



General Assembly

January Session, 2019

Raised Bill No. 887

LCO No. 4562



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:
(ET)

***AN ACT CONCERNING PERSONS INVOLVED IN THE
TRANSPORTATION OF NATURAL GAS AND REQUIREMENTS FOR
OPERATOR QUALIFICATION OF INDIVIDUALS PERFORMING
COVERED TASKS ON A PIPELINE FACILITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-7 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The utility commissioners of the Public Utilities Regulatory
4 Authority, or their designees, while engaged in the performance of
5 their duties may, at all reasonable times, enter any premises, buildings,
6 cars, plants or other places belonging to or controlled by any public
7 service company, [or] electric supplier or person involved in the
8 transportation of gas, as such terms are defined in section 16-280a, and
9 any person obstructing or in any way causing to be obstructed or
10 hindered any utility commissioner of the Public Utilities Regulatory
11 Authority or employee of the Public Utilities Regulatory Authority in
12 the performance of his or her duties shall be fined not more than two
13 hundred dollars or imprisoned not more than six months, or both.

14 Sec. 2. Section 16-8a of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective from passage*):

16 (a) No public service company, as defined in section 16-1, holding
17 company, as defined in section 16-47, person involved in the
18 transportation of gas, as such terms are defined in section 16-280a, or
19 Nuclear Regulatory Commission licensee operating a nuclear power
20 generating facility in this state, or person, firm, corporation, contractor
21 or subcontractor directly or indirectly providing goods or services to
22 such public service company, holding company, person involved in
23 the transportation of gas, as such terms are defined in section 16-280a,
24 or licensee, may take or threaten to take any retaliatory action against
25 an employee for the employee's disclosure of (1) any matter involving
26 the substantial misfeasance, malfeasance or nonfeasance in the
27 management of such public service company, holding company,
28 person involved in the transportation of gas, as such terms are defined
29 in section 16-280a, or licensee, or (2) information pursuant to section
30 31-51m. Any employee found to have knowingly made a false
31 disclosure shall be subject to disciplinary action by the employee's
32 employer, up to and including dismissal.

33 (b) Any employee of such a public service company, holding
34 company, person involved in the transportation of gas, as such terms
35 are defined in section 16-280a, or licensee, or of any person, firm,
36 corporation, contractor or subcontractor directly or indirectly
37 providing goods or services to such a public service company, holding
38 company, person involved in the transportation of gas, as such terms
39 are defined in section 16-280a, or licensee, having knowledge of any of
40 the following may transmit all facts and information in the employee's
41 possession to the Public Utilities Regulatory Authority: (1) Any matter
42 involving substantial misfeasance, malfeasance or nonfeasance in the
43 management of such public service company, holding company,
44 person involved in the transportation of gas, as such terms are defined
45 in section 16-280a, or licensee; or (2) any matter involving retaliatory
46 action or the threat of retaliatory action taken against an employee
47 who has reported the misfeasance, malfeasance or nonfeasance, in the

48 management of such public service company, holding company,
49 person involved in the transportation of gas, as such terms are defined
50 in section 16-280a, or licensee. With regard to any matter described in
51 subdivision (1) of this subsection, the authority shall investigate such
52 matter in accordance with the provisions of section 16-8 and shall not
53 disclose the identity of such employee without the employee's consent
54 unless it determines that such disclosure is unavoidable during the
55 course of the investigation. With regard to any matter described in
56 subdivision (2) of this subsection, the matter shall be handled in
57 accordance with the procedures set forth in subsections (c) and (d) of
58 this section.

59 (c) (1) Not more than ninety business days after receipt of a written
60 complaint, in a form prescribed by the authority, by an employee
61 alleging the employee's employer has retaliated against an employee
62 in violation of subsection (a) of this section, the authority shall make a
63 preliminary finding in accordance with this subsection.

64 (2) Not more than five business days after receiving a written
65 complaint, in a form prescribed by the authority, the authority shall
66 notify the employer by certified mail. Such notification shall include a
67 description of the nature of the charges and the substance of any
68 relevant supporting evidence. The employer may submit a written
69 response and both the employer and the employee may present
70 rebuttal statements in the form of affidavits from witnesses and
71 supporting documents and may meet with the authority informally to
72 respond verbally about the nature of the employee's charges. The
73 authority shall consider in making its preliminary finding as provided
74 in subdivision (3) of this subsection any such written and verbal
75 responses, including affidavits and supporting documents, received by
76 the authority not more than twenty business days after the employer
77 receives such notice. Any such response received after twenty business
78 days shall be considered by the authority only upon a showing of good
79 cause and at the discretion of the authority. The authority shall make
80 its preliminary finding as provided in subdivision (3) of this subsection
81 based on information described in this subdivision, without a public

82 hearing.

83 (3) Unless the authority finds by clear and convincing evidence that
84 the adverse employment action was taken for a reason unconnected
85 with the employee's report of substantial misfeasance, malfeasance or
86 nonfeasance, there shall be a rebuttable presumption that an employee
87 was retaliated against in violation of subsection (a) of this section if the
88 authority finds that: (A) The employee had reported substantial
89 misfeasance, malfeasance or nonfeasance in the management of the
90 public service company, holding company, person involved in the
91 transportation of gas, as such terms are defined in section 16-280a, or
92 licensee; (B) the employee was subsequently discharged, suspended,
93 demoted or otherwise penalized by having the employee's status of
94 employment changed by the employee's employer; and (C) the
95 subsequent discharge, suspension, demotion or other penalty followed
96 the employee's report closely in time.

97 (4) If such findings are made, the authority shall issue an order
98 requiring the employer to immediately return the employee to the
99 employee's previous position of employment or an equivalent position
100 pending the completion of the authority's full investigatory proceeding
101 pursuant to subsection (d) of this section.

102 (d) Not later than thirty days after making a preliminary finding in
103 accordance with the provisions of subsection (c) of this section, the
104 authority shall initiate a full investigatory proceeding in accordance
105 with the provisions of section 16-8, at which time the employer shall
106 have the opportunity to rebut the presumption. The authority may
107 issue orders, impose civil penalties, order payment of back pay or
108 award attorneys' fees in a manner that conforms with the notice and
109 hearing provisions in section 16-41 against a public service company,
110 holding company, person involved in the transportation of gas, as such
111 terms are defined in section 16-280a, or licensee or a person, firm,
112 corporation, contractor or subcontractor directly or indirectly
113 providing goods or services to such public service company, holding
114 company, person involved in the transportation of gas, as such terms

115 are defined in section 16-280a, or licensee, in order to enforce the
116 provisions of this section.

117 (e) If an employee or former employee of such a public service
118 company, holding company, person involved in the transportation of
119 gas, as such terms are defined in section 16-280a, or licensee, or of a
120 person, firm, corporation, contractor or subcontractor directly or
121 indirectly providing goods or services to such a public service
122 company, holding company, person involved in the transportation of
123 gas, as such terms are defined in section 16-280a, or licensee, having
124 knowledge of any matter involving the substantial misfeasance,
125 malfeasance or nonfeasance in the management of such public service
126 company, holding company, person involved in the transportation of
127 gas, as such terms are defined in section 16-280a, or licensee, enters
128 into an agreement with the employee's employer that contains a
129 provision directly or indirectly discouraging the employee from
130 presenting a written complaint or testimony concerning such
131 misfeasance, malfeasance or nonfeasance in any legislative,
132 administrative or judicial proceeding, such provision shall be void as
133 against public policy.

134 (f) The Public Utilities Regulatory Authority shall adopt regulations,
135 in accordance with chapter 54, to carry out the provisions of this
136 section. Such regulations shall include the following: (1) The
137 procedures by which a complaint may be brought pursuant to
138 subsection (a) of this section; (2) the time period in which such a
139 complaint may be brought; (3) the time period by which the authority
140 shall render a decision pursuant to subsection (d) of this section; (4) the
141 form on which written complaints shall be submitted to the authority
142 by an employee pursuant to subsection (c) of this section; and (5) the
143 requirement that a notice be posted in the workplace informing all
144 employees of any public service company, holding company, person
145 involved in the transportation of gas, as such terms are defined in
146 section 16-280a, and licensee and of any person, firm, corporation,
147 contractor or subcontractor directly or indirectly providing goods or
148 services to a company or licensee, as defined in subsection (b) of this

149 section, of their rights under this section, including the right to be
150 reinstated in accordance with subsection (c) of this section.

151 Sec. 3. Section 16-11 of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective from passage*):

153 The Public Utilities Regulatory Authority shall, so far as is
154 practicable, keep fully informed as to the condition of the plant,
155 equipment and manner of operation of all public service companies
156 and persons involved in the transportation of gas, as such terms are
157 defined in section 16-280a, in respect to their adequacy and suitability
158 to accomplish the duties imposed upon such companies by law and in
159 respect to their relation to the safety of the public and of the employees
160 of such companies. The authority may order such reasonable
161 improvements, repairs or alterations in such plant or equipment, or
162 such changes in the manner of operation, as may be reasonably
163 necessary in the public interest. The general purposes of this section
164 and sections 16-19, 16-25, 16-43 and 16-47 are to assure to the state of
165 Connecticut its full powers to regulate its public service companies, to
166 increase the powers of the Public Utilities Regulatory Authority and to
167 promote local control of the public service companies of this state, and
168 said sections shall be so construed as to effectuate these purposes.

169 Sec. 4. Section 16-16 of the general statutes is repealed and the
170 following is substituted in lieu thereof (*Effective from passage*):

171 Each public service company, [and] electric supplier and person
172 involved in the transportation of gas, as such terms are defined in
173 section 16-280a, subject to regulation by the Public Utilities Regulatory
174 Authority shall, in the event of any accident attended with personal
175 injury or involving public safety, which was or may have been
176 connected with or due to the operation of its or his property, or caused
177 by contact with the wires of any public service company or electric
178 supplier, notify the authority thereof, by telephone or otherwise, as
179 soon as may be reasonably possible after the occurrence of such
180 accident, unless such accident is a minor accident, as defined by

181 regulations of the authority. Each such person, company or electric
182 supplier shall report such minor accidents to the authority in writing,
183 in summary form, once each month. If notice of such accident, other
184 than a minor accident, is given otherwise than in writing, it shall be
185 confirmed in writing within five days after the occurrence of such
186 accident. Any person, company or electric supplier failing to comply
187 with the provisions of this section shall be fined not more than five
188 hundred dollars for each offense.

189 Sec. 5. Subsection (a) of section 16-41 of the general statutes is
190 repealed and the following is substituted in lieu thereof (*Effective from*
191 *passage*):

192 (a) Each (1) public service company and its officers, agents and
193 employees, (2) electric supplier or person providing electric generation
194 services without a license in violation of section 16-245, and its officers,
195 agents and employees, (3) certified telecommunications provider or
196 person providing telecommunications services without authorization
197 pursuant to sections 16-247f to 16-247h, inclusive, and its officers,
198 agents and employees, (4) person, public agency or public utility, as
199 as such terms are defined in section 16-345, subject to the requirements of
200 chapter 293, (5) person subject to the registration requirements under
201 section 16-258a, (6) cellular mobile telephone carrier, as described in
202 section 16-250b, (7) Connecticut electric efficiency partner, as defined
203 in section 16-243v, (8) company, as defined in section 16-49, [and] (9)
204 entity approved to submeter pursuant to section 16-19ff, and (10)
205 person involved in the transportation of gas, as such terms are defined
206 in section 16-280a, shall obey, observe and comply with all applicable
207 provisions of this title and each applicable order made or applicable
208 regulations adopted by the Public Utilities Regulatory Authority by
209 virtue of this title as long as the same remains in force. Any such
210 company, electric supplier, certified telecommunications provider,
211 cellular mobile telephone carrier, Connecticut electric efficiency
212 partner, entity approved to submeter, person, any officer, agent or
213 employee thereof, public agency or public utility which the authority
214 finds has failed to obey or comply with any such provision of this title,

215 order or regulation shall be fined by order of the authority in
216 accordance with the penalty prescribed for the violated provision of
217 this title or, if no penalty is prescribed, not more than ten thousand
218 dollars for each offense, except that the penalty shall be a fine of not
219 more than forty thousand dollars for failure to comply with an order of
220 the authority made in accordance with the provisions of section 16-19
221 or 16-247k or within thirty days of such order or within any specific
222 time period for compliance specified in such order. Each distinct
223 violation of any such provision of this title, order or regulation shall be
224 a separate offense and, in case of a continued violation, each day
225 thereof shall be deemed a separate offense. Each such penalty and any
226 interest charged pursuant to subsection (g) or (h) of section 16-49 shall
227 be excluded from operating expenses for purposes of rate-making.

228 Sec. 6. Section 16-280e of the general statutes is repealed and the
229 following is substituted in lieu thereof (*Effective from passage*):

230 (a) Any person that violates any provision of the federal act, any
231 regulation issued under the federal act, any provision of this chapter or
232 any regulation adopted by the authority pursuant to subsection (b) or
233 (c) of section 16-280b, shall be subject to a civil penalty not to exceed
234 the higher of the maximum civil penalty provided under 49 USC
235 60122(a), as amended, or 49 CFR 190.223(a), as amended from time to
236 time.

237 (b) Any such civil penalty may be compromised by the Public
238 Utilities Regulatory Authority. In determining the amount of such
239 penalty, or the amount agreed upon in compromise, the authority shall
240 consider the criteria set forth in 49 USC 60122(b), as amended.

241 (c) Nothing in this section shall be construed to limit the penalties
242 available under section 16-33.

243 Sec. 7. (NEW) (*Effective from passage*) (a) For purposes of this section:

244 (1) "Covered task" means an activity that is performed on a pipeline
245 facility and that affects the safety or integrity of the pipeline; and

246 (2) "Evaluation" means a process, established and documented by
247 the operator, to determine an individual's ability to perform a covered
248 task by a (A) a written or oral examination, and (B) observation during
249 performance on the job or simulations.

250 (b) In addition to the minimum requirements for operator
251 qualification of individuals performing covered tasks on a pipeline
252 facility pursuant to 49 CFR 192, Subpart N, the requirements of this
253 section shall be applicable to such operators in the state.

254 (c) Each operator shall:

255 (1) Evaluate an individual if the operator has reason to believe that
256 the individual did not correctly perform a covered task;

257 (2) Train all individuals to ensure that individuals performing
258 covered tasks have the necessary knowledge and skills to perform
259 covered tasks in a manner that ensures the safe operation of pipeline
260 facilities;

261 (3) Document in a plan the training requirements, including, but not
262 limited to, the minimum training time for each covered task;

263 (4) Conduct evaluations more than forty-eight hours after training;

264 (5) Ensure that the evaluation process is performed by operator
265 personnel or independent third-party contractors;

266 (6) Ensure that the evaluation process evaluates task-specific
267 abnormal operating conditions;

268 (7) Ensure that inspectors are qualified for the covered tasks they
269 are inspecting;

270 (8) Ensure that the training and evaluation process is specific to the
271 operator's plans, procedures and standards; and

272 (9) Ensure that the written qualification program includes a training
273 and evaluation process for personnel performing engineering tasks.

274 Sec. 8. (NEW) (*Effective from passage*) (a) Any person involved in the
 275 transportation of gas, as such terms are defined in section 16-280a of
 276 the general statutes, except persons involved in the transportation of
 277 propane, shall utilize geographic information systems to map all of
 278 such person's pipeline facilities, as defined in section 16-280a of the
 279 general statutes.

280 (b) Any person involved in the transportation of gas, as such terms
 281 are defined in section 16-280a of the general statutes, except persons
 282 involved in the transportation of propane, shall provide remote real-
 283 time read-only access to all of such person's electronic systems, if the
 284 authority determines that such access will be beneficial in keeping the
 285 authority fully informed as to the condition of a plant, equipment and
 286 manner of operation pursuant to section 16-11 of the general statutes.

287 Sec. 9. (NEW) (*Effective from passage*) On or before October 1, 2019,
 288 and on or before October first of each year thereafter, any person
 289 involved in the transportation of gas, as such terms are defined in
 290 section 16-280a of the general statutes, except persons involved in the
 291 transportation of natural gas, shall submit to the authority, on a form
 292 prescribed by the authority, information the authority deems relevant
 293 about such person's propane distribution systems that are subject to
 294 the jurisdiction of the authority. Any changes to such information
 295 submitted shall be submitted to the authority within thirty days of
 296 such change.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-7
Sec. 2	<i>from passage</i>	16-8a
Sec. 3	<i>from passage</i>	16-11
Sec. 4	<i>from passage</i>	16-16
Sec. 5	<i>from passage</i>	16-41(a)
Sec. 6	<i>from passage</i>	16-280e
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section

Statement of Purpose:

To (1) make certain provisions concerning the Public Utilities Regulatory Authority's right to enter, protections from retaliation, the authority's knowledge of the condition of plants, equipment and operations, reporting of accidents and certain civil penalties applicable to persons involved in the transportation of gas, (2) add to the federal minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility, (3) add requirements for certain persons involved in the transportation of gas concerning utilization of geographic information systems and provision of access to electronic systems to the authority, and (4) add requirements for certain persons involved in the transportation of gas concerning submission of information to the authority.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]