of any incorporated or unincorporated city or city and county, or other residential or commercial area, such as a subdivision, a business, a shopping center, or a community development.

(f) "Gathering line" means a pipeline eight inches or less in nominal diameter that transports petroleum from a production facility.

(g) "Production facility" means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treatment of petroleum or associated storage or measurement. To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum from the ground and transporting it by pipeline.

(h) "Public drinking water well" means a wellhead that provides drinking water to a public water system as defined in Section 116275 of the Health and Safety Code, that is regulated by the State Department of Public Health and that is subject to Section 116455 of the Health and Safety Code.

(i) "GIS mapping system" means a geographical information system that will collect, store, retrieve, analyze, and display environmental geographical data in a database that is accessible to the public.

(j) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol, or gasoline and oxygenates, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosene, liquefied petroleum gas, or natural gas in liquid or gaseous form.

(k) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

SEC. 3. Section 51010.6 of the Government Code is amended to read:

51010.6. Notwithstanding Section 51010.5, that portion of an interstate pipeline that is located within this state and is subject to an agreement between the United States Secretary of Transportation and the State Fire Marshal is subject to the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 60101 et seq.).

SEC. 4. Section 51011 of the Government Code is amended to read:

51011. (a) The State Fire Marshal shall adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions, and including amendments to those laws and regulations that may be hereafter enacted and adopted. Regulations adopting the minimum standards for hazardous liquid pipelines contained in the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 60101 et seq.), and Title 49 of the Code of Federal Regulations, by the State Fire Marshal are exempt from the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2, except that those regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(b) The State Fire Marshal may exempt the application of regulations adopted pursuant to this section to any pipeline, or portion thereof, when it is determined that the risk to public safety is slight and the probability of injury or damage remote.

(c) Notification of exemptions shall be written, and shall include a discussion of those factors that the State Fire Marshal considers significant to the granting of the exemption.

SEC. 5. Section 51012.3 of the Government Code is repealed.

SEC. 6. Section 51014 of the Government Code is amended to read:

51014. (a) The pressure tests required by subdivisions (b), (c), and (d) of Section 51013.5 shall be conducted in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, except that an additional four-hour leak test, as specified in Section 195.302(c) of Title 49 of the Code of Federal Regulations, shall not be required under subdivisions (b), (c), and (d) of Section 51013.5. The State Fire Marshal may authorize the use of liquid petroleum having a flashpoint over 140 degrees Fahrenheit or 60 degrees Centigrade as the test medium. The State Fire Marshal shall make these authorizations in writing.

(b) Test pressure shall be at least 125 percent of the actual pipeline operating pressure.

SEC. 7. Section 51015 of the Government Code is amended to read:

51015. (a) A pipeline operator shall provide to the fire department having fire suppression responsibilities a map or suitable diagram showing the location of the pipeline, a description of all products transported within the pipeline, and a contingency plan for pipeline emergencies that shall include, but not be limited to, any reasonable information that the State Fire Marshal may require.

(b) The State Fire Marshal, for purposes of carrying out the requirements of state or federal law relating to hazardous liquid pipeline safety, including, but not limited to, developing or assisting in the development of pipeline standards or regulations, determining compliance with this chapter, or carrying out any requirement of this chapter, may require the owner or operator of a pipeline to do the following:

(1) Establish and maintain records specified by the State Fire Marshal.

(2) Make reports pursuant to methods and in a manner specified by the State Fire Marshal.

(3) Provide any information that the State Fire Marshal may reasonably require, including, but not limited to, maps, written procedures, accident reporting, or information on design, construction, testing, or operation and maintenance.

(c) The State Fire Marshal, or an officer or employee authorized by the State Fire Marshal, at any reasonable time, upon presentation of credentials, shall have a right of entry to, upon, or through any premises on which records, reports, or any other information required to be maintained pursuant to this chapter are located and may access and copy those records, reports, or other information.

(d) The State Fire Marshal may disclose records, reports, or other information required to be maintained pursuant to this chapter to an officer, employee, or authorized representative of the state or the United States for purposes of carrying out the requirements of this chapter or the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 60101 et seq.), or when relevant to a proceeding pursuant to this chapter.

(e) A pipeline operator shall offer to meet with the local fire department having fire suppression responsibilities at least once each calendar year to discuss and review contingency plans for pipeline emergencies.

SEC. 8. Section 51015.05 of the Government Code is amended to read:

51015.05. (a) The State Fire Marshal shall establish and maintain a centralized database containing information and data regarding the following intrastate pipelines:

(1) Pipelines used for the transportation of crude oil that operate by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(2) Pipelines used for the transportation of petroleum in onshore gathering lines located in rural areas.

(b) The database shall include, but is not limited to, an inventory of the pipelines described in subdivision (a), including pipeline locations, ownership, ages, and inspection histories, that are in the possession of the owner or operator of the oil field or other gas facility.

(c) The State Fire Marshal shall regularly update the database and shall make the information in the database available to the public, and to all local, state, and federal agencies.

(d) A state or local governmental agency that regulates, supervises, or exerts authority over a pipeline described in subdivision (a) shall report any information or data specified in subdivision (b) in its possession to the State Fire Marshal. That information shall be submitted to the State Fire Marshal in a computer compatible format.

(e) The State Fire Marshal shall conduct a study of the fitness and safety of all pipelines described in subdivision (a), and investigate incentive options that would encourage pipeline replacement or improvements, including, but not limited to, a review of existing regulatory, permit, and environmental impact report requirements and other existing public policies, as may be identified by the Pipeline Safety Advisory Committee and adopted by the State Fire Marshal, that could act as barriers to the replacement or improvement of those pipelines.

SEC. 9. Section 51017 of the Government Code is amended to read:

51017. The State Fire Marshal shall develop a comprehensive database of pipeline information that can be used for emergency response and program operational purposes. The database shall include information on pipeline location, age, reported leak incidences, and inspection history, and shall have the capability of mapping pipeline locations throughout the state. The data collection format shall be compatible with any pipeline mapping project implemented by the United States Department of Transportation's Office of Pipeline Safety and shall be compatible with GIS mapping and data management required by Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of the Health and Safety Code.

SEC. 10. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire department having fire suppression responsibilities and to the Office of Emergency Services.

(b) (1) The Office of Emergency Services shall immediately notify the State Fire Marshal of the incident, who shall immediately dispatch State Fire Marshal employees to the scene. The State Fire Marshal or the employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the "incident commander system," but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, "rupture" includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) This section does not preempt any other applicable federal or state reporting requirement.

(e) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(f) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

SEC. 11. Section 51018.6 of the Government Code is amended to read:

51018.6. (a) The State Fire Marshal shall adopt regulations for conducting enforcement proceedings pursuant to this section. These regulations shall include provisions for the service and the content of the notice of probable violation, response options, conduct of hearings, issuing of the final order, amended final order, and petitions for reconsideration and compromise of penalties, and shall be consistent with the procedures specified in Subpart B (commencing with Section 190.201) of Part 190 of Title 49 of the Code of Federal Regulations.

(b) If the State Fire Marshal determines, pursuant to the regulations adopted pursuant to subdivision (a), that a person has violated this chapter or any regulation adopted pursuant thereto, that person is subject to a civil penalty not to exceed the amount specified in Section 190.223(a) of Title 49 of the Code of Federal Regulations.

(c) The amount of the penalty shall be assessed by the State Fire Marshal pursuant to the regulations adopted pursuant to subdivision (a). In determining the amount of the penalty, the State Fire Marshal 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, any history of prior violations, the effect on ability to continue to do business, any good faith attempts to achieve compliance, ability to pay the penalty, and any other matters as justice may require.

(d) A civil penalty assessed under subdivision (b) may be recovered in an action brought by the Attorney General on behalf of the state. Prior to referring the penalty action to the Attorney General, the State Fire Marshal may accept an offer to compromise the amount of the assessed penalty pursuant to the regulations adopted pursuant to subdivision (a).

(e) The State Fire Marshal shall deposit all civil penalties assessed pursuant to this section in the Local Training Account in the California Hazardous Liquid Pipeline Safety Fund. The money in the Local Training Account is available, upon appropriation by the Legislature, to the State Fire Marshal, who shall use the money for providing hazardous liquid fire suppression training to local fire departments.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.