

106TH CONGRESS  
2D SESSION

# S. 2004

To amend title 49 of the United States Code to expand State authority with respect to pipeline safety, to establish new Federal requirements to improve pipeline safety, to authorize appropriations under chapter 601 of that title for fiscal years 2001 through 2005, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2000

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 49 of the United States Code to expand State authority with respect to pipeline safety, to establish new Federal requirements to improve pipeline safety, to authorize appropriations under chapter 601 of that title for fiscal years 2001 through 2005, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Pipeline Safety Act of 2000”.

1 (b) REFERENCES IN ACT.—Except as specifically  
2 provided in this Act, whenever in this Act an amendment  
3 or repeal is expressed as an amendment or repeal of a  
4 provision, the reference shall be deemed to be made to title  
5 49, United States Code.

6 **SEC. 2. DEFINITIONS.**

7 Section 60101 is amended—

8 (1) by striking “and” at the end of paragraph  
9 (24);

10 (2) by striking the period at the end of para-  
11 graph (25) and inserting “; and”; and

12 (3) by adding at the end the following new  
13 paragraph:

14 “(26) ‘release of a hazardous liquid or gas’  
15 means any spilling, leaking, emitting, discharging,  
16 dumping, disposing, or any other uncontrolled es-  
17 cape of a hazardous liquid or gas from a pipeline.”.

18 **SEC. 3. EXPANDED STATE AUTHORITY.**

19 (a) ADDITIONAL TRAINING AND EDUCATION.—Sec-  
20 tion 60102(a) is amended by adding at the end the fol-  
21 lowing new paragraph:

22 “(3)(A) A State may, by regulation, require individ-  
23 uals described in paragraph (1)(C) who operate a pipeline  
24 facility in such State to satisfy training and education re-

1 requirements that are in addition to any qualifications re-  
2 quired under that paragraph.

3 “(B) Subject to subparagraph (C), the Secretary may  
4 determine that a regulation under subparagraph (A) un-  
5 duly burdens interstate commerce or that a State lacks  
6 the resources or expertise necessary to carry out a regula-  
7 tion under that subparagraph. A State may not enforce  
8 a regulation covered by a determination under the pre-  
9 ceding sentence.

10 “(C) The Secretary may make a determination under  
11 subparagraph (B) only—

12 “(i) after notifying the State concerned in writ-  
13 ing of the Secretary’s objections to the regulation;

14 “(ii) after affording the State an opportunity to  
15 take action within a period of time (not to exceed 90  
16 days) specified by the Secretary to modify the regu-  
17 lation to take into account the objections specified  
18 under clause (i); and

19 “(iii) after a public hearing.”

20 (b) USE OF LEAK DETECTION DEVICES.—Section  
21 60102(j) is amended by adding at the end the following  
22 new paragraph:

23 “(4)(A)(i) A State may, by regulation, require the use  
24 of equipment in such State to detect and locate pipeline  
25 releases of hazardous liquids or gases.

1       “(ii) A State may require equipment under clause (i)  
2 only if—

3               “(I) the Secretary has determined the equip-  
4 ment to be effective and useful for detecting releases  
5 of hazardous liquids or gases; or

6               “(II) the equipment is commonly used in the  
7 pipeline industry for detecting such releases.

8       “(B) Subject to subparagraph (C), the Secretary may  
9 determine that a regulation under subparagraph (A) un-  
10 duly burdens interstate commerce or that a State lacks  
11 the resources or expertise necessary to carry out a regula-  
12 tion under that subparagraph. A State may not enforce  
13 a regulation covered by a determination under the pre-  
14 ceding sentence.

15       “(C) The Secretary may make a determination under  
16 subparagraph (B) only—

17               “(i) after notifying the State concerned in writ-  
18 ing of the Secretary’s objections to the regulation;

19               “(ii) after affording the State an opportunity to  
20 take action within a period of time (not to exceed 90  
21 days) specified by the Secretary to modify the regu-  
22 lation to take into account the objections specified  
23 under clause (i); and

24               “(iii) after a public hearing.”.

1           (c) RELATION TO FEDERAL PREEMPTION.—The sec-  
 2 ond sentence of section 60104(c) is amended by striking  
 3 “A State” and inserting “Except as otherwise provided  
 4 in sections 60102 and 60106, a State”.

5           (d) STATE PIPELINE SAFETY AGREEMENTS.—

6           (1) IN GENERAL.—Section 60106 is amended—

7           (A) in subsection (a)—

8                   (i) in the second sentence, by striking  
 9 “agreement shall—” and inserting “agree-  
 10 ment—”;

11                   (ii) in paragraph (1)—

12                           (I) by inserting “shall” before  
 13 “establish”; and

14                           (II) by striking “and” at the end;

15                   (iii) in paragraph (2)—

16                           (I) by inserting “shall” before  
 17 “prescribe”; and

18                           (II) by striking the period at the  
 19 end and inserting “; and”; and

20                   (iv) by adding at the end the following  
 21 new paragraph:

22                   “(3) may permit the State authority to—

23                           “(i) require inspections and tests of pipe-  
 24 line facilities that are in addition to Federal re-  
 25 quirements under this chapter;

1           “(ii) enforce Federal minimum safety  
2 standards under this chapter;

3           “(iii) require, by regulation, the owner or  
4 operator of a pipeline facility in the State to  
5 certify to the State that its safety procedure  
6 and accident response plans comply with the  
7 safety requirements prescribed under this chap-  
8 ter; and

9           “(iv) regulate activities related to the safe-  
10 ty of pipeline facilities if such regulation—

11           “(I) would enhance the safety of those  
12 facilities; and

13           “(II) would not include safety stand-  
14 ards less stringent than are otherwise im-  
15 posed under this chapter.”;

16           (B) by redesignating subsections (b)  
17 through (d) as subsections (c) through (e), re-  
18 spectively;

19           (C) by inserting after subsection (a) the  
20 following new subsection (b):

21           “(b) APPROVAL OF AGREEMENTS.—(1) The Sec-  
22 retary shall approve an agreement submitted by a State  
23 authority under subsection (a) not later than 90 days after  
24 the date of its submittal under that subsection.

1 “(2) The Secretary may not approve an agreement  
2 submitted under subsection (a) if the Secretary determines  
3 that the agreement would unduly burden interstate com-  
4 merce or that the State authority lacks the resources or  
5 expertise necessary to carry out the agreement.”; and

6 (D) by amending subsection (e), as so re-  
7 designated, to read as follows:

8 “(e) ENDING AGREEMENTS.—(1) Subject to para-  
9 graphs (2) and (3), the Secretary may end an agreement  
10 under this section if the Secretary finds that the State  
11 authority concerned has not complied with the agreement.

12 “(2) The Secretary may end an agreement under  
13 paragraph (1) only—

14 “(A) after notifying the State authority in writ-  
15 ing of the finding of the Secretary under that para-  
16 graph;

17 “(B) after affording the State authority an op-  
18 portunity to take action with a period of time (not  
19 to exceed 90 days) specified by the Secretary to  
20 comply with the agreement; and

21 “(C) after a public hearing.

22 “(3) The Secretary shall, after complying with para-  
23 graph (2), publish in the Federal Register a notice of a  
24 finding and decision under this subsection. The finding  
25 and decision shall not take effect until at least 15 days

1 after the date of its publication under the preceding sen-  
2 tence.”.

3           (2) SENSE OF CONGRESS.—It is the sense of  
4 Congress that the Secretary of Transportation  
5 should aggressively pursue entry into pipeline safety  
6 agreements with States under section 60106 of title  
7 49, United States Code, as amended by paragraph  
8 (1).

9           (e) STATE PIPELINE SAFETY GRANTS.—Paragraph  
10 (1) of section 60107(a) is amended to read as follows:

11           “(1) to carry out a safety program under a cer-  
12 tification under section 60105 or an agreement  
13 under section 60106, and to carry out any other any  
14 other authority permitted a State under this chap-  
15 ter; or”.

16           (f) STATE ROLE IN ACCIDENT RESPONSE AND PRE-  
17 VENTION.—Congress recognizes that each State has a role  
18 in—

19           (1) the determination of equipment needs for  
20 responses to accidents involving a pipeline facility;

21           (2) the development of training curriculum for  
22 police, fire, and emergency medical personnel within  
23 the State;

24           (3) the development of prevention planning and  
25 preparedness for spills within the State; and

1           (4) in areas where their partnership and their  
2           understanding of local conditions and circumstances  
3           would enhance safety.

4 **SEC. 4. PUBLIC RIGHT TO KNOW.**

5           Section 60102(c) is amended by adding at the end  
6 the following new paragraph:

7           “(5) PUBLIC RIGHT TO KNOW.—

8                   “(A) The Secretary shall include in the  
9                   standards prescribed under subsection (a) a re-  
10                  quirement that the owner or operator of each  
11                  interstate pipeline facility notify the entities and  
12                  individuals described in subparagraph (B) of  
13                  any inspection or testing of a pipeline facility,  
14                  any rupture in the pipeline facility, and any re-  
15                  lease of a hazardous liquid or gas described in  
16                  subparagraph (C) from such facility and pro-  
17                  vide a summary of any data obtained from such  
18                  inspection, testing, rupture, or release to those  
19                  entities and individuals.

20                  “(B) The entities and individuals referred  
21                  to in subparagraph (A) are—

22                           “(i) appropriate Federal and State  
23                           regulatory authorities; and

24                           “(ii) municipalities, school districts,  
25                           businesses, and residents likely to be im-

1           pacted by an accident involving the pipe-  
2           line facility that was inspected or tested or  
3           with respect to which a rupture of a pipe-  
4           line facility or release of a hazardous liquid  
5           or gas was found.

6           “(C) A release of a hazardous liquid or gas  
7           described in subparagraph (A) is a release  
8           involving—

9                   “(i) any spill in excess of 40 liquid  
10                   gallons; or

11                   “(ii) any spill of more than 30 days  
12                   duration.”.

13 **SEC. 5. NEW FEDERAL REQUIREMENTS.**

14           Section 60108(b) is amended—

15                   (1) in paragraph (1), by striking the second  
16                   sentence; and

17                   (2) by amending paragraph (2) to read as fol-  
18                   lows:

19                   “(2)(A) Not later than December 1, 2000, the Sec-  
20                   retary shall require that—

21                           “(i) inspections under paragraph (1) of the in-  
22                           ternal condition of a pipeline facility where the pipe  
23                           is capable of accommodating internal inspection de-  
24                           vices, shall occur at least once every 5 years; and

1           “(ii) effective with a determination by the Sec-  
 2           retary that the appropriate technology for inspec-  
 3           tions is sufficiently reliable, inspections under para-  
 4           graph (1) of the external condition of a pipeline fa-  
 5           cility shall occur at least once every 5 years.

6           “(B) The Secretary shall—

7           “(i) notify the Federal and State authorities  
 8           having responsibility for the regulation of the in-  
 9           spected pipeline facility and those municipalities,  
 10          school districts, businesses, and residents reasonably  
 11          likely to be impacted by an accident involving the in-  
 12          spected pipeline facility of the results of the inspec-  
 13          tions conducted under subparagraph (A); and

14          “(ii) make available to the public the informa-  
 15          tion notified under clause (i).

16          “(C) The Secretary shall take steps to remedy any  
 17          problem in a pipeline facility and may require additional  
 18          testing of the pipeline facility.”.

19   **SEC. 6. ENHANCED QUALIFICATIONS OF PIPELINE OPERA-**  
 20                                   **TORS.**

21          Section 60102(a)(1)(C) is amended to read as fol-  
 22          lows:

23          “(C) shall include a requirement that all indi-  
 24          viduals responsible for the operation and mainte-  
 25          nance of pipeline facilities be tested for qualification

1 to perform such functions and certified as qualified  
2 by the Secretary to perform such functions, and may  
3 include a requirement that those individuals obtain  
4 additional education and training to qualify to per-  
5 form such functions.”.

6 **SEC. 7. STUDY AND REPORT.**

7 (a) **STUDY.**—The Secretary of Transportation shall  
8 conduct a study on—

9 (1) the status of the reliability and accuracy of  
10 internal and external inspection devices for pipeline  
11 facilities;

12 (2) a determination of the optimal minimum  
13 burial depth of such pipeline facilities;

14 (3) the feasibility of requiring failsafe mecha-  
15 nisms that are nonelectronic and that do not rely on  
16 any human or administrative process;

17 (4) the effectiveness of current failsafe mecha-  
18 nisms; and

19 (5) the practicality of removing distinctions be-  
20 tween natural gas and liquid pipelines and equal-  
21 izing priorities between natural gas and liquid pipe-  
22 lines.

23 (b) **REPORT.**—Not later than one year after the date  
24 of enactment of this Act, the Secretary of Transportation

1 shall submit a report to Congress setting forth the results  
2 of the study conducted under subsection (a).

3 (c) FAILSAFE MECHANISM DEFINED.—For purposes  
4 of subsection (a), the term “failsafe mechanism”, in the  
5 case of a pipeline, means a nonelectronic or mechanically  
6 based system that prevents the pipeline from exceeding its  
7 maximum operating pressure in the event of a failure of  
8 the primary or electronic system designed for such pur-  
9 pose.

10 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) GAS AND HAZARDOUS LIQUIDS.—Section  
12 60125(a) is amended—

13 (1) by striking “and” at the end of paragraph  
14 (4);

15 (2) by striking the period at the end of para-  
16 graph (5) and inserting a semicolon; and

17 (3) by adding at the end the following new  
18 paragraphs:

19 “(6) \$50,000,000 for fiscal year 2001, of which  
20 at least \$4,000,000 should be available only for re-  
21 search and development of inspection devices and  
22 leak detection;

23 “(7) \$62,000,000 for fiscal year 2002, of which  
24 at least \$5,000,000 should be available only for re-

1 search and development of inspection devices and  
2 leak detection;

3 “(8) \$64,000,000 for fiscal year 2003, of which  
4 at least \$5,000,000 should be available only for re-  
5 search and development of inspection devices and  
6 leak detection;

7 “(9) \$66,000,000 for fiscal year 2004, of which  
8 at least \$6,000,000 should be available only for re-  
9 search and development of inspection devices and  
10 leak detection; and

11 “(10) \$68,000,000 for fiscal year 2005, of  
12 which at least \$6,000,000 should be available only  
13 for research and development of inspection devices  
14 and leak detection.”.

15 (b) STATE GRANTS.—Section 60125(c)(1) is amend-  
16 ed by adding at the end the following new subparagraphs:

17 “(I) \$31,000,000 for the fiscal year 2001;

18 “(J) \$37,000,000 for the fiscal year 2002;

19 “(K) \$38,000,000 for the fiscal year 2003;

20 “(L) \$39,000,000 for the fiscal year 2004;

21 and

22 “(M) \$40,000,000 for the fiscal year  
23 2005.”.

○