CHAPTER 7

Special Provisions Affecting Gas, Water or Pipeline Companies

**SECTION 58‑7‑10.** Rights, powers and privileges of telegraph and telephone companies conferred on pipeline companies; exception.

 (A) Subject to the same duties and liabilities, all the rights, powers, and privileges conferred upon telegraph and telephone companies under Article 17, Chapter 9 of this title are hereby granted to pipeline companies incorporated under the laws of this State or to such companies incorporated under the laws of any other state when such companies have complied with the laws of this State regulating the doing of business herein by foreign corporations.

 (B) The provisions of this section and of Chapter 2, Title 28 do not apply to private, for‑profit pipeline companies, including publicly traded for‑profit companies, that are not defined within this title as a public utility.

HISTORY: 1962 Code Section 58‑6; 1952 Code Section 58‑6; 1942 Code Section 8540; 1932 Code Section 8540; Civ. C. ‘22 Section 5024; Civ. C. ‘12 Section 3326; 1904 (24) 489; 1950 (46) 2353; 1951 (47) 785; 2016 Act No. 205 (S.868), Section 1, eff June 3, 2016.

Sunset

2016 Act No. 205, Section 2, provides: “SECTION 2. Unless the General Assembly amends Section 58‑7‑10 in any manner before the passing of three years after the effective date of this act or if the language of subsection (B) is reenacted or otherwise extended by the General Assembly, the provisions of subsection (B), as added by this act, are repealed June 30, 2019.”

Editor’s Note

2016 Act No. 205, preamble and Section 2, provide as follows:

“Whereas, petroleum and petroleum products are a national commodity, yet are commodities that may pose a threat to the property and health of South Carolinians if not properly transported or stored; and

“Whereas, questions have recently arisen regarding petroleum pipeline siting in South Carolina, as well as questions regarding responsibility for monitoring and for inspecting these pipelines; and

“Whereas, the General Assembly recognizes the importance of economic development in this State, yet recognizes there must be a balance between economic development and the protection of the health, safety, welfare, and property of this state’s citizens; and

“Whereas, the General Assembly also recognizes the importance of, and intends to defend, the rights of private property owners within this State, rights which have been established within the South Carolina Constitution, the laws of this State, and case law; and

“Whereas, the South Carolina Attorney General’s Office issued an opinion on July 1, 2015, which states there is “substantial doubt” that Section 58‑7‑10 intended to extend the public power of eminent domain to any private petroleum or oil pipeline company pipeline that is not defined in, or otherwise outside of the regulatory scope of, Title 58 of the South Carolina Code of Laws; and

“Whereas, the General Assembly does not find that a private, for‑profit pipeline company, which includes a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws meets the current “public use” requirement for purposes of eminent domain; and

“Whereas, natural gas and petroleum companies utilize pipelines as a method to transport their respective products and both types of companies are primarily regulated by federal law; however, due to the differences in the products these companies provide, the federal government has differing statutory and regulatory provisions for natural gas and petroleum companies, and the majority of the states differentiate between natural gas and petroleum companies, including South Carolina; and

“Whereas, unlike other companies that utilize pipelines that are defined in Title 58 as a public utility, such as natural gas companies and water companies, petroleum companies are not defined in Title 58 as a public utility; and

“Whereas, the General Assembly finds that South Carolina Code Section 58‑7‑10 was not intended to confer the right of eminent domain to a private, for‑profit company, including a publicly traded for‑profit company, that is not defined as a “public utility” in Title 58 of the 1976 Code of Laws; and

“Whereas, a recent pipeline leak of over 300,000 gallons of petroleum product near Belton, South Carolina, has demonstrated the risks inherent in pipeline transportation of refined petroleum products; and

“Whereas, the cleanup of refined petroleum products from soil and groundwater is an expensive, imperfect, and time consuming process; and

“Whereas, the financial and technical abilities of the party responsible for the cleanup of any refined petroleum products released from a pipeline are critical to ensure that the responsibility for the cleanup is not imposed upon the citizens of South Carolina; and

“Whereas, it is the duty of the General Assembly to establish the policy for the authorization of use for eminent domain and to provide statutory processes and procedures to balance the interests of the state’s health, safety, welfare, and property of this state’s citizens without unnecessarily impeding or discouraging economic development; and

“Whereas, it is the duty of the General Assembly to address any potential expansion of the use of eminent domain authority in this State in a meaningful and deliberative manner.”

“SECTION 2. Unless the General Assembly amends Section 58‑7‑10 in any manner before the passing of three years after the effective date of this act or if the language of subsection (B) is reenacted or otherwise extended by the General Assembly, the provisions of subsection (B), as added by this act, are repealed June 30, 2019.”

2016 Act No. 304, provides as follows:

“Whereas, petroleum and petroleum products are a national commodity, yet are commodities that may pose a threat to the property and health of South Carolinians if not properly transported or stored; and

“Whereas, questions have recently arisen regarding petroleum pipeline siting in South Carolina, as well as questions regarding responsibility for monitoring and for inspecting these pipelines; and

“Whereas, the General Assembly recognizes the importance of economic development in this State, yet recognizes there must be a balance between economic development and the protection of the health, safety, welfare, and property of this state’s citizens; and

“Whereas, the General Assembly also recognizes the importance of, and intends to defend, the rights of private property owners within this State, rights which have been established within the South Carolina Constitution, the laws of this State, and case law; and

“Whereas, the South Carolina Attorney General’s Office issued an opinion on July 1, 2015, which states there is ‘substantial doubt’ that Section 58‑7‑10 intended to extend the public power of eminent domain to any private petroleum or oil pipeline company pipeline that is not defined in, or otherwise outside of the regulatory scope of, Title 58; and

“Whereas, the General Assembly does not find that a private, for‑profit pipeline company, which includes a publicly traded for‑profit company, that is not defined as a ‘public utility’ in Title 58 meets the current ‘public use’ requirement for purposes of eminent domain; and

“Whereas, natural gas and petroleum companies utilize pipelines as a method to transport their respective products and both types of companies are primarily regulated by federal law; however, due to the differences in the products these companies provide, the federal government has differing statutory and regulatory provisions for natural gas and petroleum companies, and the majority of the states differentiate between natural gas and petroleum companies, including South Carolina; and

“Whereas, unlike other companies that utilize pipelines that are defined in Title 58 as a public utility, such as natural gas companies and water companies, petroleum companies are not defined in Title 58 as a public utility; and

“Whereas, the General Assembly finds that Section 58‑7‑10 was not intended to confer the right of eminent domain to a private, for‑profit company, including a publicly traded for‑profit company, that is not defined as a ‘public utility’ in Title 58; and

“Whereas, a recent pipeline leak of over 300,000 gallons of petroleum product near Belton, South Carolina, has demonstrated the risks inherent in pipeline transportation of refined petroleum products; and

“Whereas, the cleanup of refined petroleum products from soil and groundwater is an expensive, imperfect, and time consuming process; and

“Whereas, the financial and technical abilities of the party responsible for the cleanup of any refined petroleum products released from a pipeline are critical to ensure that the responsibility for the cleanup is not imposed upon the citizens of South Carolina; and

“Whereas, it is the duty of the General Assembly to establish the policy for the authorization of use for eminent domain and to provide statutory processes and procedures to balance the interests of the state’s health, safety, welfare, and property of this state’s citizens without unnecessarily impeding or discouraging economic development; and

“Whereas, it is the duty of the General Assembly to address any potential expansion of the use of eminent domain authority in this State in a meaningful and deliberative manner. Now, therefore,

“Be it enacted by the General Assembly of the State of South Carolina:

“Petroleum Pipeline Study Committee created

“SECTION 1. (A) There is created the Petroleum Pipeline Study Committee to study matters related to the presence of petroleum pipelines in South Carolina, including, but not limited to:

“(1) the various types of petroleum products and by‑products that are transported by a pipeline;

“(2) the federal requirements for petroleum pipeline siting and monitoring;

“(3) the state’s responsibilities as to the regulation of petroleum pipeline siting and monitoring;

“(4) the possible environmental implications from a petroleum pipeline;

“(5) the potential economic development implications for South Carolina resulting from a petroleum pipeline located in this State;

“(6) whether other states permit petroleum pipeline companies to exercise eminent domain, and if so, under what circumstances;

“(7) whether a bonding requirement can and should be imposed as a prerequisite for any private company seeking to install a petroleum pipeline in South Carolina.

“(B) The study committee must be composed of:

“(1) three members of the House of Representatives appointed by the Speaker of the House of Representatives;

“(2) three members of the Senate appointed by the Chairman of the Senate Judiciary Committee;

“(3) the Director of the Department of Health and Environmental Control, or his designee;

“(4) the Executive Director of the Office of Regulatory Staff, or his designee;

“(5) one member representing environmental or conservation organizations, appointed by the Governor; and

“(6) one member representing the South Carolina Petroleum Council, appointed by the Governor.

“The Speaker of the House of Representatives and the Chairman of the Senate Judiciary Committee shall provide appropriate staffing for this study committee.

“(C) The study committee shall prepare a report for the General Assembly that sets forth findings and recommendations regarding matters related to the presence of petroleum pipelines in South Carolina, and provide its report to the General Assembly by June 30, 2017, at which time the study committee may dissolve. However, if the report contains findings or a recommendation that further work is needed, the study committee may continue its work until December 31, 2017, at which time the study committee must be dissolved.

“Time effective

“SECTION 2. This joint resolution shall take effect upon approval by the Governor [June 9, 2016].”

Effect of Amendment

2016 Act No. 205, Section 1, added paragraph designator (A), added (B), relating to an exception for for‑profit pipeline companies, and made other nonsubstantive changes.

**SECTION 58‑7‑20.** Rights, powers and privileges of telegraph and telephone companies conferred on water companies.

 Subject to the same duties and liabilities, all the rights, powers, and privileges conferred upon telegraph and telephone companies under Chapter 2 of Title 28, including the power to condemn property, are granted to companies engaged in supplying water or sewerage services incorporated under the laws of this State or to companies incorporated under the laws of any other state upon complying with the laws of this State regulating foreign corporations and by becoming a domestic corporation.

HISTORY: 1962 Code Section 58‑152.1; 1952 Code Section 58‑152.1; 1942 Code Section 8540; 1932 Code Section 8540; Civ. C. ‘22 Section 5024; Civ. C. ‘12 Section 3326; 1904 (24) 489; 1951 (47) 785; 1990 Act No. 588, Section 1, eff June 11, 1990.

**SECTION 58‑7‑25.** Right to repurchase unused condemned property.

 (A) If the property, or any portion of it, condemned by a corporation engaged in the business of supplying sewerage service, pursuant to the provisions of this chapter, is not used for the purpose for which it was condemned within a five‑year period from the date it was condemned, the former owner has the right to repurchase the property from the corporation upon payment of the original purchase price.

 (B) Unless the former owner exercises his right to repurchase this property within a period of one year from the expiration of the five‑year period as provided in subsection (A), the right to repurchase ceases when the corporation gives the former owner ninety days’ notice that the right will expire at the end of the ninety‑day period.

HISTORY: 1990 Act No. 588, Section 2, eff June 11, 1990.

**SECTION 58‑7‑30.** Water companies may condemn land for waterworks.

 (A) Any corporation engaged in the business of supplying water or sewerage services in this State or which may intend to engage in the business of supplying water or sewerage services has the same rights and powers of condemnation as are conferred upon municipal corporations pursuant to the provisions of Sections 5‑31‑420, 5‑31‑430, and 5‑31‑440.

 (B) Before a corporation engaged in supplying sewer services as authorized under the provisions of this section exercises the right of condemnation, the governing body of the county in which the condemnation will occur must adopt an ordinance granting the corporation the authority to condemn property necessary to provide sewer services.

HISTORY: 1962 Code Section 58‑152; 1952 Code Section 58‑152; 1942 Code Section 7303; 1932 Code Section 7303; Civ. C. ‘22 Section 4451; Civ. C. ‘12 Section 3028; 1905 (24) 867; 1951 (47) 785; 1990 Act No. 588, Section 1, eff June 11, 1990.

**SECTION 58‑7‑40.** Water companies may contract with municipalities or public service districts to collect charges for sewage disposal and to disconnect water service for nonpayment of sewer charges.

 All private corporations, subject to the jurisdiction of the South Carolina Public Service Commission, engaged in the business of providing water service and selling and distributing water for domestic, commercial or industrial purposes may, if the approval of the South Carolina Public Service Commission is obtained, enter into contracts with any incorporated municipality or any special purpose district upon terms and conditions to be mutually agreed upon (including an agreement by the municipality or public service district to hold the private corporation harmless for any error by the municipality or public service district regarding the payment or nonpayment of sewer charges) by which the municipalities or special purpose districts shall (a) constitute the corporation the agent of the municipalities or special purpose districts, for the purpose of collecting such charges as the municipalities or special purpose districts shall from time to time impose upon those who utilize its sewage disposal facilities; and/or (b) empower the corporation as the agent of the municipalities or special purpose districts to disconnect water service upon failure of any user to pay sewer charges.

HISTORY: 1962 Code Section 58‑152.2; 1965 (54) 683.

Editor’s Note

Section 1 of 1965 Act No 381 (1965 (54) 683), contains legislative findings relative to this section, and provides:

“The General Assembly finds that in certain areas in South Carolina domestic, commercial and industrial water service is supplied by private corporations under the jurisdiction of the South Carolina Public Service Commission. Frequently incorporated municipalities and special purpose districts are located within the same areas. Such municipalities and special purpose districts are empowered to impose sewer service charges but have no ready means of collecting the charges inasmuch as they do not render water service. Such municipalities and special purpose districts have the power to enter into contracts with private corporations to collect such sewer service charge but there is no corresponding statutory authority permitting the private corporation to act for such municipalities and special purpose districts to collect such sewer service charge or to suspend water service in the event that the bill for sewer service is not paid, whether the sewer bill is rendered separately or is combined with the water bill into a single bill.”

**SECTION 58‑7‑50.** Lease of property of gas company.

 Except as prohibited in section 7, article 9 of the Constitution of 1895, any gas company organized under the laws of this State may lease its property and franchises to any other gas company, upon such terms as may be agreed upon by a majority of the stockholders at a special meeting held after thirty days’ advertisement thereof.

HISTORY: 1962 Code Section 58‑153; 1952 Code Section 58‑153; 1942 Code Section 8187; 1932 Code Section 8187; Civ. C. ‘22 Section 4367; Civ. C. ‘12 Section 2881; 1908 (25) 1090.

Editor’s Note

Section 7, Article 9 of the Constitution of 1895, referred to in this Code section, no longer appears in the Constitution following the revision and rewriting of that article by amendment ratified by 1971 Act No. 64 (1971 (57) 47). Prior to the amendment that section read as follows:

“No railroad, or other transportation company, and no telegraph or other transmitting corporation, or the lessees, purchasers or managers of any such corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any other railroad or other transportation, telegraph or other transmitting company owning or having under its control a parallel or competing line; and the question whether railroads or other transportation, telegraph or other transmitting companies are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil causes.”

**SECTION 58‑7‑60.** Unlawful appropriation of gas; penalties.

 (A) It is unlawful for a person who has no contract, agreement, license or permission with or from a person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat, or power or with or from an authorized agent of a person or corporation for the use of gas belonging to, or produced or furnished by, a person or corporation who shall wilfully withdraw or cause to be withdrawn in any manner and appropriate gas from the pipes or conduits of a person or corporation for his own use or for the use of another person or corporation.

 (B) A person who violates the provisions of this section for a:

 (1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

 (2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

 (3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

 (C) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

 (1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

 (2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

 (3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (D) A person who violates the provisions of this section and the violation results in:

 (1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, “great bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

 (2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

 (E) Notwithstanding the provisions of this section, a person who aids, abets, or assists another person in withdrawing and appropriating gas from pipes or conduits to or for the use of another person or to or for the use of another person or corporation for a:

 (1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

 (2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both; and

 (3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

HISTORY: 1962 Code Section 58‑154; 1952 Code Section 58‑154; 1942 Code Section 1156; 1932 Code Section 1156; Cr. C. ‘22 Section 50; Cr. C. ‘12 Section 200; 1911 (27) 148; 2013 Act No. 23, Section 2, eff May 3, 2013.

**SECTION 58‑7‑70.** Wrongful use of gas and interference with gas meters; penalties.

 (A) It is unlawful for a person who has a contract, agreement, license or permission, oral or written, with or from a person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat, or power or with or from an authorized agent of a person or corporation for the use of the gas belonging to, or produced or furnished by, a person or corporation for certain specified purposes who shall wilfully and intentionally withdraw, or cause to be withdrawn, gas in any manner and appropriate it to his own use or to the use of another person or corporation for purposes other than those specified.

 (B) It is unlawful for a person to whom gas is furnished from or by means of a meter who shall wilfully and with intention to cheat and defraud a person or corporation alter or interfere with a meter or by any contrivance whatsoever withdraw or take off gas in any manner except through a meter shall be punished as provided in Section 58‑7‑60(B).

 (C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

 (1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

 (2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

 (3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (D) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

 (1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

 (2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

 (3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

 (E) A person who violates the provisions of this section and the violation results in:

 (1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, “great bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

 (2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

 (F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

HISTORY: 1962 Code Section 58‑155; 1952 Code Section 58‑155; 1942 Code Section 1157; 1932 Code Section 1157; Cr. C. ‘22 Section 51; Cr. C. ‘12 Section 201; 1911 (27) 148; 2013 Act No. 23, Section 3, eff May 3, 2013.