

SENATE No. 1959

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to ensuring gas safety and consumer fairness.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/31/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>1/31/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>1/31/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2019</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>2/1/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/7/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/14/2019</i>

SENATE No. 1959

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1959) of James B. Eldridge, Lori A. Ehrlich, Bruce E. Tarr, Dean A. Tran and other members of the General Court for legislation to ensure gas safety and consumer fairness. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to ensuring gas safety and consumer fairness.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 164, as appearing in the 2016 Official Edition of the General Laws,
2 is hereby amended by inserting after section 94I the following section:-

3 Section 94J. The department shall disallow allocation to the ratepayer of the cost of any
4 lost and unaccounted for gas as identified and measured pursuant to section 19 of chapter 227 of
5 the Acts of 2018 as coming from leaking infrastructure by January 1, 2023.

6 SECTION 2. Subsection (b)(2) of section 144 of said chapter 164, as so appearing, is
7 hereby amended by striking out, in line 11, the words “whenever appropriate and feasible.”.

8 SECTION 3. Said subsection (b)(2) of section 144 of chapter 164, as so appearing, is
9 hereby amended by inserting, in line 12, after the word “notify” the following words:-

10 “within an hour or less of detection”.

11 SECTION 4. Subsection (b)(3) of said section 144 of chapter 164, as so appearing, is
12 hereby amended by striking out, lines 16 through 22, after the word “future”, and inserting in
13 place thereof the following:-

14 “hazard to be completed as immediately as possible. The gas company shall immediately
15 schedule a completion of repairs, such repair to be completed within 6 months, and the condition
16 of such leak shall be kept under surveillance at a frequency of not less than once every two
17 weeks until the hazard or source of the leak is eliminated. For the purposes of this section, a
18 Grade 2 leak shall include: (i) any leak migrating into the root zone of a tree, defined as co-
19 extensive with the canopy of such tree; (ii) any leak within 10 feet of any foundation or wall; (iii)
20 any gas-in-air reading of up to 1 per cent in any manhole or confined space; (iv) any leak deemed
21 of sufficient magnitude by the fire chief of a municipality to be hazardous or to be a public
22 nuisance; and (v) any gas leak within 150 feet of a school zone, as defined in subsection (d). A
23 gas company shall notify within an hour or less of detection the fire department and chief law
24 enforcement officer in each city or town where a Grade 2 leak is identified.

25 (A) A municipality or person whose property is alleged to have been damaged by a gas
26 company may submit a claim for such damages with the department, which shall follow the
27 procedures of chapter 30A for the resolution of any such claim.

28 (B) Any suspected damage to a tree due to a natural gas leak should be reported to the gas
29 company for mandatory inspection by a qualified arborist. If a qualified arborist determines that
30 a tree is damaged or killed by a natural gas leak, the gas company shall provide the entity which
31 owns the tree with the funds of equal or greater value to replace the compromised tree. The
32 department shall promulgate rules and regulations to implement this section.

33 SECTION 5. Subsection (b) (4) of said section 144 of chapter 164, as so appearing, is
34 hereby amended by inserting after the word “safety.”, in line 32, the following:-

35 “A gas company shall notify within an hour or less of detection the fire department and
36 chief law enforcement officer in each city or town where a Grade 3 leak is identified.”

37 SECTION 6. Said section 144 of chapter 164, as so appearing, is here by amended by
38 striking out subsection (c), in lines 33 through 48, and inserting in place thereof the following:-

39 (c) (1) For the purposes of this subsection, a Grade 3 leak identified as having a
40 significant environmental impact shall be defined by the department, and such definition shall
41 include those leaks whose estimated gas emissions per day are in the top 7% of all Grade 3 leaks
42 in the commonwealth.

43 (2) Upon the undertaking of a significant project on a public way exposing confirmed
44 natural gas infrastructure, and with sufficient notice, a municipality or the commonwealth shall
45 submit written notification of the project to a gas company. In response to such notice from the
46 municipality or upon seeking a permit from a municipality to open a public way for the purpose
47 of repairing or replacing leak-prone infrastructure, the gas company shall survey the project area
48 for the presence of Grade 1 leaks, Grade 2 leaks and Grade 3 leaks identified as having a
49 significant environmental impact and shall set repair and replacement schedules for all known or
50 newly detected Grade 1 leaks, Grade 2 leaks and Grade 3 leaks identified as having a significant
51 environmental impact. The gas company shall provide to such municipality for each such leak,
52 the location, history, and grade classification as defined in this section, and for each such
53 pipeline, the age, type, condition, operating pressure, size and material. Upon completion of any
54 repair or replacement of leak-prone infrastructure, the gas company shall provide to such

55 municipality a report from a certified gas inspector that (i) all pipes are installed at the proper
56 depth and all new joints are sealed; (ii) all gas shutoff valves and gate boxes are uncovered,
57 accessible, operational, tested and capable of accepting a gate key; (iii) the repaired or replaced
58 infrastructure is free from defects that could cause new leaks; and (iv) the repair or replacement
59 has otherwise been properly completed according to state and federal regulations.

60 SECTION 7. Said section 144 of chapter 164, as so appearing, is here by amended by
61 striking out subsection (d), in lines 49 through 54, and inserting in place thereof the following:-

62 (d) A gas company shall survey pipelines in every school zone at least once every 12
63 months or during the next scheduled survey, whichever is sooner. Grade 3 gas leaks detected in a
64 school zone shall be repaired by the gas company no later than 6 months from the date the leak
65 was detected. Grade 1 leaks and Grade 2 leaks shall be repaired as required in subsection (b) of
66 this section. For the purposes of this section, "school zone" shall mean on or within 150 feet of
67 the real property comprising a public or private accredited preschool, accredited Head Start
68 facility, elementary, vocational or secondary school.

69 SECTION 8. Said section 144 of chapter 164, as so appearing, is here by amended by
70 striking out subsection (e), in lines 55 through 63, and inserting in place thereof the following:-

71 (e) (1) For the purposes of this subsection, the following words shall have the following
72 meaning:-

73 "global positioning system," a positioning system using satellites that continuously
74 transmit coded information. The information transmitted from the satellites is interpreted by
75 receivers to precisely identify locations on earth by measuring distance from the satellites.

76 (2) As part of the annual service quality standards report required by section 1I, each gas
77 company shall report to the department the following data as of the time of the report: (i) the
78 location of each Grade 1, Grade 2 and Grade 3 leak; (ii) the date each Grade 1, Grade 2 and
79 Grade 3 leak was classified; (iii) the dates of repairs performed on each Grade 1, Grade 2 and
80 Grade 3 leak; and (iv) the positioning of each such leak according to the global positioning
81 system. A gas company shall specify any reclassification of previously identified leaks in its
82 annual report.

83 (3) The annual service quality standards report shall be posted electronically and
84 publically by March 1 by the department in spreadsheet format, which shall include, or be
85 accompanied by, definitions of terms or acronyms, methodologies and instrumentation used to
86 detect a gas leak and to determine its grade, emissions, volume and emissions impact. The report
87 shall include the cost to ratepayers of (i) lost and unaccounted for gas; (ii) system maintenance;
88 (iii) leak-prone infrastructure replacements and percent remaining under plans mandated by
89 subsection (b) of section 145; (iv) safety violations by each gas company, including but not
90 limited to, over pressurization incidents, third-party hits, and natural force pipe failures, reported
91 both as absolute numbers as well as by incidents per linear mile of pipe; (v) the cost of replacing
92 all leak-prone infrastructure as compared to repairing all known gas leaks in the commonwealth;
93 and (vi) progress by the department and the gas companies regulated under this chapter towards
94 achieving the targets and benchmarks mandated by chapter 21N. The department shall post a
95 map of all leaks by grade classification, updated quarterly, showing the location of such leaks
96 throughout the commonwealth.

97 SECTION 9. Said section 144 of chapter 164, as so appearing, is hereby amended by
98 inserting after subsection (f), the following:-

99 (g) The department shall promulgate regulations establishing uniform standards for
100 winter surveillance and patrol of cast iron pipes subject to hazardous frost cap conditions. Such
101 standards shall meet or exceed federally mandated standards for integrity management
102 requirements for distribution pipelines and shall include criteria to determine the conditions of
103 weather, the duration and oscillation of temperatures around and below 32 degrees Fahrenheit,
104 the type and size of cast iron pipe segments that are prone to cracks and leaks as a result of
105 extended frost cap conditions and the frequency of surveillance and patrol necessary to ensure
106 public safety from hazardous leaks caused by such cracks. Such winter surveillance and patrol
107 standards shall be in effect from December 15 to March 15 unless weather conditions warrant an
108 earlier start or later end date. Such regulations shall be promulgated by the department within 6
109 months of the effective date of this provision.

110 SECTION 10. Section 145 of said chapter 164, as so appearing, is hereby amended by
111 striking out subsection (b) and inserting in place thereof the following subsection:-

112 (b) A gas company shall file with the department a plan to address aging or leaking
113 natural gas infrastructure within the commonwealth in the interest of public health and safety and
114 reducing lost and unaccounted for natural gas through a reduction in natural gas system leaks by
115 number and by volume.

116 SECTION 11. Section 145 of said chapter 164, as so appearing, is hereby amended by
117 striking out subsection (c) and inserting in place thereof the following subsection:-

118 (c) (1) For the purposes of this subsection, a Grade 3 leak identified as having a
119 significant environmental impact shall be defined by the department, and such definition shall

120 include those leaks whose estimated gas emissions per day are in the top 7% of all Grade 3 leaks
121 in the commonwealth.

122 (2) Any plan filed with the department shall include, but not be limited to: (i) eligible
123 infrastructure replacement or repair of mains, services, meter sets and other ancillary facilities
124 composed of non-cathodically protected steel, cast iron and wrought iron, prioritized to
125 implement the federal gas distribution pipeline integrity management plan annually submitted to
126 the department and consistent with subpart P of 49 C.F.R. part 192; (ii) replacement
127 infrastructure proposed; (iii) an anticipated timeline for the completion of each project; (iv) the
128 estimated cost of each project; (v) rate change requests; (vi) a description of customer costs and
129 benefits under the plan; (vii) work plans including location by street segments of leak-prone
130 infrastructure scheduled to be replaced as required by this section; and (viii) any other
131 information the department considers necessary to evaluate the plan. Such improvement of
132 existing infrastructure may include repair rather than replacement of a pipe having a grade 3 leak
133 identified as having a significant environmental impact as classified by section 144 (c), provided,
134 however that such repair shall be cost effective and shall comply with applicable safety
135 regulations related to pipeline infrastructure.

136 SECTION 12. Subsection (d) of said section 145 of said chapter 164, as so appearing, is
137 hereby amended by inserting, in line 63, after the word “public” the following words:-

138 “health and”.

139 SECTION 13. Said section 145 of chapter 164, as so appearing, is hereby amended by
140 inserting after subsection (h) the following subsection:-

141 (i) Within 30 days of approval of any plan submitted to the department by a gas company
142 for replacement or improvement of any existing infrastructure pursuant to this section, the
143 department shall send such plan and such approval to the municipality whose service territory is
144 covered by such plan.