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Senate Bill 366 (as passed by the Senate)  
Sponsor: Senator Sean McCann  
Committee: Energy and Environment

Date Completed: 8-8-24

### **RATIONALE**

According to testimony before the Senate Committee on Energy and Environment, the Michigan Public Service Commission's (MPSC) authority to issue fines for violations of natural gas safety standards was last updated over three decades ago. Since then, the established Federal standards have been updated and have surpassed the State's fine levels, which are now well below the Federal standards. Low fine levels reduce grant funding from the Federal government. To ensure that the State captures all available Federal funding, it has been suggested that the penalties for violations be increased.

### **CONTENT**

**The bill would amend Public Act 165 of 1969, which authorizes the MPSC to establish and enforce gas safety standards, to increase the fines for violations of gas safety standards prescribed by the Act.**

The Act requires the MPSC to promulgate rules and prescribe safety standards for pipeline facilities and the transportation of gas. The Act also requires any person who engages in the transportation of gas or owns or operates a pipeline facility to comply with the requirements of any MPSC standard and file and comply with a plan of inspection and maintenance.

Currently, a person who violates the Act or a rule promulgated by the MPSC is subject to a fine of up to \$10,000 for each day that the violation persists, for a maximum of \$500,000. Under the bill, a person who violated the Act would be subject to an administrative fine of up to \$200,000 for each day that the violation persisted, for a maximum of \$2.5 million.

The bill would require the MPSC to issue an order adjusting the administrative fines for inflation using the Consumer Price Index for the Detroit area from the Bureau of Labor Statistics at the U.S. Department of Labor. The MPSC would have to issue this order by October 1 of every year but not before September 1 in 2024.

MCL 483.161

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill would align the MPSC's authority to issue fines with Federal standards, ensuring the MPSC's ability to operate a Statewide natural gas program. The MPSC enforces gas safety standards under an agreement with the United States Pipeline and Hazardous Materials Safety Administration (PHMSA). As part of this agreement, the PHMSA annually audits the MPSC to ensure compliance with the PHMSA guidelines. Testimony before the Senate Committee on

Energy and Environment indicated that, while the MPSC performs well on the audit, it loses points due to the misaligned enforcement authority. This results in an annual reduction in Federal funding, which hampers the MPSC's ability to operate and maintain the State's natural gas infrastructure. Recently, the PHMSA has increased its efforts to align State programs. Following the 2023 audit, the MPSC lost its delegated enforcement authority for underground natural gas storage facilities due to the lack of alignment in fine structure.

Additionally, in 2020, Congress passed the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act which, among other things, requires the civil penalties imposed by State enforcement bodies to be substantially the same as the PHMSA's to maintain the certification that allows them to operate. If Senate Bill 366 were not to pass, the MPSC would lose this certification and the ability to operate a Statewide natural gas program. Instead, Michigan would be subject to regional and national oversight by the PHMSA, which also would result in increased fines. To ensure the MPSC's ability to operate a Statewide natural gas program and access Federal funding, Senate Bill 366 should be enacted.

### **Supporting Argument**

Strengthening the MPSC's enforcement authority would further protect the health and safety of Michigan residents. According to testimony before the Senate Committee on Energy and Environment, the fines imposed by the MPSC may not cover the damage created by violations of Michigan's Gas Safety Standards. For example, in 2013 the MPSC imposed on Consumers Energy a \$340,000 fine for a Royal Oak explosion that resulted in one fatality and damage to more than 30 houses and a 2010 explosion in Wayne that resulted in two fatalities.<sup>1</sup> Testimony also indicates that the Royal Oak explosion resulted in \$770,000 worth of damages. According to the 2019 Michigan Statewide Energy Assessment, current law limits the MPSC's ability to assess meaningful penalties for non-compliance with the Michigan Gas Safety Standards, which may affect the health and safety of Michigan residents.<sup>2</sup> Only two states, Idaho and Mississippi, have maximum fine amounts lower than Michigan's.<sup>3</sup> The MPSC's lesser fines may not encourage compliance with the Michigan Gas Safety Standards. The law should be amended to increase the fines the MPSC may impose to strengthen its enforcement authority and protect the health and safety of Michigan residents.

### **FISCAL IMPACT**

The bill would have a positive fiscal impact on State government. Revenue from penalties would increase though this would depend on the number of violations and the number of days these violations were recorded.

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<sup>1</sup> "Consumers Energy Agrees to Pay After Deadly Blasts", *CBS Detroit*, August 12, 2013.

<sup>2</sup> Talberg, Sally A., et al., *Michigan Statewide Energy Assessment*, p. 136, 2019.

<sup>3</sup> Davidson, Kyle, "Senate committee eyes policy to align gas safety penalties with federal standards", *Michigan Advance*, January 26, 2024.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.