

# HOUSE BILL REPORT

## SSB 6358

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### As Passed House - Amended:

March 4, 1998

**Title:** An act relating to utilities and transportation commission intrastate pipeline safety jurisdiction and penalties.

**Brief Description:** Providing the utilities and transportation commission authority to regulate certain pipeline facilities.

**Sponsors:** Senate Committee on Energy & Utilities (originally sponsored by Senators Rossi, Finkbeiner, Brown and Jacobsen; by request of Utilities & Transportation Commission).

### Brief History:

#### Committee Activity:

Energy & Utilities: 2/18/98, 2/25/98 [DPA].

#### Floor Activity:

Passed House - Amended: 3/4/98, 97-0.

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## HOUSE COMMITTEE ON ENERGY & UTILITIES

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Crouse, Chairman; DeBolt, Vice Chairman; Mastin, Vice Chairman; Poulsen, Assistant Ranking Minority Member; Morris, Assistant Ranking Minority Member; Bush; Cooper; Delvin; Honeyford; Kastama; Kessler; Mielke and B. Thomas.

**Staff:** Margaret Allen (786-7110).

**Background:** Federal law authorizes a state complying with various requirements to adopt and enforce intrastate pipeline safety standards. One of the requirements is that the state be able to enforce safety standards by imposing civil penalties substantially the same as federal penalties for pipeline safety violations. Federal law provides for civil penalties not to exceed \$25,000 for each violation each day the violation persists, and sets a maximum of \$500,000 for a related series of violations.

### Natural Gas Companies

The Washington Utilities and Transportation Commission (WUTC) has adopted and enforces safety standards for companies that transport natural gas through intrastate

pipelines, and is authorized by state law to impose penalties on gas companies for failure to comply with those standards, as long as those penalties do not exceed federal penalty levels. The WUTC sets the penalties by rule, and may compromise the amount of a penalty after considering: (1) the appropriateness of the penalty to the size of the business of the person charged; (2) the gravity of the violation; and (3) the good faith of the gas company charged in attempting to achieve compliance after notification of the violation.

Penalties may be recovered through a civil action in the superior court of Thurston County, or any other county in which the company does business, using ordinary civil procedures and rules of evidence. Once collected, penalties are paid into the state treasury and credited to the public service revolving fund, which is used for WUTC expenses and operations.

### Common Carrier Pipelines

The WUTC is authorized by state law to regulate companies that construct or operate intrastate pipelines as common carriers for petroleum products, and to fine the companies for failing to comply with the regulations. The relevant statutes address general regulatory authority rather than safety issues, and the level of the fines authorized is considerably lower than federal penalties for pipeline safety violations. There is one intrastate common carrier pipeline in Washington.

### Private Pipelines

The WUTC is not authorized by state law to regulate private pipelines, of which there are five in the state. Some private pipelines transport hazardous liquids other than petroleum products.

### Energy Facility Site Evaluation Council

In 1970, the Legislature created the Energy Facility Site Evaluation Council (EFSEC) to coordinate the evaluation, siting, and licensing of major non-hydroelectric energy facilities, which include some pipeline facilities. Among other things, the EFSEC is responsible for developing and applying environmental and ecological guidelines regarding the kind, design, location, construction, and operational conditions of certification of the energy facilities over which it has jurisdiction.

### Miscellaneous

A gross misdemeanor is punishable by a maximum of one year in jail, a maximum penalty of \$5,000, or both.

**Summary of Bill:** The WUTC is authorized to adopt safety standards for intrastate pipeline transportation and pipeline facilities that: (1) apply to pipeline companies transporting hazardous liquids; (2) cover the design, construction, and operation of pipelines transporting hazardous liquids; and (3) require pipeline companies to design, construct, and maintain their pipeline facilities so those facilities are safe and efficient. However, the authorization is not to duplicate the current authority of EFSEC.

"Pipeline company" is defined so that, with two exceptions, the safety standards adopted by the WUTC will apply to public service companies, common carrier pipelines, and companies with private pipelines, that construct, own, or operate a pipeline for transporting hazardous liquid. The standards will not apply to natural gas companies that distribute gas to retail customers, or to excavation contractors or other contractors that contract with a pipeline company.

"Hazardous liquid" is defined with reference to federal regulations to include petroleum, petroleum products, carbon dioxide, and anhydrous ammonia.

A person who, as an individual or acting on behalf of the company, fails to comply with a regulation, or who procures, aids, or abets someone else in violating or not complying with a regulation, will be guilty of a gross misdemeanor.

The WUTC may fine a pipeline company or any person, officer, agent, or employee of a pipeline company that violates a regulation. The WUTC must adopt rules setting penalties that do not exceed federal penalties for pipeline safety violations and establishing procedures for mitigating the penalties assessed. In determining the size of a penalty, the WUTC is to consider the same three factors it currently considers when penalizing natural gas companies for pipeline safety violations.

Penalty fees may be recovered through a civil action in the superior court of Thurston County, or any other county in which the violator does business, using ordinary civil procedures and rules of evidence. Once collected, penalty fees are to be paid into the state treasury and credited to the public service revolving fund.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Original bill) The WUTC is attempting to align its pipeline program with the federal pipeline safety program. This legislation is focused on safety, and allows the WUTC to reduce penalties based on the circumstances of individual violations. Penalties paid should be earmarked for education. Private pipelines support this bill, but would like a few amendments.

**Testimony Against:** None

**Testified:** Teresa Osinski, Washington Utilities & Transportation Commission (pro); George F. Tyler, citizen (pro); and Susan Harper, Cascade Columbia Alliance (pro).