

116TH CONGRESS
2D SESSION

H. R. 8085

To amend title 49, United States Code, to direct the Secretary of Transportation to carry out a pipeline safety enhancement program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 21, 2020

Mr. VEASEY (for himself, Mrs. FLETCHER, Mr. LATTA, and Mr. BALDERSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to direct the Secretary of Transportation to carry out a pipeline safety enhancement program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pipeline Safety Pilot
5 Program Act”.

1 **SEC. 2. ADVANCEMENT OF NEW PIPELINE SAFETY TECH-**
2 **NOLOGIES AND APPROACHES.**

3 (a) IN GENERAL.—Chapter 601 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 60142. Pipeline safety enhancement programs**

7 “(a) IN GENERAL.—The Secretary shall establish
8 and carry out limited safety-enhancing testing programs
9 during the period of fiscal years 2020 through 2026 to
10 evaluate innovative technologies and operational practices
11 testing the safe operation of—

12 “(1) a natural gas pipeline facility; or

13 “(2) a hazardous liquid pipeline facility.

14 “(b) LIMITATIONS.—

15 “(1) IN GENERAL.—Such testing programs may
16 not exceed—

17 “(A) 5 percent of the total miles of haz-
18 ardous liquid pipelines in the United States;
19 and

20 “(B) 5 percent of the total miles of natural
21 gas pipelines in the United States.

22 “(2) INDIVIDUAL OPERATOR MILEAGE LIMITA-
23 TION.—The Secretary shall limit the mileage an in-
24 dividual operator can test under each program es-
25 tablished under subsection (a) to the lesser of—

1 “(A) 50 percent of the total pipeline mile-
2 age in the operator’s system; or

3 “(B) 1,000 miles.

4 “(3) HIGH POPULATION AREAS; HIGH CON-
5 SEQUENCE AREAS.—Any program established under
6 subsection (a) shall not be located in a high popu-
7 lation area (as defined in section 195.450 of title 49,
8 Code of Federal Regulations) or a high consequence
9 area (as defined in section 192.903 of title 49, Code
10 of Federal Regulations).

11 “(4) UNUSUALLY SENSITIVE AREAS.—Any pro-
12 gram established under subsection (a) shall not be
13 located in an unusually sensitive area (as described
14 in section 60109(b)).

15 “(5) HIGH CONSEQUENCE AREAS FOR HAZ-
16 ARDOUS LIQUID PIPELINES.—

17 “(A) IN GENERAL.—Not later than 1 year
18 after the date of enactment of this section, the
19 Secretary shall submit to Congress a report
20 containing an examination of the benefits and
21 costs of prohibiting testing in high consequence
22 areas (as defined in section 195.450 of title 49,
23 Code of Federal Regulations) for hazardous liq-
24 uid pipelines.

1 “(B) CONTENTS OF REPORT.—The report
2 described in subparagraph (A) shall examine
3 the safety benefits of allowing testing for haz-
4 ardous liquid pipelines in high consequence
5 areas and whether additional testing conditions
6 are required to protect such areas while con-
7 ducting the program established under sub-
8 section (a) in such areas.

9 “(6) RESTRICTION.—

10 “(A) IN GENERAL.—The Secretary shall
11 not approve a program under this section until
12 the report required under paragraph (5) is sub-
13 mitted to Congress.

14 “(B) EXCEPTION.—The limitation in sub-
15 paragraph (A) shall not apply if—

16 “(i) the Secretary determines that
17 there is a need for a program under this
18 section; and

19 “(ii) more than 1 year has passed
20 since the date of enactment of this section.

21 “(c) DURATION.—The term of a testing program es-
22 tablished under subsection (a) shall be not more than a
23 period of 4 years beginning on the date of approval of the
24 program.

25 “(d) SAFETY STANDARDS.—

1 “(1) IN GENERAL.—The Secretary shall re-
2 quire, as a condition of approval of a testing pro-
3 gram under subsection (a), that the safety measures
4 in the testing program are designed to achieve a
5 level of safety that is greater than, or equivalent to,
6 the level of safety required by this chapter.

7 “(2) DETERMINATION.—

8 “(A) IN GENERAL.—The Secretary may
9 issue an order under subparagraph (A) of sec-
10 tion 60118(c)(1) to accomplish the purpose of
11 a testing program for a term not to exceed the
12 time period described in subsection (c) if the
13 condition described in paragraph (1) is met, as
14 determined by the Secretary.

15 “(B) LIMITATION.—An order under sub-
16 paragraph (A) shall pertain only to those regu-
17 lations that would otherwise prevent the use of
18 the safety technology to be tested under the
19 testing program.

20 “(e) CONSIDERATIONS.—In establishing a testing
21 program under subsection (a), the Secretary shall con-
22 sider—

23 “(1) the accident or incident record of the own-
24 ers or operators participating in the program;

1 “(2) whether the owners or operators partici-
2 pating in the program have a safety management
3 system in place and how the application for such
4 program proposes to eliminate or mitigate any po-
5 tential safety risks;

6 “(3) a description of any measures or activities
7 the owners or operators participating in the program
8 propose to eliminate or mitigate any environmental
9 risks;

10 “(4) a description of any previous testing and
11 the outcome of such testing of the proposed safety
12 technology through a research and development pro-
13 gram carried out by—

14 “(A) the Secretary;

15 “(B) collaborative research development
16 organizations; or

17 “(C) other institutions;

18 “(5) whether there have been other testing pro-
19 grams granted under subsection (a) similar to the
20 proposed safety technology and the outcome of such
21 programs; and

22 “(6) whether the pipeline segments tested by
23 the program could affect, or are outside of, high
24 consequence areas (as defined in sections 192.903
25 and 195.450 of title 49, Code of Federal Regula-

1 tions) and unusually sensitive areas (as described in
2 section 60109(b)).

3 “(f) MULTIPLE OPERATORS.—

4 “(1) IN GENERAL.—The Secretary may select
5 up to 5 owners or operators to carry out a testing
6 program under subsection (a) in a single application.

7 “(2) DETERMINATION.—In selecting owners or
8 operators under paragraph (1), the Secretary shall
9 determine that each testing program proposed by
10 such owners or operators—

11 “(A) meet the requirements of subsection
12 (d)(1);

13 “(B) test a similar technology, best prac-
14 tice, or related set of technologies and best
15 practices; and

16 “(C) provides appropriate testing condi-
17 tions for the technologies or practices being
18 used.

19 “(3) AUTHORITY TO REVOKE PARTICIPATION.—

20 “(A) IN GENERAL.—If an owner or oper-
21 ator participating in a program established
22 under subsection (a), the Secretary may revoke
23 permission to participate in such program if—

24 “(i) the owner or operator is involved
25 in an accident or incident and the testing

1 program is determined to be the cause or
2 a contributing factor of such accident or
3 incident; or

4 “(ii) the Secretary determines revoca-
5 tion of permission is warranted for public
6 safety reasons.

7 “(g) DATA AND FINDINGS.—

8 “(1) IN GENERAL.—As a participant in a test-
9 ing program established under subsection (a), an
10 owner or operator shall submit to the Secretary de-
11 tailed findings and a summary of data collected as
12 a result of participation in the testing program.

13 “(2) PUBLIC REPORT.—To the extent prac-
14 ticable, the Secretary shall make a yearly interim re-
15 port publicly available on the website of the Depart-
16 ment of Transportation for any ongoing testing pro-
17 gram established under subsection (a) summarizing
18 the progress of such program.

19 “(h) AUTHORITY TO REVOKE PARTICIPATION.—The
20 Secretary shall immediately revoke participation in a test-
21 ing program under subsection (a) if—

22 “(1) the participant has an accident or incident
23 involving a death, or personal injury necessitating
24 in-patient hospitalization and the testing program is

1 determined to be the cause or a contributing factor
2 to such accident or incident;

3 “(2) the participant fails to comply with the
4 terms and conditions of the testing program; or

5 “(3) in the determination of the Secretary, con-
6 tinued participation in the testing program by the
7 participant would be unsafe.

8 “(i) AUTHORITY TO TERMINATE PROGRAM.—The
9 Secretary shall immediately terminate a testing program
10 under subsection (a) if continuation of the testing pro-
11 gram would not be consistent with the goals and objectives
12 of this chapter.

13 “(j) STATE RIGHTS.—

14 “(1) EXEMPTION.—Except as provided in para-
15 graph (2), if a State submits to the Secretary notice
16 that the State requests an exemption from any test-
17 ing program considered for establishment under this
18 section, the State shall be exempt.

19 “(2) LIMITATIONS.—

20 “(A) IN GENERAL.—The Secretary shall
21 not grant a requested exemption under para-
22 graph (1) after a testing program is estab-
23 lished.

24 “(B) LATE NOTICE.—The Secretary shall
25 not grant a requested exemption under para-

graph (1) if the notice submitted under that paragraph is submitted to the Secretary more than 10 days after the date on which the Secretary issues an order providing an effective date for the testing program.

“(3) EXCEPTION.—A State shall be eligible to withdraw from a testing program if an owner or operator conducting such testing program in such State has an incident involving a death, a personal injury necessitating in-patient hospitalization, or a reportable accident (within the meaning of sections 195.50 and 191.3 of title 49, Code of Federal Regulations), and the testing program is determined to be the cause or a contributing factor to such incident.

“(4) EFFECT.—If a State has not submitted a notice requesting an exemption under paragraph (1), the State shall not enforce any law (including regulations) that is inconsistent with a testing program in effect in the State under this section.

“(k) PROGRAM REVIEW PROCESS AND PUBLIC NOTICE.—

“(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of each testing program under subsection (a), including the order to be

1 considered, and provide an opportunity for public
2 comment for not less than 60 days.

3 “(2) COMMUNICATION WITH STATES.—

4 “(A) IN GENERAL.—As part of carrying
5 out the process described in paragraph (1), the
6 Secretary shall individually notify, at the time
7 described in paragraph (1), the relevant au-
8 thorities in the States such testing programs
9 would be conducted in.

10 “(B) NOTIFICATION CONTENTS.—The no-
11 tification described in subparagraph (A) shall
12 include a specific list of the laws or regulations
13 that the State would not be allowed to enforce
14 pursuant to subsection (j)(4) should such test-
15 ing program go into effect, and the ability of
16 the State to request an exemption from the pro-
17 gram.

18 “(3) RESPONSE FROM SECRETARY.—Not later
19 than the date on which the Secretary issues an order
20 providing an effective date of a testing program no-
21 ticed under paragraph (1), the Secretary shall re-
22 spond to each comment submitted under that para-
23 graph.

24 “(l) REPORT TO CONGRESS.—At the conclusion of
25 each testing program, the Secretary shall make publicly

1 available on the website of the Department of Transpor-
2 tation a report containing—

3 “(1) the findings and conclusions of the Sec-
4 retary with respect to the testing program; and

5 “(2) any recommendations of the Secretary
6 with respect to the testing program, including any
7 recommendations for amendments to laws (including
8 regulations) and the establishment of standards,
9 that—

10 “(A) would enhance the safe operation of
11 interstate gas or hazardous liquid pipeline fa-
12 cilities; and

13 “(B) are technically, operationally, and
14 economically feasible.

15 “(m) STANDARDS.—If a report under subsection (l)
16 indicates that it is practicable to establish technically,
17 operationally, and economically feasible standards for the
18 use of a safety-enhancing technology and any cor-
19 responding operational practices tested by the testing pro-
20 gram described in the report, the Secretary, as soon as
21 practicable after submission of the report, may promulgate
22 regulations consistent with chapter 5 of title 5 (commonly
23 known as the ‘Administrative Procedures Act’) that—

1 “(1) allow operators of interstate gas or haz-
2 ardous liquid pipeline facilities to use the relevant
3 technology or practice to the extent practicable; and

4 “(2) establish technically, operationally, and
5 economically feasible standards for the capability
6 and deployment of the technology or practice.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for chapter 601 of title 49, United States Code, is amend-
9 ed by inserting after the item relating to section 60141
10 the following:

“60142. Pipeline safety enhancement programs.”.

