

## CHAPTER 159

## PIPELINES

S. F. 531

AN ACT relating to pipelines.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 478.6, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Upon the filing of ~~such~~ objections or when a petition involves the taking of property under the right of eminent domain the commission shall set the matter for hearing and fix a time and place ~~therefor--said~~ for the hearing. ~~The hearing shall be not less than thirty days from the date of last publication and at the offices of the commission before which said matter is pending, unless a different place is specified in the notice thereof where a~~ new proposed transmission line exceeds one mile in length, shall be held in the county seat of the county located at the midpoint of the proposed electric transmission line. Written notice of the time and place of ~~such~~ the hearing shall be served by the commission, by ordinary mail, on the applicant, and those having filed objections. If no objections are filed ~~as hereinbefore--provided~~ and the petition does not involve the taking of property under the right of eminent domain the commission may grant a franchise without a hearing thereon, however, ~~nothing--herein--shall--be construed as prohibiting the commission from conducting~~ may conduct a hearing if ~~it~~ the commission deems it necessary.

Sec. 2. Chapter 479, Code 1981, is amended by adding sections 3 through 9 of this Act.

Sec. 3. NEW SECTION. ARBITRATION AGREEMENTS. If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either person has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other person has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a judicial magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other person. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the judicial magistrate by restricted certified mail to the other person and file proof of mailing with the petition. If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial

arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other person under the agreement.

For purposes of this section only, "landowner" means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

Sec. 4. NEW SECTION. SUBSEQUENT PIPELINES. A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration or action of the courts. This section does not apply if the damage claim is under litigation or arbitration.

With the exception of claims for damage to drain tile and future crop deficiency, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of final cleanup on the real property.

Sec. 5. NEW SECTION. DAMAGE AGREEMENT. A pipeline company shall not install a pipeline until there is a written statement on file with the Iowa state commerce commission as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The company shall provide a copy of the statement to the landowner.

Sec. 6. NEW SECTION. NEGOTIATED FEE. In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross the property, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

Sec. 7. NEW SECTION. PARTICULAR DAMAGE CLAIMS.

1. The loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding of the livestock caused by the construction or repair of a pipeline is a compensable loss and shall be recognized as such by a pipeline company.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 472.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the company thirty days prior to harvest in each year to assess crop deficiency.

Sec. 8. NEW SECTION. DETERMINATION OF INSTALLATION DAMAGES.

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. Between seventy-five and one hundred days after the completion of installation, a landowner whose land was affected by the installation of the pipeline may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in section 472.4.

The application shall contain the following:

a. The name and address of the petitioning landowner and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage.

3. After the commissioners have been appointed, the landowner shall serve notice on the pipeline company stating the following:

a. That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

b. The name and address of the landowner and a description of the land on which the damage is claimed to have occurred.

c. The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company may appear before the commissioners.

Sections 472.10 through 472.13 apply to this notice. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the installation of the pipeline and they shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. Chapter 472 applies to this section to the extent it is applicable and consistent with this section.

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages; if the award does not exceed one hundred ten percent, the landowners shall pay the fees and costs incurred by the pipeline company. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the

appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a less amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in this section, "damages" means compensation for damages to the land, crops, and other personal property caused by the construction activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and "landowner" includes a farm tenant.

8. The provisions of this section do not apply if the easement provides for any other means of negotiation or arbitration.

Sec. 9. NEW SECTION. SUBSEQUENT TILING. All additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. The additional costs shall be paid by the pipeline company upon presentation of an invoice, verified by the county engineer or soil conservation district conservationist and specifically showing the added costs caused by the presence of the pipeline. A copy of the county engineer's or district conservationist's verification of additional costs shall accompany the invoice to the pipeline company.

A landowner or tiling contractor shall not install tile across or adjacent to the pipeline until the landowner or tiling contractor has given the pipeline company forty-eight hours oral notice by telephoning the telephone number of the pipeline company shown on pipeline marking signs placed along the pipeline right of way for the pipeline company to locate and stake its pipeline. The pipeline company shall not charge the landowner or tile contractor for locating and staking the pipeline. A pipeline company representative shall be notified and may be present at the time of installation of the new tile.

Sec. 10. Section 479.8, Code 1981, is amended to read as follows:

479.8 TIME AND PLACE. ~~Said~~ The hearing shall not be less than ten days nor more than thirty days from the date of the last publication and where the proposed new pipeline would operate under pressure exceeding one hundred fifty pounds per square inch and exceed five miles in length, shall be held in the office of said state commerce commission, or such place as the commission shall designate county seat of the county located at the midpoint of the proposed line or lines or the county in which the proposed gas storage facility would be located.

Sec. 11. Section 479.26, Code 1981, is amended to read as follows:

479.26 FINANCIAL CONDITION OF PERMITTEE--BOND. Before any permit is granted under ~~the provisions of~~ this chapter the applicant must satisfy the state commerce commission that the applicant has property within this state other than pipelines, subject to execution of a value in excess of two hundred fifty thousand dollars, or ~~said the~~ applicant must file and maintain with ~~said the~~ commission a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the commission, conditioned that ~~said the~~ applicant will pay any and all damages legally recovered against it growing out of the construction or operation of its ~~said~~ pipeline and gas storage facilities in the state of Iowa. When ~~such the~~ pipeline company deposits with ~~said the~~ state commerce commission security satisfactory to

~~said the~~ commission as a guaranty for the payment of ~~said the~~ damages, or furnishes to ~~said the~~ commission satisfactory proofs of its solvency and financial ability to pay ~~said the~~ damages, the ~~said~~ pipeline company shall ~~be~~ is relieved of the ~~said~~ provisions requiring bond.

Sec. 12. Section 479.29, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. The pipeline company shall allow landowners and inspectors to view the proposed center line of the pipeline prior to commencing trenching operations to insure that construction takes place in its proper location.

NEW SUBSECTION. An inspector may temporarily halt the construction if the construction is not in compliance with the law or the terms of the agreement with the pipeline company regarding top soil removal and replacement, drainage structures, soil moisture conditions or the location of construction until the inspector consults with the supervisory personnel of the pipeline company. If the construction is then continued over the inspector's objection and is found to not be in compliance with the law or agreement and is found to cause damage, any civil penalty recovered under section 479.31 as a result of that violation shall be paid to the landowner.

NEW SUBSECTION. The commerce commission shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspector's responsibility to require construction conforming with the standards provided by this chapter.

NEW SUBSECTION. Any underground drain tile damaged, cut or removed shall be temporarily repaired and maintained as necessary to allow for its proper function during construction of the pipeline. If temporary repair is not determined to be necessary, the exposed line will nonetheless be screened or otherwise protected to prevent the entry of any foreign material, small animals, etc. into the tile line system.

Sec. 13. Section 479.29, subsections 4 and 5, Code 1981, are amended to read as follows:

4. As a part of the inspection process, the inspector shall ascertain that the trench excavation has been filled in ~~such~~ a manner as to provide that the top soil has been replaced on top and rocks and debris have been removed from the top soil of the easement area. An existing topsoil layer extending at least one foot in width on either side of the pipeline excavation at a maximum depth of twelve inches shall be removed separately and shall be stockpiled and preserved separately during subsequent construction operations, unless other means for separating the topsoil are provided in the easement. The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface shall contain only the topsoil originally removed.

5. Adequate inspection of underground improvements altered during construction of pipeline shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep all county inspectors continually informed of the work schedule and any schedule changes.

Sec. 14. This Act, being deemed of immediate importance, takes effect from and after its publication in the Lake Mills Graphic, a newspaper published in Lake Mills, Iowa, and in The Sheffield Press, a newspaper published in Sheffield, Iowa.

Approved June 15, 1981

I hereby certify that the foregoing Act, Senate File 531, was published in the Lake Mills Graphic, Lake Mills, Iowa on June 24, 1981 and in The Sheffield Press, Sheffield, Iowa on June 25, 1981.

MARY JANE ODELL, *Secretary of State*

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CHAPTER 160  
APPLIANCE IGNITION SYSTEMS

S. F. 152

AN ACT providing that manufacturers and nonresident vendors shall not sell pilot lights commencing two years after the commerce commission has certified an alternative ignition device for a gas appliance.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 478A.2, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of unnumbered paragraph 1 of this section, a person who is engaged in the business of manufacturing, wholesaling or retailing gas appliances equipped with pilot lights may sell or install gas appliances not meeting the requirements of unnumbered paragraph 1 of this section after the effective date of this Act subject to the following limitations:

1. These gas appliances must be in the possession of the person or stored at a location within this state as of the effective date of this Act.
2. The person shall not acquire or manufacture for sale or installation in this state after the effective date of this Act any gas appliances not meeting the requirements of unnumbered paragraph 1 of this section.

Approved April 3, 1981