

Reprinted 4/79

FILED MAR 22 1979

SENATE FILE 447

By COMMITTEE ON AGRICULTURE
Approved 3/22 (p. 917)

Passed Senate, Date 3-28-79 (p. 956) Passed House, Date _____

Vote: Ayes 45 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

Matched to revision p. 1001 prepared 4/2

*Revised Senate 4-2-79 (p. 1019)
Ayes 45 Nays 0*

A BILL FOR

1 An Act relating to pipelines by establishing construction
2 standards for pipelines to protect soil conservation
3 and drainage structures and practices and allowing land
4 surveys by pipeline companies after notice.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter four hundred seventy-nine (479), Code
2 1979, is amended by adding the following new section:

3 NEW SECTION. CONSTRUCTION STANDARDS.

4 1. The commission shall adopt rules establishing standards
5 for the protection of underground improvements during the
6 construction of pipelines to protect soil conservation and
7 drainage structures from being permanently damaged by the
8 pipeline construction and for the restoration of agricultural
9 lands after the pipeline construction. A county board of
10 supervisors, with the approval of the commission, may by
11 ordinance establish additional standards to protect those
12 practices and structures in that county. The commission shall
13 approve, amend or disapprove of the standards proposed by
14 the county board of supervisors within sixty days of receiving
15 the standards. If the commission amends the standards, the
16 amendments must be approved by the board of supervisors before
17 the standards become effective. The commission shall maintain
18 and upon request provide copies of the approved county
19 standards and shall publish the names of the counties for
20 which standards have been approved in the Iowa administrative
21 code. The standards adopted under this section shall not
22 apply within the boundaries of a city.

23 2. The county board of supervisors shall cause an on site
24 inspection for compliance with the standards adopted under
25 this section to be performed at any pipeline construction
26 project in the county. A professional engineer familiar with
27 the standards adopted under this section and registered under
28 chapter one hundred fourteen (114) of the Code shall be in
29 responsible charge of the inspection. A county board of
30 supervisors may contract for the services of a professional
31 engineer for the purposes of the inspection. The reasonable
32 costs of the inspection shall be borne by the pipeline company.

33 3. If the inspector determines that there has been a
34 violation of the standards adopted under this section, the
35 inspector shall give oral notice, followed by written notice,

1 to the pipeline company and the contractor operating for the
2 pipeline company and order corrective action to be taken in
3 compliance with the standards. The costs of the corrective
4 action shall be borne by the contractor operating for the
5 pipeline company.

6 4. As a part of the inspection process, the inspector
7 shall ascertain that the trench excavation has been filled
8 in such a manner as to provide that the top soil has been
9 replaced on top and rocks and debris have been removed from
10 the top soil.

11 5. Adequate inspection of underground improvements altered
12 during construction of pipeline shall be conducted at the
13 time of the replacement or repair of the underground
14 improvements.

15 6. If the pipeline company or its contractor does not
16 comply with the orders of the inspector for compliance with
17 the standards, the county board of supervisors may direct
18 the county attorney to petition the district court for an
19 order requiring corrective action to be taken in compliance
20 with the standards adopted under this section.

21 Sec. 2. Chapter four hundred seventy-nine (479), Code
22 1979, is amended by adding the following new section:

23 NEW SECTION. A pipeline company may enter upon private
24 land for the purpose of making land surveys after holding
25 the informational meeting in the county by giving thirty days
26 written notice by restricted certified mail to the landowner
27 as defined in section four hundred seventy-nine point five
28 (479.5) of the Code and to any person residing on or in
29 possession of the land. The entry for land surveys shall
30 not be deemed a trespass and may be aided by injunction.
31 The pipeline company shall pay the actual damages caused by
32 the entry and survey.

33 Sec. 3. Section four hundred seventy-nine point four
34 (479.4), unnumbered paragraphs two (2), three (3) and four
35 (4), Code 1979, are amended by striking the unnumbered

1 paragraphs.

2 Sec. 4. This Act is effective January first following
3 its enactment.

4 EXPLANATION

5 The bill requires the Iowa state commerce commission to
6 adopt standards for pipelines to protect soil conservation
7 and drainage structures. The county board of supervisors
8 may petition the commission to adopt additional standards
9 for that county. The county is required to have a professional
10 engineer make an on site inspection of any pipeline
11 construction. The inspector may order corrective action in
12 compliance with the standards. The orders of the inspector
13 can be enforced by court order. The costs of the inspection
14 are borne by the pipeline company. The standards would not
15 apply within the boundaries of a city. The bill also allows
16 a pipeline company to enter upon private lands after the
17 informational hearing by giving notice to make land surveys.

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SENATE FILE 447

S-3298

1 Amend Senate File 447 as follows:
2 1. Page one, by striking lines 4 through 22 and
3 inserting in lieu thereof the following:
4 "1. The commission shall, pursuant to Chapter 17A,
5 Code 1979, adopt rules establishing standards for the
6 protection of underground improvements during the
7 construction of pipelines, to protect soil conservation
8 and drainage structures from being permanently damaged
9 by pipeline construction and for the restoration of
10 agricultural lands after pipeline construction. To
11 insure that all interested persons are informed of
12 this rulemaking procedure and are afforded a right
13 to participate, the commission shall schedule an
14 opportunity for oral presentations on the proposed
15 rulemaking, and, in addition to the requirements of
16 Section 17A.4, Code 1979, shall distribute copies of
17 the notice of intended action and opportunity for oral
18 presentations to each county board of supervisors.
19 Any county board of supervisors may, under the
20 provisions of Section 17A, Code 1979, and subsequent
21 to the rulemaking proceedings, petition under those
22 provisions for additional rulemaking to establish
23 standards to protect soil conservation practices,
24 structures and drainage structures within that county.
25 Upon the request of the petitioning county the
26 commission shall schedule a hearing to consider the
27 merits of the petition. These rules adopted under
28 this section shall not apply within the boundaries
29 of a city."

S-3298 FILED & ADOPTED (p. 935)
MARCH 28, 1979

BY DALE L. TIEDEN
ALVIN V. MILLER

SENATE FILE 447

S-3346

1 Amend Senate File 447 as follows:
2 1. Page 1, line 32, by inserting after
3 the word "borne" the words "equally by the
4 county and".

S-3346 FILED & LOST (p. 1042)
APRIL 2, 1979

BY CLARENCE CARNEY

SENATE FILE 447

S-3320

1 Amend Senate File 447 as follows:

2 1. Page 2, line 24, by inserting after the word
3 "surveys" the words "to determine direction or depth
4 of pipelines, not to exceed a depth of twenty-five
5 feet,".

6 2. Page 2, line 29, by inserting after the word
7 "surveys" the words "authorized in this section".

S-3320 FILED *Adopted 4/2 (p 10-47)* BY C. JOSEPH COLEMAN
MARCH 29, 1979

SENATE FILE 447

S-3328

1 Amend Senate File 447 as follows:

2 1. Page 2, lines 24 and 25, by striking the
3 words "holding the informational meeting in the
4 county" and inserting in lieu thereof the words
5 "receipt of a permit to construct, maintain and
6 ~~operate its pipeline~~".

13 7 2. Page 2, line 25, by striking the word
8 "thirty" and inserting in lieu thereof the word
9 "ten".

S-3328 FILED *Adopted 4/2 (p 10-49)* BY DALE L. TIEDEN
MARCH 30, 1979

1 Section 1. Chapter four hundred seventy-nine (479), Code
2 1979, is amended by adding the following new section:

3 NEW SECTION. CONSTRUCTION STANDARDS.

4 1. The commission shall, pursuant to chapter seventeen
5 A (17A), Code 1979, adopt rules establishing standards for
6 the protection of underground improvements during the
7 construction of pipelines, to protect soil conservation and
8 drainage structures from being permanently damaged by pipeline
9 construction and for the restoration of agricultural lands
10 after pipeline construction. To insure that all interested
11 persons are informed of this rulemaking procedure and are
12 afforded a right to participate, the commission shall schedule
13 an opportunity for oral presentations on the proposed
14 rulemaking, and, in addition to the requirements of section
15 seventeen A point four (17A.4), Code 1979, shall distribute
16 copies of the notice of intended action and opportunity for
17 oral presentations to each county board of supervisors. Any
18 county board of supervisors may, under the provisions of
19 chapter seventeen A (17A), Code 1979, and subsequent to the
20 rulemaking proceedings, petition under those provisions for
21 additional rulemaking to establish standards to protect soil
22 conservation practices, structures and drainage structures
23 within that county. Upon the request of the petitioning
24 county the commission shall schedule a hearing to consider
25 the merits of the petition. These rules adopted under this
26 section shall not apply within the boundaries of a city.

27 2. The county board of supervisors shall cause an on site
28 inspection for compliance with the standards adopted under
29 this section to be performed at any pipeline construction
30 project in the county. A professional engineer familiar with
31 the standards adopted under this section and registered under
32 chapter one hundred fourteen (114) of the Code shall be in
33 responsible charge of the inspection. A county board of
34 supervisors may contract for the services of a professional
35 engineer for the purposes of the inspection. The reasonable

1 costs of the inspection shall be borne by the pipeline company.

2 3. If the inspector determines that there has been a
3 violation of the standards adopted under this section, the
4 inspector shall give oral notice, followed by written notice,
5 to the pipeline company and the contractor operating for the
6 pipeline company and order corrective action to be taken in
7 compliance with the standards. The costs of the corrective
8 action shall be borne by the contractor operating for the
9 pipeline company.

10 4. As a part of the inspection process, the inspector
11 shall ascertain that the trench excavation has been filled
12 in such a manner as to provide that the top soil has been
13 replaced on top and rocks and debris have been removed from
14 the top soil.

15 5. Adequate inspection of underground improvements altered
16 during construction of pipeline shall be conducted at the
17 time of the replacement or repair of the underground
18 improvements.

19 6. If the pipeline company or its contractor does not
20 comply with the orders of the inspector for compliance with
21 the standards, the county board of supervisors may direct
22 the county attorney to petition the district court for an
23 order requiring corrective action to be taken in compliance
24 with the standards adopted under this section.

25 Sec. 2. Chapter four hundred seventy-nine (479), Code
26 1979, is amended by adding the following new section:

27 NEW SECTION. A pipeline company may enter upon private
28 land for the purpose of making land surveys to determine
29 direction or depth of pipelines, not to exceed a depth of
30 twenty-five feet, after receipt of a permit to construct,
31 maintain and operate its pipeline by giving ten days written
32 notice by restricted certified mail to the landowner as defined
33 in section four hundred seventy-nine point five (479.5) of
34 the Code and to any person residing on or in possession of
35 the land. The entry for land surveys authorized in this

1 section shall not be deemed a trespass and may be aided by
2 injunction. The pipeline company shall pay the actual damages
3 caused by the entry and survey.

4 Sec. 3. Section four hundred seventy-nine point four
5 (479.4), unnumbered paragraphs two (2), three (3) and four
6 (4), Code 1979, are amended by striking the unnumbered
7 paragraphs.

8 Sec. 4. This Act is effective January first following
9 its enactment.

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SF 4-7
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SENATE FILE 447

H-4018

- 1 Amend Senate File 447 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 3, by inserting after line 7 the following:
4 "Sec. 4. Section four hundred seventy-nine point
5 eight (479.8), Code 1979, is amended to read as
6 follows:
7 479.8 TIME AND PLACE. ~~Said~~ The hearing shall
8 not be less than ten days nor more than thirty days
9 from the date of the last publication and shall be
10 held ~~in-the-office-of-said-state-commerce-commissioner~~
11 ~~or-such-place-as-the-commissioner-shall-designate~~ at
12 a location central to affected landowners, and within
13 a reasonable distance of the route of the proposed
14 line."
15 2. By renumbering the sections to conform with
16 this amendment.

H-4018 FILED *H. S. Grawm 4/20 (1702)* BY HINKHOUSE of Cedar
APRIL 19, 1979

SENATE FILE 447

H-4009

- 1 Amend Senate File 447 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 3, by inserting after line 3 the following:
4 "Sec. 3. Chapter four hundred seventy-nine (479),
5 Code 1979, is amended by adding the following new
6 section:
7 NEW SECTION. PRESUMPTION. In case of injury to
8 a person or property by a pipeline, negligence shall
9 be presumed on the part of the person or corporation
10 operating the pipeline in causing the injury, but
11 the presumption may be rebutted. The presumption
12 does not exist in favor of employees of the person
13 or corporation operating the pipeline who are charged
14 with or engaged in the construction, reconstruction,
15 repair, or maintenance of the pipeline, unless
16 otherwise provided by the employers liability and
17 workers' compensation laws of the state."
18 2. By renumbering the sections to conform with
19 this amendment.

H-4009 FILED *H. S. Grawm 4/20 (1702)* BY HOWELL of Floyd
APRIL 19, 1979

SENATE FILE 447

H-3880

- 1 Amend Senate File 447 as amended, passed and re-
- 2 printed by the Senate as follows:
- 3 1. Page 1, line 5, by striking the word and figure
- 4 ", Code 1979" and inserting in lieu thereof the words
- 5 "of the Code".
- 6 2. Page 1, line 15, by striking the word and figure
- 7 ", Code 1979" and inserting in lieu thereof the words
- 8 "of the Code".
- 9 3. Page 1, line 19, by striking the word and
- 10 figure ", Code 1979" and inserting in lieu thereof
- 11 the words "of the Code".

H-3880 FILED *Adopted 4/20 (p. 1705)* BY HUMMEL of Benton
APRIL 11, 1979

SENATE FILE 447

H-4000

- 1 Amend Senate File 447, as amended, passed and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, line 1, by inserting after the
- 4 word "borne" the words "equally by the county and".

H-4000 FILED *W. Brown 4/20 (1705)* BY THOMPSON of Polk
APRIL 19, 1979 SMALLEY of Polk

SENATE FILE 447

H-4020

1 Amend Senate File 447, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 2, by inserting after line 24 the
4 following:
5 "7. An inspector may order a halt to the
6 construction of a pipeline during adverse weather
7 conditions when continued construction would
8 endanger the safety of the pipeline construction or
9 the integrity of underground improvements affected
10 by the pipeline construction."

H-4020 FILED *H. Brown 4/20 (1706)* BY AVENSON of Fayette
APRIL 19, 1979

SENATE FILE 447

H-4021

1 Amend Senate File 447, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 2, line 26, by striking the word
4 "section" and inserting in lieu thereof the word
5 "sections".
6 2. Page 3, by inserting after line 3 the
7 following:
8 "NEW SECTION. A pipeline company when acquiring
9 an easement for construction of the pipeline shall
10 acquire an easement of at least one hundred twenty-
11 five feet in width measured at right angles to the
12 route of the pipeline. This section does not apply
13 to easements acquired to operate or maintain a
14 pipeline."

H-4021 FILED *H. Brown 4/20 (1706)* BY AVENSON of Fayette
APRIL 19, 1979

SENATE FILE 447

H-4023

1 Amend Senate File 447 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 1, line 25, by inserting after the word
4 "petition." the words "Prior to the adoption of a
5 rule under this section, the commission shall submit
6 the proposed rule to the department of soil
7 conservation for its comments on the proposed rule."

H-4023 FILED *H. Brown 4/20 (1705)* BY DAVITT of Warren
APRIL 19, 1979

H-4019

- 1 Amend Senate File 447, as amended, passed and
 2 reprinted by the Senate:
 3 1. Page 3, by inserting after line 7 the
 4 following:
 5 "Sec. 4. Section four hundred seventy-nine point
 6 six (479.6), Code 1979, is amended by adding the
 7 following new subsection:
 8 NEW SUBSECTION. An environmental impact statement
 9 for the proposed route of the line or the underground
 10 storage facilities."

H-4019 FILED *H. D. Brown 4/20/79 (p. 1706)* BY MILLER of Buchanan
 APRIL 19, 1979 HUMMEL of Benton

SENATE FILE 447

H-4026

- 1 Amend Senate File 447 as amended, passed and
 2 reprinted by the Senate as follows:
 3 1. Page 2, by striking lines 31 and 32 and
 4 inserting in lieu thereof the words "maintain and
 5 operate its pipeline and with the consent of the
 6 landowner as defined".
 7 2. Page 2, by striking line 35 through page 3,
 8 line 2, and inserting in lieu thereof the words
 9 "the land. The pipeline company shall pay the
 10 actual damages".

H-4026 FILED *H. D. Brown 4/20/79 (p. 1706)* BY HOWELL of Floyd
 APRIL 19, 1979

HOUSE AMENDMENT TO SENATE FILE 447

S-3598

- 1 Amend Senate File 447 as amended, passed and
 2 reprinted by the Senate as follows:
 3 1. Page 1, line 5, by striking the word and figure
 4 ", Code 1979" and inserting in lieu thereof the words
 5 "of the Code".
 6 2. Page 1, line 15, by striking the word and
 7 figure ", Code 1979" and inserting in lieu thereof
 8 the words "of the Code".
 9 3. Page 1, line 19, by striking the word and
 10 figure ", Code 1979" and inserting in lieu thereof
 11 the words "of the Code".

S-3598 FILED
 APRIL 24, 1979

RECEIVED FROM THE HOUSE

Senate concurred 4/25 (p. 1599)

SENATE FILE 447

AN ACT

RELATING TO PIPELINES BY ESTABLISHING CONSTRUCTION STANDARDS FOR PIPELINES TO PROTECT SOIL CONSERVATION AND DRAINAGE STRUCTURES AND PRACTICES AND ALLOWING LAND SURVEYS BY PIPELINE COMPANIES AFTER NOTICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter four hundred seventy-nine (479), Code 1979, is amended by adding the following new section:

NEW SECTION. CONSTRUCTION STANDARDS.

1. The commission shall, pursuant to chapter seventeen A (17A) of the Code, adopt rules establishing standards for the protection of underground improvements during the construction of pipelines, to protect soil conservation and

drainage structures from being permanently damaged by pipeline construction and for the restoration of agricultural lands after pipeline construction. To ensure that all interested persons are informed of this rule-making procedure and are afforded a right to participate, the commission shall schedule an opportunity for oral presentations on the proposed rule making, and, in addition to the requirements of section seventeen A point four (17A.4) of the Code, shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of chapter seventeen A (17A) of the Code, and subsequent to the rule-making proceedings, petition under those provisions for additional rule making to establish standards to protect soil conservation practices, structures and drainage structures within that county. Upon the request of the petitioning county the commission shall schedule a hearing to consider the merits of the petition. These rules adopted under this section shall not apply within the boundaries of a city.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A professional engineer familiar with the standards adopted under this section and registered under chapter one hundred fourteen (114) of the Code shall be in responsible charge of the inspection. A county board of supervisors may contract for the services of a professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective

action shall be borne by the contractor operating for the pipeline company.

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.

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.

6. If the pipeline company or its contractor does not comply with the orders of the inspector for compliance with the standards, the county board of supervisors may direct the county attorney to petition the district court for an order requiring corrective action to be taken in compliance with the standards adopted under this section.

Sec. 2. Chapter four hundred seventy-nine (479), Code 1979, is amended by adding the following new section:

NEW SECTION. A pipeline company may enter upon private land for the purpose of making land surveys to determine direction or depth of pipelines, not to exceed a depth of twenty-five feet, after receipt of a permit to construct, maintain and operate its pipeline by giving ten days written notice by restricted certified mail to the landowner as defined in section four hundred seventy-nine point five (479.5) of the Code and to any person residing on or in possession of the land. The entry for land surveys authorized in this section shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

Sec. 3. Section four hundred seventy-nine point four (479.4), unnumbered paragraphs two (2), three (3) and four (4), Code 1979, are amended by striking the unnumbered paragraphs.

Sec. 4. This Act is effective January first following its enactment.

TERRY E. BRANSTAD
President of the Senate

FLOYD H. MILLEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 447, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved *May 7* 1979

ROBERT D. RAY
Governor