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Date: (Filing No. H- )

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 174, L.D. 197, Bill, “An Act To Improve Response to Gas Safety Emergencies”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 25 MRSA §2394**, as amended by PL 1973, c. 632, §4, is further amended to read:

**§2394. Investigation of fire origin; Attorney General may direct**

When property is destroyed or damaged by fire, the municipal fire inspector shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The Attorney General may supervise and direct such investigation whenever ~~he deems it~~ the Attorney General determines it to be expedient or necessary. If arson is suspected, ~~such~~ the municipal fire inspector shall immediately notify the State Fire Marshal or an inspector of ~~his office~~ the Office of the State Fire Marshal, who shall cause a full investigation thereof to be conducted. The State Fire Marshal and ~~his~~ agents or employees ~~shall have the authority to~~ of the Office of the State Fire Marshal may investigate or cause to be investigated any fire or explosion within the State.

**1. Certain explosions or fires; investigation and securing of evidence.** In accordance with the protocol adopted by the State Fire Marshal pursuant to this subsection, the State Fire Marshal shall investigate and secure evidence of a gas explosion event. For purposes of this subsection, "gas explosion event" means an explosion or fire caused or suspected to be caused by or that involves natural gas or liquefied petroleum gas and that causes injury or substantial property damage, as determined according to the protocol adopted under this subsection. The State Fire Marshal shall develop a protocol for investigating and securing evidence under this section that:

**COMMITTEE AMENDMENT**

1           A. Establishes reasonable standards for determining whether an explosion or fire  
2           may have been caused by or involved natural gas or liquefied petroleum gas and  
3           whether the explosion or fire caused injury or substantial property damage; and

4           B. Establishes procedures for informing local fire officials of the requirements of this  
5           subsection and for coordinating the investigation, as appropriate, with local fire  
6           officials, the Public Utilities Commission, the utility or other entity that controlled,  
7           transported or delivered the natural gas or liquefied petroleum gas and other relevant  
8           entities.

9           **Sec. 2. 35-A MRSA §117, sub-§3**, as corrected by RR 2009, c. 2, §98, is  
10          amended to read:

11          **3. Administrative penalties.** Except as provided in this subsection, all  
12          administrative penalties collected by the commission must be deposited into the Public  
13          Utilities Commission Reimbursement Fund.

14           A. The commission may use amounts collected as administrative penalties and  
15           deposited in the Public Utilities Commission Reimbursement Fund to reimburse the  
16           commission for additional expenses associated with the enforcement activities that  
17           resulted in the collection of the penalty. If the Department of Public Safety, Office of  
18           the State Fire Marshal undertakes an investigation of a gas explosion event pursuant  
19           to Title 25, section 2394, subsection 1 involving a gas utility or a natural gas pipeline  
20           utility subject to the jurisdiction of the commission, the commission, at the request of  
21           the State Fire Marshal, may reimburse the Office of the State Fire Marshal for its  
22           additional expenses associated with that investigation.

23           B. After deducting any amount used pursuant to paragraph A, the commission may,  
24           to the extent practicable and in as equitable and fair a manner as possible, apply  
25           administrative penalties, along with any accrued interest, in accordance with this  
26           paragraph. The commission shall seek to apply the amount in a manner that benefits  
27           those customers affected or potentially affected by the violation, if they can  
28           reasonably be identified or, if the commission determines this application of the  
29           amount to be impractical or unreasonable, in a manner that benefits the class or group  
30           of customers affected or potentially affected by the violation. In order to achieve the  
31           purposes of this paragraph, the commission may apply the funds:

32                   (1) In the form of a direct payment or credit to the customers or group or class  
33                   of customers affected or potentially affected by the violation resulting in the  
34                   administrative penalty;

35                   (2) To supplement a low-income assistance or outreach program that the  
36                   commission determines would benefit customers affected or potentially affected  
37                   by the violation resulting in the administrative penalty;

38                   (3) To supplement the conservation program fund established pursuant to  
39                   section 10110, subsection 7;

40                   (4) To supplement the telecommunications education access fund established  
41                   pursuant to section 7104-B; or

1 (5) To supplement any other program or fund that the commission determines  
2 would benefit customers affected or potentially affected by the violation.

3 Amounts applied pursuant to this paragraph to supplement an existing program or  
4 fund may not result in a reduction in other funding provided for the program or fund  
5 unless the reduction is outside the commission's control and the commission finds  
6 that application of the penalty amount to the fund or program is the most appropriate  
7 use of the penalty and the net effect will be an increase in total funding available to  
8 the program or fund.

9 In any final order issued by the commission approving or denying the application of  
10 administrative penalties to benefit any person affected or potentially affected by the  
11 violation, the commission shall make specific findings of fact supporting the  
12 commission's decision, including findings supporting any amount the commission  
13 approves as well as findings supporting the commission's denial of amounts requested  
14 by any person.

15 **Sec. 3. 35-A MRSA §4712** is enacted to read:

16 **§4712. Gas emergency response**

17 **1. Definitions.** As used in this section, unless the context otherwise indicates, "gas  
18 explosion event" means an explosion or fire that causes property damage or personal  
19 injury and that involves natural gas or liquefied petroleum gas controlled, transported or  
20 delivered by a gas utility or a natural gas pipeline utility subject to the jurisdiction of the  
21 commission.

22 **2. Response.** Following a gas explosion event, the commission shall immediately  
23 contact the State Fire Marshal:

24 A. To confirm that the State Fire Marshal is investigating the event and securing  
25 evidence in accordance with Title 25, section 2394, subsection 1 and to coordinate  
26 the commission's activities with the State Fire Marshal's investigation; or

27 B. To confirm that the event does not warrant investigation by the State Fire Marshal  
28 pursuant to the protocol established in accordance with Title 25, section 2394,  
29 subsection 1.

30 **3. Proceedings.** In any commission proceeding concerning a gas explosion event,  
31 the commission shall afford a person injured by the event or who suffered property  
32 damage in the event an opportunity to address the commission regarding the event.

33 **4. Compensation.** In determining pursuant to section 117 whether to apply any  
34 administrative penalties relating to the gas explosion event to benefit customers affected  
35 or potentially affected by the violation, and in determining the amount to apply, the  
36 commission shall consider documented property damages suffered by a person as a result  
37 of the event and may apply an amount to equitably compensate that person for losses not  
38 otherwise fully compensated.'

39 **SUMMARY**

40 This amendment replaces the bill. This amendment:

1           1. Requires the State Fire Marshal to investigate and secure evidence of a gas  
2 explosion event in accordance with a protocol adopted by the State Fire Marshal;

3           2. Allows the Public Utilities Commission to reimburse the State Fire Marshal for  
4 expenses associated with investigating a gas explosion event involving a gas utility or a  
5 natural gas pipeline utility subject to the jurisdiction of the commission;

6           3. Directs the Public Utilities Commission to allow a person injured by a gas  
7 explosion event or who suffered property damage an opportunity to address the  
8 commission in a proceeding concerning the gas explosion event;

9           4. Requires the Public Utilities Commission, in any final order regarding the  
10 application of administrative penalties to benefit any person affected or potentially  
11 affected by the underlying violation, to make specific findings of fact supporting the  
12 commission's decision, including findings supporting any amount the commission  
13 decides to apply as well as findings supporting any denial of a request or portion of a  
14 request for an application of the penalties to benefit a person affected or potentially  
15 affected by the violation; and

16           5. Directs the Public Utilities Commission, in determining whether to apply any  
17 administrative penalties relating to the gas explosion event to benefit customers affected  
18 or potentially affected by the violation, and in determining the amount to apply, to  
19 consider documented property losses suffered by a person as a result of the event and  
20 allows the commission to apply an amount to equitably compensate the person for losses  
21 not otherwise fully compensated.

22   **FISCAL NOTE REQUIRED**

23   **(See attached)**  
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