

CHAPTER 4
(CORRECTED COPY)

AN ACT concerning civil penalties for certain natural gas or hazardous liquid facility safety violations, and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 14 of P.L.1994, c.118 (C.48:2-86) is amended to read as follows:

C.48:2-86 Violation of act; injunction; civil penalties.

14. a. Whenever it appears to the board that a person has violated any provision of P.L.1994, c.118 (C.48:2-73 et al.), or any rule, regulation, or order adopted pursuant thereto, it may issue an order specifying the provision of P.L.1994, c.118, (C.48:2-73 et al.) or the rule, regulation, or order of which the person is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of the person's right to a hearing on the matters contained in the order. The order shall be effective upon receipt and any person to whom the order is directed shall comply with the order immediately.

b. The board may institute an action or proceeding in the Superior Court for injunctive and other relief for any violation of P.L.1994, c.118 (C.48:2-73 et al.), or of any rule, regulation, or order adopted pursuant to P.L.1994, c.118 (C.48:2-73 et al.) and the court may proceed in the action in a summary manner. In such a proceeding the court may grant temporary or interlocutory relief, notwithstanding the provisions of R.S.48:2-24.

The relief may include, singly or in combination:

- (1) A temporary or permanent injunction; and
- (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection. An assessment of the violator under this subsection shall be paid to the State Treasurer.

The board or an affected operator may institute an action in the Superior Court to enjoin a person whose repeated failure to comply with the provisions of P.L.1994, c.118 (C.48:2-73 et al.) constitutes a threat to public safety from engaging in any further excavation or demolition work within the State, except under terms and conditions as the Superior Court may prescribe to ensure the safety of the public.

c. The provisions of section 16 of P.L.1994, c.118 (C.48:2-88) to the contrary notwithstanding, a person who is determined by the board, after notice and opportunity to be heard, to have violated any provision of P.L.1994, c.118 (C.48:2-73 et al.) or any rule, regulation, or order adopted pursuant thereto with respect to a natural gas underground pipeline or distribution facility, or a hazardous liquid underground pipeline or distribution facility, shall be liable to a civil penalty not to exceed \$200,000 for each violation for each day the violation continues, except that the maximum civil penalty may not exceed \$2,000,000 for any related series of violations.

Any civil penalty imposed pursuant to this subsection may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the board shall consider the nature, circumstances, and gravity of the violation; the degree of the violator's culpability; any history of prior violations; the prospective effect of the penalty on the ability of the violator to conduct business; any good faith effort on the part of the violator in attempting to achieve compliance; the violator's ability to pay the penalty; and other factors the board determines to be appropriate.

The amount of the penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged, or may be recovered, if necessary, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with P.L.1994, c.118 (C.48:2-73 et al.).

d. Pursuit of any remedy specified in this section shall not preclude the pursuit of any other remedy, including any civil remedy for damage to an operator's underground facilities or for damage to a person's property, provided by any other law. Administrative and judicial remedies provided in this section may be pursued simultaneously.

2. Section 1 of P.L.1989, c.80 (C.48:9-33) is amended to read as follows:

C.48:9-33 Penalties for violation of natural gas pipelines safety.

1. a. Any person who is determined by the Board of Public Utilities, after notice and opportunity to be heard, to have violated the provisions of any law, rule, regulation, or order relating to natural gas pipeline safety shall be subject to a civil penalty of not more than \$200,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$2,000,000 for any related series of violations.

b. Any civil penalty imposed pursuant to subsection a. of this section may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the board shall consider the nature, circumstances, and gravity of the violation; the degree of the violator's culpability; any history of prior violations; the prospective effect of the penalty on the ability of the violator to conduct business; any good faith on the part of the violator in attempting to achieve compliance; the violator's ability to pay the penalty; and any other factors justice may require. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged, or may be recovered in a summary proceeding instituted by the board in Superior Court pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. Whenever it shall appear to the board that a person has violated, intends to violate, or will violate any provision of any law, rule, regulation, or order relating to natural gas pipeline safety, the board may institute a civil action in Superior Court for injunctive relief or for any other appropriate relief under the circumstances, and the court may proceed on the action in a summary manner.

3. Section 1 of P.L.1971, c.62 (C.48:10-11) is amended to reads as follows:

C.48:10-11 Penalties.

1. a. Any person who violates any provision of the Natural Gas Safety Act, P.L.1952, c.166 (C.48:10-2 et seq.) as amended and supplemented or any order, rule, or regulation issued thereunder, shall be subject to a civil penalty of not more than \$200,000 for each violation for each day that the violation persists; however, the maximum civil penalty shall not exceed \$2,000,000 for any related series of violations.

b. Any civil penalty imposed pursuant to subsection a. of this section may be compromised by the Board of Public Utilities. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person

charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged or may be recovered in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of P.L.1952, c.166 (C.48:10-2 et seq.).

4. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Board of Public Utilities shall, within 180 days after the enactment of P.L.2019, c.4 (C.48:2-86 et al.), implement the provisions of this act. The standards adopted by the Board of Public Utilities shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted, or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5. This act shall take effect immediately.

Approved January 31, 2019.