

SENATE BILL NO. 3—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE PUBLIC UTILITIES COMMISSION)

PREFILED JANUARY 26, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions relating to regulation of public utilities. (BDR 58-656)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public utilities; revising civil penalties for violations involving certain pipelines; clarifying the application of certain provisions relating to railroads; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing state law provides for a civil penalty to be imposed upon a person who
2 violates any regulation of the Public Utilities Commission of Nevada which was
3 adopted to conform with the federal Natural Gas Pipeline Safety Act of 1968. (NRS
4 704.595) The federal Natural Gas Pipeline Safety Act of 1968, as amended, allows
5 the Public Utilities Commission of Nevada to receive federal funding to regulate
6 pipeline safety. However, such funding is conditioned upon the State imposing civil
7 penalties for a violation of any state regulation adopted in conformity with the Act
8 which are substantially the same as those provided in the federal Act. (49 U.S.C. §§
9 60101 et seq.) In 2002, Congress amended the federal Act to increase the maximum
10 civil penalties. (49 U.S.C. § 60122)

11 To comply with the federal Act, this bill increases the maximum amount of
12 civil penalties which the State may impose for violating a regulation of the Public
13 Utilities Commission of Nevada which was adopted to conform with the federal
14 Natural Gas Pipeline Safety Act.

15 Existing state law in Chapter 705 of NRS regulates certain aspects of railroad
16 operations.

17 This bill clarifies that the provisions in Chapter 705 of NRS do not apply to
18 those aspects of railroad operations where the state law provisions are preempted
19 by federal law.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 704.595 is hereby amended to read as follows:
2 704.595 1. Any person who violates any provision of any
3 regulation adopted by the Commission in conformity with the
4 Natural Gas Pipeline Safety Act of 1968 ~~{A}~~, *as amended*, 49 U.S.C.
5 §§ ~~{674}~~ *60101* et seq. , ~~{B}~~ *or* with a federal regulation adopted
6 pursuant thereto , shall be subject to a civil penalty not to exceed
7 ~~[\$10,000]~~ *\$100,000* for each violation for each day that the violation
8 persists, but the maximum civil penalty must not exceed ~~[\$500,000]~~
9 *\$1,000,000* for any related series of violations. Unless
10 compromised, the amount of any such civil penalty must be
11 determined by a court of competent jurisdiction.

12 2. Any civil penalty may be compromised by the Commission.
13 In determining the amount of the penalty, or the amount agreed
14 upon in compromise, the appropriateness of the penalty to the size
15 of the business of the person charged, the gravity of the violation,
16 and the good faith of the person charged in attempting to achieve
17 compliance, after notification of a violation, must be considered.

18 3. The amount of the penalty, when finally determined, or the
19 amount agreed upon in compromise, may be deducted from any sum
20 owing by the State to the person charged or may be recovered in a
21 civil action in any court of competent jurisdiction.

22 **Sec. 2.** Chapter 705 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 1. *The provisions of this chapter do not apply to an*
25 *individual, company or corporation operating a railroad in this*
26 *State to the extent that such a provision is:*

27 (a) *Preempted, either expressly or by implication, by a federal*
28 *law or an administrative regulation, rule, decision, opinion or*
29 *order having the force of a federal law; or*

30 (b) *Declared to be preempted by a court of competent*
31 *jurisdiction interpreting a federal law or an administrative*
32 *regulation, rule, decision, opinion or order having the force of a*
33 *federal law.*

34 2. *If a provision of this chapter is preempted, the provision is*
35 *suspended and must not be enforced against the individual,*
36 *company or corporation operating the railroad only for the period*
37 *during which the preemption is valid and effective.*



1 ***3. This section is intended only to codify the rules of***
2 ***construction applicable to the federal doctrine of preemption and***
3 ***must not be interpreted in a manner that is inconsistent with those***
4 ***rules.***



