

PUBLIC UTILITIES

CHAPTER 497

HOUSE BILL NO. 1123

(Committee on Natural Resources)

(At the request of the Public Service Commission)

PIPELINE SAFETY

AN ACT to amend and reenact sections 49-02-01.2 and 49-07-05.1 of the North Dakota Century Code, relating to the jurisdiction of the public service commission regarding hazardous facility orders and pipeline safety and an increase in fines for violations of pipeline safety standards; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-02-01.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-02-01.2. Pipeline safety - Public service commission jurisdiction - Hazardous facility orders.

1. The commission, by rule, may establish and enforce minimum safety standards for the design, construction, and operation of gas distribution facilities and intrastate pipeline facilities used for the distribution and intrastate transportation of gas, liquefied natural gas, or hazardous liquids, regardless of whether they are owned or operated by a public utility, in order to ensure the reasonable safety thereof. Any rule issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such rule is adopted. Such rules shall not be more stringent than the corresponding federal regulations applicable to interstate pipelines and related facilities.
2. If the commission determines that a pipeline facility is hazardous to life or property, it may issue an order requiring the operator of the facility to take corrective action. The commission may issue such an order without notice and opportunity for hearing if the commission determines that to do otherwise would result in the likelihood of serious harm to life or property. The Commission shall include in such an order an opportunity for hearing as soon as practicable after issuance of the order.

SECTION 2. AMENDMENT. Section 49-07-05.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-07-05.1. Violations of pipeline safety standards - Penalties. Any person who violates any rule or order issued by the commission pursuant to section 49-02-01.2, shall be subject to a civil penalty to be imposed by the

for each day that such violation persists, except that the maximum penalty shall not exceed ~~two~~ five hundred thousand dollars for any related series of violations. Any such civil penalty may be compromised by the commission. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the nature, circumstances, and gravity of the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, the ability to pay the penalty, the good faith of the person charged in attempting to achieve compliance, after notification of a violation, and such other matters as justice may require, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 498

SENATE BILL NO. 2286
(Senators O. Hanson, Nalewaja, Meyer)
(Representatives D. Olsen, Belter, Dalrymple)

UTILITY SERVICE TAMPERING PENALTY

AN ACT to amend and reenact subsection 3 of section 49-04.1-02 of the North Dakota Century Code, relating to damages for bypassing, tampering, or unauthorized metering of utility services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-04.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. In any civil action brought pursuant to this section, the utility is entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover one thousand dollars or three times the amount of the actual loss, whichever is greater, caused by the bypassing, tampering, or unauthorized metering, plus all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering. Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employees and equipment, expert witnesses, costs of the suit, and reasonable attorneys' fees.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 499

HOUSE BILL NO. 1377
(Kretschmar)

UTILITY PROPERTY CONVEYANCE RECORDING

AN ACT to amend and reenact section 49-09-15 of the North Dakota Century Code, relating to the recording of conveyances of utility real property other than right of way.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-09-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-09-15. Conveyance of real property other than right of way - Recording. Every such conveyance, lease, deed of trust, or mortgage, made by a public utility which covers any real property other than that used by such public utility as a right of way for its railway, telecommunications lines, or gas or oil pipelines, also ~~shall~~ must, in order to obtain the priority created by section 47-19-41, be recorded in the office of the register of deeds for each county wherein such other real estate, or any part thereof, is situated. ~~Such conveyance, lease, deed of trust, or mortgage shall not operate as a conveyance of, nor as creating any lien upon, any such real estate other than the right of way, until such instrument has been duly recorded in the office of the register of deeds of the county in which the same is situated.~~

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 500

SENATE BILL NO. 2317
(Senators Stenehjem, Robinson)
(Representatives Kretschmar, Meyer)

UNAUTHORIZED RAILROAD PASSENGER INJURIES

AN ACT to create and enact a new section to chapter 49-16 of the North Dakota Century Code, relating to the liability of a railroad owner or operator for injury of a person riding on a locomotive or railroad car without authority from the owner or operator of the railroad.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-16 of the North Dakota Century Code is created and enacted as follows:

Liability of owner or operator of railroad limited. A person who is injured while boarding or attempting to board a moving locomotive or railroad car, without authority from the owner or operator of the railroad, or who having boarded a locomotive or railroad car without authority from the owner or operator of the railroad, is injured while riding or getting off the locomotive or railroad car, may not recover any damages from the owner or operator of the railroad for that injury unless the injury is proximately caused by an intentional act of the railroad owner or operator and the railroad owner or operator knew that serious injury was the probable result of the act, or that the owner or operator of the railroad acted with wanton and reckless disregard of the probable result of the act. This Act does not exempt a railroad corporation from any liability created under chapter 49-16 or the Federal Employer's Liability Act [45 U.S.C. 51 et seq.] for injuries to its employees or agents.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 501

HOUSE BILL NO. 1095
(Committee on Industry, Business and Labor)
(At the request of the Governor)

TELECOMMUNICATIONS OPERATOR ACCESS

AN ACT to create and enact a new section to the North Dakota Century Code, relating to the access of operator services of telecommunications companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to the North Dakota Century Code is created and enacted as follows:

Access code number usage. A person who, in the ordinary course of operations, makes telephones available to the public or to transient users of that person's premises, for intrastate telephone calls using a provider of operator services shall ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800", "950", or "10XXX 0+" access code numbers to obtain access to the provider of operator services desired by the consumer. Each such person shall ensure that no charge to the consumer for using an "800", "950", or "10XXX 0+" access code number is greater than the amount charged for calls placed using the presubscribed provider of operator services.

Approved April 8, 1991
Filed April 8, 1991

CHAPTER 502

HOUSE BILL NO. 1556
(Representatives Cleary, Mutzenberger)
(Senators Evanson, Marks)

CALL IDENTIFICATION SERVICES

AN ACT to create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to call identification services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Call identification services - Charges prohibited - Notice - Exceptions.

1. Any telephone call identification service offered in this state by a telecommunications company or rural telephone cooperative must allow a caller, at least on a per call basis, to withhold, at no cost to the caller, display of a caller's telephone number from the telephone instrument of the individual receiving the telephone call placed by the caller.
2. The telecommunications company or rural telephone cooperative may not charge any caller who requests that that person's telephone number be withheld from the recipient of any call placed by the caller.
3. A telecommunications company or rural telephone cooperative offering a call identification service shall notify its subscribers that their calls may be identified to a called party at least thirty days before the service is offered. In the case of a telecommunications company or rural telephone cooperative presently offering a call identification service, notice must be given within thirty days of the effective date of this Act.
4. This Act does not apply to:
 - a. An identification service that is used within the same limited system, including a Centrex, Centron, or private branch exchange (PBX) system, as the recipient telephone.
 - b. An identification service that is used on a public agency's emergency telephone line or on a line that receives the primary emergency telephone number (911).
 - c. An identification service provided in connection with legally sanctioned call tracing or tapping procedures.
 - d. An identification service provided in connection with any "700", "800", or "900" access code telecommunications service.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 503

HOUSE BILL NO. 1557
(Representatives B. Anderson, Martin)
(Senators O'Connell, DeKrey)

TELEPHONE COOPERATIVE PLANT SALE

AN ACT relating to approval of sale of the physical plant of a telephone cooperative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Telephone cooperatives - Sale of physical plant - Approval. No mutual aid cooperative or cooperative association that is a telecommunications company as defined in section 49-21-01 may sell, transfer, or convey, within the period of any single calendar year, physical plant in excess of five percent in value of the cooperative, based upon the most recent audit of the books of the cooperative, unless consent has been obtained by vote of not less than two-thirds of the entire membership of the cooperative cast at any regular or special meeting called for that purpose, after notice in writing to all the membership of the cooperative not less than twenty nor more than thirty days prior to the date of such meeting. Nothing in this section prohibits the transfer of assets in exchange for physical plant of equal monetary value to any public or private person or organization.

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