

2 **SSB 6358** - H COMM AMD  
3 By Committee on Energy & Utilities

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 81.88 RCW  
8 to read as follows:

9 (1) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a) "Pipeline company" means a person or entity constructing,  
12 owning, or operating an intrastate pipeline for transporting hazardous  
13 liquid, whether or not such a person or entity is a public service  
14 company otherwise regulated by the commission. For the purposes of  
15 this section, a pipeline company does not include: (i) Distribution  
16 systems owned and operated under franchise for the sale, delivery, or  
17 distribution of natural gas at retail; or (ii) excavation contractors  
18 or other contractors that contract with a pipeline company.

19 (b) "Hazardous liquid" means: (i) Petroleum, petroleum products,  
20 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195  
21 in effect March 1, 1998; and (ii) carbon dioxide. The commission by  
22 rule may incorporate by reference other substances designated as  
23 hazardous by the secretary of transportation under 49 U.S.C. Sec.  
24 60101(a)(4).

25 (2) The commission shall adopt by rule intrastate pipeline safety  
26 standards for pipeline transportation and pipeline facilities that:  
27 (a) Apply to pipeline companies transporting hazardous liquids; (b)  
28 cover the design, construction, and operation of pipelines transporting  
29 hazardous liquids; and (c) require pipeline companies to design,  
30 construct, and maintain their pipeline facilities so they are safe and  
31 efficient.

32 (3) A person, officer, agent, or employee of a pipeline company  
33 who, as an individual or acting as an officer, agent, or employee of  
34 such a company, violates or fails to comply with this section or a rule  
35 adopted under this section, or who procures, aids, or abets another

1 person or entity in the violation of or noncompliance with this section  
2 or a rule adopted under this section, is guilty of a gross misdemeanor.

3 (4)(a) A pipeline company, or any person, officer, agent, or  
4 employee of a pipeline company that violates a provision of this  
5 section, or a rule adopted under this section, is subject to a civil  
6 penalty to be assessed by the commission.

7 (b) The commission shall adopt rules: (i) Setting penalty amounts,  
8 but may not exceed the penalties specified in the federal pipeline  
9 safety laws, 49 U.S.C. Sec. 60101 et seq.; (ii) establishing procedures  
10 for mitigating penalties assessed; and (iii) incorporating by reference  
11 other substances designated as hazardous by the secretary of  
12 transportation under 49 U.S.C. Sec. 60101(a)(4).

13 (c) In determining the amount of the penalty, the commission shall  
14 consider: (i) The appropriateness of the penalty in relation to the  
15 position of the person charged with the violation; (ii) the gravity of  
16 the violation; and (iii) the good faith of the person or company  
17 charged in attempting to achieve compliance after notification of the  
18 violation.

19 (d) The amount of the penalty may be recovered in a civil action in  
20 the superior court of Thurston county or of some other county in which  
21 the violator may do business. In all actions for recovery, the rules  
22 of evidence shall be the same as in ordinary civil actions. All  
23 penalties recovered under this section must be paid into the state  
24 treasury and credited to the public service revolving fund.

25 (5) Nothing in this section duplicates the authority of the energy  
26 facility site evaluation council under chapter 80.50 RCW."

27 EFFECT: Defines "hazardous liquids" by reference to federal  
28 regulations rather than federal statutes (substantively the same).  
29 Makes explicit that the authority given to the WUTC only extends to  
30 intrastate pipelines. Clarifies that the authority given to the WUTC  
31 to regulate intrastate pipelines is not to duplicate the authority of  
32 the EFSEC.

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