

SENATE BILL NO. 141

INTRODUCED BY A. OLSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PIPELINES THAT TRANSPORT CARBON
5 DIOXIDE FROM PLANTS OR FACILITIES THAT PRODUCE OR CAPTURE CARBON DIOXIDE ARE COMMON
6 CARRIER PIPELINES; AMENDING SECTIONS 69-13-101, 69-13-102, 69-13-201, 69-13-301, 69-13-302, AND
7 69-13-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 69-13-101, MCA, is amended to read:
12 **"69-13-101. Common carrier pipeline -- definition.** (1) A person, firm, corporation, limited partnership,
13 joint-stock association, or association is a common carrier if it engages in:
14 (a) owning, operating, or managing any pipeline or any part of any pipeline within the state for the
15 transportation of crude petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide produced
16 in the combustion or gasification of fossil fuels from a plant or facility that produces or captures carbon dioxide
17 to or for the public for hire or engaging in the business of transporting crude petroleum, coal, or the products of
18 crude petroleum or coal; or carbon dioxide produced in the combustion or gasification of fossil fuels from a plant
19 or facility that produces or captures carbon dioxide by pipelines;
20 (b) owning, operating, or managing any pipeline or any part of any pipeline for the transportation of crude
21 petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide produced in the combustion or
22 gasification of fossil fuels from a plant or facility that produces or captures carbon dioxide to or for the public for
23 hire when the pipeline is constructed or maintained upon, along, over, or under any public road or highway;
24 (c) owning, operating, or managing any pipeline or any part of any pipeline for transportation to or for
25 the public for hire of crude petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide
26 produced in the combustion or gasification of fossil fuels from a plant or facility that produces or captures carbon
27 dioxide when the pipeline is or may be constructed, operated, or maintained across, upon, along, over, or under
28 the right-of-way of any railroad, corporation, or other common carrier required by law to transport crude
29 petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide produced in the combustion or
30 gasification of fossil fuels from a plant or facility that produces or captures carbon dioxide as a common carrier;

1 (d) owning, operating, or managing or participating in ownership, operation, or management, under
 2 lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever,
 3 any pipeline or any part of any pipeline for the transportation from any oil field, coal mine or field, or place of
 4 production within this state to any distributing, refining, or marketing center or reshipping point within this state
 5 of crude petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide ~~produced in the~~
 6 ~~combustion or gasification of fossil fuels from a plant or facility that produces or captures carbon dioxide~~ bought
 7 from others; or

8 (e) made a common carrier by or under the terms of contract with or in pursuance of the law of the United
 9 States.

10 (2) For the purposes of this chapter, "plant or facility that produces or captures carbon dioxide" has the
 11 meaning provided for in 15-6-158.

12 ~~(2)~~(3) The provisions of this chapter do not apply to:

13 (a) pipelines that are limited in their use to the wells, stations, plants, and refineries of the owner and that
 14 are not a part of the pipeline transportation system of any common carrier; or

15 (b) any property of a common carrier that is not a part of or necessarily incident to its pipeline
 16 transportation system."

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18 **Section 2.** Section 69-13-102, MCA, is amended to read:

19 **"69-13-102. Scope of chapter -- enforcement.** (1) It is declared that the operation of pipelines to which
 20 this chapter applies for the transportation of crude petroleum, coal, or the products of crude petroleum or coal;
 21 or of carbon dioxide ~~produced in the combustion or gasification of fossil fuels from a plant or facility that produces~~
 22 ~~or captures carbon dioxide~~, in connection with the purchase or purchase and sale of crude petroleum, coal, or
 23 the products of crude petroleum or coal; or of carbon dioxide ~~produced in the combustion or gasification of fossil~~
 24 ~~fuels from a plant or facility that produces or captures carbon dioxide~~, is a business in which the public is
 25 interested and is subject to regulation by law. The business of purchasing or of purchasing and selling crude
 26 petroleum, coal, or the products of crude petroleum or coal; or carbon dioxide ~~produced in the combustion or~~
 27 ~~gasification of fossil fuels from a plant or facility that produces or captures carbon dioxide~~, using in connection
 28 with that business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, or the
 29 products of crude petroleum or coal; or carbon dioxide ~~produced in the combustion or gasification of fossil fuels~~
 30 ~~from a plant or facility that produces or captures carbon dioxide bought or sold~~, may not be conducted unless the

1 pipeline used in connection with that business is a common carrier within the purview of this chapter and subject
2 to the jurisdiction conferred upon the commission.

3 (2) It is the duty of the attorney general to enforce this provision by injunction or other adequate remedy."
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5 **Section 3.** Section 69-13-201, MCA, is amended to read:

6 **"69-13-201. Establishment of rates and operating rules.** (1) The commission may establish and
7 enforce rates of charges and regulations for gathering, transporting, loading, and delivering crude petroleum, coal,
8 or the products of crude petroleum or coal; or carbon dioxide produced in the combustion or gasification of fossil
9 fuels from a plant or facility that produces or captures carbon dioxide by common carrier in this state and for the
10 use of storage facilities necessarily incident to the transportation and may prescribe and enforce rules for the
11 government and control of common carriers in respect to their pipelines and receiving, transferring, and loading
12 facilities. The commission shall exercise the power upon petition by any person showing a substantial interest
13 in the subject.

14 (2) An order establishing or prescribing rates and rules may not be made except after hearing and at
15 least 10 days' and not more than 30 days' notice to the person, firm, corporation, partnership, joint-stock
16 association, or association owning or controlling and operating the pipeline or pipelines affected.

17 (3) If a rate is filed by any pipeline and a complaint against the rate or a petition to reduce the rate is filed
18 by any shipper and is sustained, in whole or in part, all shippers who have paid the rates filed by the pipeline have
19 the right to reparation or reimbursement of all excess in transportation charges paid, over and above the proper
20 rate as finally determined, on all shipments made after the date of the filing of the complaint."
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22 **Section 4.** Section 69-13-301, MCA, is amended to read:

23 **"69-13-301. Records and reports.** (1) Common carriers of crude petroleum, coal, or the products of
24 crude petroleum or coal; or of carbon dioxide produced in the combustion or gasification of fossil fuels from a
25 plant or facility that produces or captures carbon dioxide shall make and publish their tariffs under rules that may
26 be prescribed by the commission. The commission shall require the common carriers to make reports and may
27 investigate their books and records kept in connection with the business.

28 (2) The commission shall require common carrier pipelines to make monthly reports, duly verified under
29 oath, of the total quantities of crude petroleum, coal, or the products of crude petroleum or coal; or of carbon
30 dioxide produced in the combustion or gasification of fossil fuels from a plant or facility that produces or captures

1 carbon dioxide owned by the pipelines, of ~~that~~ the quantities held by them in storage for others, and of their
 2 unfilled storage capacity. Publicity may not be given by the commission to the reports as to stock of crude
 3 petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide ~~produced in the combustion or~~
 4 ~~gasification of fossil fuels~~ from a plant or facility that produces or captures carbon dioxide on hand of any
 5 particular pipeline, but the commission in its discretion may make public the aggregate amounts held by all the
 6 pipelines making the reports and of their aggregate storage capacity."

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8 **Section 5.** Section 69-13-302, MCA, is amended to read:

9 **"69-13-302. Connection and interchange facilities.** (1) Each common carrier shall exchange crude
 10 petroleum tonnage, coal tonnage, petroleum or coal products tonnage, or carbon dioxide volume with each similar
 11 common carrier. The commission may require connections and facilities for the interchange of the tonnage and
 12 volume to be made at every locality reached by both pipelines whenever a necessity for the connections and
 13 facilities exists, subject to rates and regulations that may be made by the commission. Any common carrier under
 14 similar rules must be required to install and maintain facilities for the receipt and delivery at all points on the
 15 pipeline of crude petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide ~~produced in~~
 16 ~~the combustion or gasification of fossil fuels~~ from a plant or facility that produces or captures carbon dioxide ~~of~~
 17 ~~patrons at all points on the pipeline.~~

18 (2) A carrier may not be required to receive or transport any crude petroleum, coal, or the products of
 19 crude petroleum or coal; or any carbon dioxide ~~produced in the combustion or gasification of fossil fuels~~ from a
 20 plant or facility that produces or captures carbon dioxide except as may be marketable under rules prescribed
 21 by the commission. The commission shall make rules for the ascertainment of the amount of water and other
 22 foreign matter in crude oil, coal, or the products of crude petroleum or coal; or in carbon dioxide ~~produced in the~~
 23 ~~combustion or gasification of fossil fuels~~ from a plant or facility that produces or captures carbon dioxide tendered
 24 for transportation, for deduction for water and foreign matter, and for the amount of deduction to be made for
 25 temperature, leakage, and evaporation.

26 (3) The particular powers delegated to the commission in this section may not be construed to limit the
 27 general powers conferred by this chapter."

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29 **Section 6.** Section 69-13-303, MCA, is amended to read:

30 **"69-13-303. Prohibition of discrimination in rates or service.** (1) Except as provided in subsection

1 (2), a common carrier in its operations may not discriminate between or against shippers in regard to facilities
 2 furnished, service rendered, or rates charged under the same or similar circumstances in the transportation of
 3 crude petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide ~~produced in the~~
 4 ~~combustion or gasification of fossil fuels~~ from a plant or facility that produces or captures carbon dioxide. There
 5 may not be any discrimination in the transportation of crude petroleum, coal, or the products of crude petroleum
 6 or coal; or of carbon dioxide ~~produced in the combustion or gasification of fossil fuels~~ from a plant or facility that
 7 produces or captures carbon dioxide when any of those products were produced or purchased by the common
 8 carrier directly or indirectly. In this connection the pipeline must be considered as a shipper of the crude
 9 petroleum, coal, or the products of crude petroleum or coal; or of carbon dioxide ~~produced in the combustion or~~
 10 ~~gasification of fossil fuels~~ from a plant or facility that produces or captures carbon dioxide when any of those
 11 products were produced or purchased by the pipeline directly or indirectly and handled through its facilities. A
 12 carrier in the operation may not directly or indirectly charge, demand, collect, or receive from any one a greater
 13 or lesser compensation for any service rendered than from another for a like and contemporaneous service.
 14 Subject to the provisions of this chapter and the rules that may be prescribed by the commission, every common
 15 carrier shall receive and transport crude petroleum, coal, or the products of crude petroleum or coal; or carbon
 16 dioxide ~~produced in the combustion or gasification of fossil fuels~~ from a plant or facility that produces or captures
 17 carbon dioxide delivered to it for transportation and shall receive and transport ~~the~~ any of those products and
 18 perform its other duties with respect to ~~the~~ any of those products without discrimination.

19 (2) The provisions of subsection (1) do not limit the right of the commission to prescribe rates and
 20 regulations different from or to some places from other rates or regulations for transportation from or to other
 21 places, as it may determine. A carrier is not guilty of discrimination when obeying any order of the commission.
 22 When there is offered for transportation more crude petroleum, coal, or the products of crude petroleum or coal;
 23 or carbon dioxide ~~produced in the combustion or gasification of fossil fuels~~ from a plant or facility that produces
 24 or captures carbon dioxide than can be immediately transported, the products must be equitably apportioned.
 25 The commission may make and enforce general or specific regulations in this regard. A common carrier may not
 26 at any time be required to receive petroleum or petroleum products for shipments exceeding 3,000 barrels in any
 27 1 day from any person, firm, corporation, or association of persons."
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29 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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