

2 **E2SHB 2420** - S AMD - 224 (S5075.3 AMD BY #228 & #229)  
3 By Senators Spanel, Morton, Gardner and Fraser

4 ADOPTED AS AMENDED BY #228, 229 3/2/00

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

7 NEW SECTION. **Sec. 1.** (1) The intent of this act is to protect  
8 the health and safety of the citizens of the state of Washington and  
9 the quality of the state's environment by developing and implementing  
10 environmental and public safety measures applicable to persons  
11 transporting hazardous liquids and gas by pipeline within the state of  
12 Washington. The legislature finds that public safety and the  
13 environment may best be protected by adopting standards that are equal  
14 to, or more stringent than, those adopted by the federal government, so  
15 long as they do not impermissibly interfere with interstate commerce.

16 (2) The legislature recognizes that additional federal authority is  
17 needed to implement a comprehensive pipeline safety program and by this  
18 act and other measures directs the state to seek that authority.

19 (3) It is also the intent of the legislature that the governor work  
20 with the state congressional delegation in seeking:

21 (a) To amend the federal pipeline safety act to delegate authority  
22 to qualified states to adopt and enforce standards equal to or more  
23 stringent than federal standards;

24 (b) State authority to administer and enforce federal requirements  
25 related to pipeline safety; and

26 (c) Higher levels of funding for state and federal pipeline safety  
27 activities and for states to respond to pipeline accident emergencies.

28 (4) While the legislature acknowledges that serious accidents have  
29 occurred for hazardous liquid and gas pipelines in this nation and  
30 elsewhere, it recognizes that there are fundamental differences between  
31 hazardous liquid pipelines and gas pipelines and that a different  
32 system of safety regulations must be applied for each kind of pipeline.

33 NEW SECTION. **Sec. 2.** The definitions in this section apply  
34 throughout this chapter unless the context clearly requires otherwise.

35 (1) "Commission" means the utilities and transportation commission.

1 (2) "Department" means the department of ecology.

2 (3) "Failsafe" means a design feature that will maintain or result  
3 in a safe condition in the event of malfunction or failure of a power  
4 supply, component, or control device.

5 (4) "Gas" means natural gas, flammable gas, or toxic or corrosive  
6 gas.

7 (5) "Hazardous liquid" means: (a) Petroleum, petroleum products,  
8 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195  
9 in effect March 1, 1998; and (b) carbon dioxide.

10 (6) "Local government" means a political subdivision of the state  
11 or a city or town.

12 (7) "Person" means an individual, partnership, franchise holder,  
13 association, corporation, a state, a city, a county, or any political  
14 subdivision or instrumentality of a state, and its employees, agents,  
15 or legal representatives.

16 (8) "Pipeline" or "pipeline system" means all parts of a pipeline  
17 facility through which a hazardous liquid moves in transportation,  
18 including, but not limited to, line pipe, valves, and other  
19 appurtenances connected to line pipe, pumping units, fabricated  
20 assemblies associated with pumping units, metering and delivery  
21 stations and fabricated assemblies therein, and breakout tanks.  
22 "Pipeline" or "pipeline system" does not include process or transfer  
23 pipelines.

24 (9) "Pipeline company" means a person or entity constructing,  
25 owning, or operating a pipeline for transporting hazardous liquid.

26 (10) "Reportable release" means a spilling, leaking, pouring,  
27 emitting, discharging, or any other uncontrolled escape of a hazardous  
28 liquid in excess of one barrel, or forty-two gallons.

29 (11) "Safety management systems" means management systems that  
30 include coordinated and interdisciplinary evaluations of the effect of  
31 significant changes to a pipeline system before such changes are  
32 implemented.

33 (12) "Transfer pipeline" means a buried or aboveground pipeline  
34 used to carry oil between a tank vessel or transmission pipeline and  
35 the first valve inside secondary containment at the facility provided  
36 that any discharge on the facility side of that first valve will not  
37 directly impact waters of the state. A transfer pipeline includes  
38 valves, and other appurtenances connected to the pipeline, pumping  
39 units, and fabricated assemblies associated with pumping units. A

1 transfer pipeline does not include process pipelines, pipelines  
2 carrying ballast or bilge water, transmission pipelines, or tank vessel  
3 or storage tanks.

4 **Sec. 3.** RCW 81.88.040 and 1998 c 123 s 1 are each amended to read  
5 as follows:

6 ~~(1) ((The definitions in this subsection apply throughout this~~  
7 ~~section unless the context clearly requires otherwise.~~

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

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

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

30 ~~(3)) A person, officer, agent, or employee of a pipeline company~~  
31 ~~who, as an individual or acting as an officer, agent, or employee of~~  
32 ~~such a company, violates or fails to comply with this ((section))~~  
33 ~~chapter or a rule adopted under this section, or who procures, aids, or~~  
34 ~~abets another person or entity in the violation of or noncompliance~~  
35 ~~with this section or a rule adopted under this section, is guilty of a~~  
36 ~~gross misdemeanor.~~

37 ~~((4)) (3)(a) A pipeline company, or any person, officer, agent,~~  
38 ~~or employee of a pipeline company that violates a provision of this~~

1 section, or a rule adopted under this section, is subject to a civil  
2 penalty to be assessed by the commission.

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

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

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

21 (4) The commission shall adopt rules incorporating by reference  
22 other substances designated as hazardous by the secretary of  
23 transportation under 49 U.S.C. Sec. 60101(a)(4).

24 (5) The commission shall also have the power of injunctive relief,  
25 as required by 49 U.S.C. Sec. 60105(b), to enforce the provisions of  
26 this chapter.

27 (6) Nothing in this section duplicates the authority of the energy  
28 facility site evaluation council under chapter 80.50 RCW.

29 NEW SECTION. Sec. 4. (1) The hazardous liquid pipeline safety  
30 account is created in the custody of the state treasurer. All receipts  
31 from the federal office of pipeline safety and any other state or  
32 federal funds provided for hazardous liquid pipeline safety must be  
33 deposited in the account, except as provided in subsection (2) of this  
34 section. Moneys in the account may be spent only after appropriation.  
35 Expenditures from the account may be used only for funding pipeline  
36 safety.

1 (2) Federal funds received before June 30, 2001, shall be treated  
2 as receipt of unanticipated funds and expended, without appropriation,  
3 for the designated purposes.

4 NEW SECTION. **Sec. 5.** (1) A comprehensive program of hazardous  
5 liquid pipeline safety is authorized by sections 2, 4, 5, 9, 11, 13,  
6 and 19 of this act, and RCW 81.88.040 to be developed and implemented  
7 consistent with federal law. Except as provided in subsection (6) of  
8 this section, the commission shall administer and enforce all laws  
9 related to hazardous liquid pipeline safety.

10 (2) The commission shall adopt rules for pipeline safety standards  
11 for hazardous liquid pipeline transportation that:

12 (a) Require pipeline companies to design, construct, operate, and  
13 maintain their pipeline facilities so they are safe and efficient;

14 (b) Require pipeline companies to rapidly locate and isolate all  
15 reportable releases from hazardous liquid pipelines, that may include:

16 (i) Installation of remote control shut-off valves; and

17 (ii) Installation of remotely monitored pressure gauges and meters;

18 (c) Require the training and certification of personnel who operate  
19 hazardous liquid pipelines and the associated systems;

20 (d) Require reporting of emergency situations, including emergency  
21 shutdowns and material defects or physical damage that impair the  
22 serviceability of a pipeline; and

23 (e) Require hazardous liquid pipeline companies to submit  
24 operations safety plans to the commission once every five years, as  
25 well as any amendments to the plan made necessary by changes to the  
26 pipeline system or its operation. The safety plan shall include  
27 emergency response procedures.

28 (3) The commission shall approve operations safety plans if they  
29 have been deemed fit for service. A plan shall be deemed fit for  
30 service when it provides for pipelines that are designed, developed,  
31 constructed, operated, and periodically modified to provide for  
32 protection of public safety and the environment. Pipeline operations  
33 safety plans shall, at a minimum, include:

34 (a) A schedule of inspection and testing within the pipeline  
35 distribution system of:

36 (i) All mechanical components;

37 (ii) All electronic components; and

1 (iii) The structural integrity of all pipelines as determined  
2 through pressure testing, internal inspection tool surveys, or another  
3 appropriate technique;

4 (b) Failsafe systems;

5 (c) Safety management systems; and

6 (d) Emergency management training for pipeline operators.

7 (4) The commission shall coordinate information related to pipeline  
8 safety by providing technical assistance to local planning and siting  
9 authorities.

10 (5) The commission shall evaluate, and consider adopting, proposals  
11 developed by the federal office of pipeline safety, the national  
12 transportation safety board, and other agencies and organizations  
13 related to methods and technologies for testing the integrity of  
14 pipeline structure, leak detection, and other elements of pipeline  
15 operation.

16 (6) The authorities of sections 2, 4, 5, 9, 11, 13, and 19 of this  
17 act, and RCW 81.88.040 relating to hazardous liquid pipeline safety  
18 shall be transferred from the commission to the department pursuant to  
19 section 13 of this act upon the occurrence of either:

20 (a) Amendments to federal pipeline safety laws to eliminate  
21 preemption of state authority to regulate safety requirements for such  
22 pipelines; or

23 (b) The granting of federal authority to the state to enforce or  
24 adopt any safety requirements for interstate hazardous liquid  
25 pipelines.

26 NEW SECTION. **Sec. 6.** (1) The commission shall develop, in  
27 consultation with representatives of owners and operators of hazardous  
28 liquid pipelines and gas pipelines, local governments, and the  
29 excavation and construction industries: (a) A curricula aimed at the  
30 prevention of third-party excavation damage to hazardous liquid  
31 pipelines and gas pipelines; and (b) a plan for distribution of the  
32 curricula.

33 (2) The curricula shall include training on:

34 (a) Prevention of damage to pipelines;

35 (b) The danger involved if a pipeline is damaged;

36 (c) The significance of pipeline damage that does not cause  
37 immediate failure; and

1 (d) The importance of immediately reporting damage to a pipeline  
2 and the importance of immediately repairing a damaged pipeline.

3 NEW SECTION. **Sec. 7.** (1) The commission shall require hazardous  
4 liquid pipelines, and gas pipeline companies with gas transmission  
5 pipelines or gas pipelines operating over two hundred fifty pounds per  
6 square inch gauge, to provide maps of their pipeline to specifications  
7 developed by the commission sufficient to meet the needs of first  
8 responders including installation depth information when known.

9 (2) The commission shall evaluate the sufficiency of the maps and  
10 consolidate the maps into a state-wide geographic information system.  
11 The commission shall assist local governments in obtaining pipeline  
12 location information and maps. The maps shall be made available to the  
13 one-number locator services as provided in chapter 19.122 RCW. The  
14 mapping system shall be compatible with the United States department of  
15 transportation national pipeline mapping program.

16 (3) The mapping system shall be completed by January 1, 2006, and  
17 periodically updated thereafter. The commission shall develop a plan  
18 for funding the geographic information system and report its  
19 recommendations to the legislature by December 15, 2000.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.110 RCW  
21 to read as follows:

22 The municipal research council shall, by June 30, 2001, develop and  
23 periodically update, for the consideration by local governments:

24 (1) A model ordinance that establishes setback and depth  
25 requirements for new hazardous liquid and gas pipeline construction;  
26 and

27 (2) A model franchise agreement for jurisdictions through which a  
28 hazardous liquid or gas pipeline is located.

29 NEW SECTION. **Sec. 9.** (1) The commission and the department shall  
30 apply for federal designation of the state's program for the purposes  
31 of enforcement of federal hazardous liquid pipeline safety  
32 requirements. If the secretary of transportation delegates inspection  
33 authority to the state as provided in this subsection, the department,  
34 at a minimum, shall do the following:

35 (a) Inspect hazardous liquid pipelines periodically as specified in  
36 the inspection program;

1 (b) Collect fees;

2 (c) Order and oversee the testing of hazardous liquid pipelines as  
3 authorized by federal law and regulation; and

4 (d) File reports with the United States secretary of transportation  
5 as required to maintain the delegated authority.

6 (2) The commission and the department shall also seek federal  
7 authority to adopt safety standards related to the monitoring and  
8 testing of interstate hazardous liquid pipelines.

9 (3) Upon designation under subsection (1) of this section or under  
10 a grant of authority under subsection (2) of this section, to the  
11 extent authorized by federal law, the department shall adopt rules for  
12 interstate pipelines that are no less stringent than the state's laws  
13 and rules for intrastate hazardous liquid pipelines.

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.28 RCW  
15 to read as follows:

16 (1) The commission shall seek and accept federal designation of the  
17 commission's inspectors as federal agents for the purposes of  
18 enforcement of federal laws covering gas pipeline safety and the  
19 associated federal rules, as they exist on the effective date of this  
20 section. The commission shall establish and submit to the United  
21 States secretary of transportation an inspection program that complies  
22 with requirements for delegated interstate agent inspection authority.  
23 If the secretary of transportation delegates inspection authority to  
24 the state as provided in this subsection, the commission, at a minimum,  
25 shall do the following:

26 (a) Inspect gas pipelines periodically as specified in the  
27 inspection program;

28 (b) Collect fees;

29 (c) Order and oversee the testing of gas pipelines as authorized by  
30 federal law and regulation; and

31 (d) File reports with the United States secretary of transportation  
32 as required to maintain the delegated authority.

33 (2) The commission shall also seek federal authority to adopt  
34 safety standards related to the monitoring and testing of interstate  
35 gas pipelines.

36 (3) Upon designation under subsection (1) of this section or under  
37 a grant of authority under subsection (2) of this section, to the  
38 extent authorized by federal law, the commission shall adopt rules for



1 interstate gas pipelines that are no less stringent than the state's  
2 laws and rules for intrastate gas pipelines.

3 NEW SECTION. **Sec. 11.** The commission may inspect any record, map,  
4 or written procedure required by federal law to be kept by a hazardous  
5 liquid pipeline company concerning the reportable releases, and the  
6 design, construction, testing, or operation and maintenance of  
7 hazardous liquid pipelines.

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.28 RCW  
9 to read as follows:

10 The commission may inspect any record, map, or written procedure  
11 required by federal law to be kept by a gas pipeline company concerning  
12 the reporting of gas releases, and the design, construction, testing,  
13 or operation and maintenance of gas pipelines.

14 NEW SECTION. **Sec. 13.** (1) All powers, duties, and functions of  
15 the utilities and transportation commission pertaining to hazardous  
16 liquid pipeline safety, except economic regulatory authority under  
17 chapters 81.88, 80.24, and 81.24 RCW, are transferred to the department  
18 of ecology effective upon the department's receipt of any delegated  
19 federal authority over interstate hazardous liquid pipelines, or upon  
20 such earlier date as the office of financial management may determine  
21 in the event that federal law is amended to remove all or part of the  
22 federal preemption of state regulation of hazardous liquid pipelines.  
23 The timing of the transfer shall be facilitated by a memorandum of  
24 agreement between the two agencies, with any disputes resolved by the  
25 office of financial management. All references to the commission or  
26 the utilities and transportation commission in the Revised Code of  
27 Washington shall be construed to mean the director or the department of  
28 ecology when referring to the functions transferred in this section.

29 (2)(a) All reports, documents, surveys, books, records, files,  
30 papers, or written material in the possession of the utilities and  
31 transportation commission pertaining to the powers, functions, and  
32 duties transferred shall be delivered to the custody of the department  
33 of ecology. All cabinets, furniture, office equipment, motor vehicles,  
34 and other tangible property employed by the utilities and  
35 transportation commission in carrying out the powers, functions, and  
36 duties transferred shall be made available to the department of

1 ecology. All funds, credits, or other assets held in connection with  
2 the powers, functions, and duties transferred shall be assigned to the  
3 department of ecology.

4 (b) Any appropriations made to the utilities and transportation  
5 commission for carrying out the powers, functions, and duties  
6 transferred shall be transferred and credited to the department of  
7 ecology under the agreement authorized in subsection (1) of this  
8 section.

9 (c) Whenever any question arises as to the transfer of any  
10 personnel, funds, books, documents, records, papers, files, equipment,  
11 or other tangible property used or held in the exercise of the powers  
12 and the performance of the duties and functions transferred, the  
13 director of financial management shall make a determination as to the  
14 proper allocation and certify the same to the state agencies concerned.

15 (3) All employees of the utilities and transportation commission  
16 engaged in performing the powers, functions, and duties transferred are  
17 transferred to the jurisdiction of the department of ecology. All  
18 employees classified under chapter 41.06 RCW, the state civil service  
19 law, are assigned to the department of ecology to perform their usual  
20 duties upon the same terms as formerly, without any loss of rights,  
21 subject to any action that may be appropriate thereafter in accordance  
22 with the laws and rules governing state civil service.

23 (4) All rules and all pending business before the utilities and  
24 transportation commission pertaining to the powers, functions, and  
25 duties transferred shall be continued and acted upon by the department  
26 of ecology. All existing contracts and obligations shall remain in  
27 full force and shall be performed by the department of ecology.

28 (5) The transfer of the powers, duties, functions, and personnel of  
29 the utilities and transportation commission shall not affect the  
30 validity of any act performed before the effective date of this  
31 section.

32 (6) If apportionments of budgeted funds are required because of the  
33 transfers directed by this section, the director of financial  
34 management shall certify the apportionments to the agencies affected,  
35 the state auditor, and the state treasurer. Each of these shall make  
36 the appropriate transfer and adjustments in funds and appropriation  
37 accounts and equipment records in accordance with the certification.

38 (7) Nothing contained in this section may be construed to alter any  
39 existing collective bargaining unit or the provisions of any existing

1 collective bargaining agreement until the agreement has expired or  
2 until the bargaining unit has been modified by action of the personnel  
3 board as provided by law.

4 NEW SECTION. **Sec. 14.** (1) The citizens committee on pipeline  
5 safety is established to advise the state agencies and other  
6 appropriate federal and local government agencies and officials on  
7 matters relating to pipeline safety, routing, construction, operation,  
8 and maintenance. The committee shall have thirteen total members who  
9 shall be appointed by the governor to staggered three-year terms and  
10 shall consist of: (a) Nine members representing local government,  
11 including elected officials and the public; and (b) four nonvoting  
12 members, representing owners and operators of hazardous liquid and gas  
13 pipelines. The committee shall review and comment on proposed rules  
14 and the operation of the state pipeline safety programs.

15 (2) The committee may create one or more technical advisory  
16 committees comprised of gas and hazardous liquid pipeline owners or  
17 operators, agency representatives, natural resource and environmental  
18 interests, or other interested parties.

19 (3) The committee established in subsection (1) of this section  
20 constitutes a class one group under RCW 43.03.220. Expenses for this  
21 group, as well as staff support, shall be provided by the utilities and  
22 transportation commission and, if additional pipeline authority is  
23 transferred to it, the department of ecology.

24 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.122  
25 RCW to read as follows:

26 (1) By December 31, 2000, the utilities and transportation  
27 commission shall cause to be established a single state-wide toll-free  
28 telephone number to be used for referring excavators to the appropriate  
29 one-number locator service.

30 (2) The utilities and transportation commission, in consultation  
31 with the Washington utilities coordinating council, shall establish  
32 minimum standards and best management practices for one-number locator  
33 services consistent with the recommendations of the governor's fuel  
34 accident prevention and response team issued in December 1999. By  
35 December 31, 2000, the commission shall provide its recommendations to  
36 the appropriate standing committees of the house of representatives and  
37 the senate.

1 (3) One-number locator services shall be operated by  
2 nongovernmental agencies.

3 **Sec. 16.** RCW 19.122.030 and 1988 c 99 s 1 are each amended to read  
4 as follows:

5 (1) Before commencing any excavation, excluding agriculture tilling  
6 of soil less than twelve inches in depth, the excavator shall provide  
7 notice of the scheduled commencement of excavation to all owners of  
8 underground facilities through a one-number locator service.

9 (2) All owners of underground facilities within a one-number  
10 locator service area shall subscribe to the service. One-number  
11 locator service rates for cable television companies will be based on  
12 the amount of their underground facilities. If no one-number locator  
13 service is available, notice shall be provided individually to those  
14 owners of underground facilities known to or suspected of having  
15 underground facilities within the area of proposed excavation. The  
16 notice shall be communicated to the owners of underground facilities  
17 not less than two business days or more than ten business days before  
18 the scheduled date for commencement of excavation, unless otherwise  
19 agreed by the parties. The notice shall also comply with the  
20 requirements of section 20 of this act.

21 (3) Upon receipt of the notice provided for in this section, the  
22 owner of the underground facility shall provide the excavator with  
23 reasonably accurate information as to its locatable underground  
24 facilities by surface-marking the location of the facilities. If there  
25 are identified but unlocatable underground facilities, the owner of  
26 such facilities shall provide the excavator with the best available  
27 information as to their locations. The owner of the underground  
28 facility providing the information shall respond no later than two  
29 business days after the receipt of the notice or before the excavation  
30 time, at the option of the owner, unless otherwise agreed by the  
31 parties. Excavators shall not excavate until all known facilities have  
32 been marked. Once marked by the owner of the underground facility, the  
33 excavator is responsible for maintaining the markings. Excavators  
34 shall have the right to receive compensation from the owner of the  
35 underground facility for costs incurred if the owner of the underground  
36 facility does not locate its facilities in accordance with this  
37 section.

1       (4) The owner of the underground facility shall have the right to  
2 receive compensation for costs incurred in responding to excavation  
3 notices given less than two business days prior to the excavation from  
4 the excavator.

5       (5) An owner of underground facilities is not required to indicate  
6 the presence of existing service laterals or appurtenances if the  
7 presence of existing service laterals or appurtenances on the site of  
8 the construction project can be determined from the presence of other  
9 visible facilities, such as buildings, manholes, or meter and junction  
10 boxes on or adjacent to the construction site.

11       (6) Emergency excavations are exempt from the time requirements for  
12 notification provided in this section.

13       (7) If the excavator, while performing the contract, discovers  
14 underground facilities which are not identified, the excavator shall  
15 cease excavating in the vicinity of the facility and immediately notify  
16 the owner or operator of such facilities, or the one-number locator  
17 service.

18       NEW SECTION.   **Sec. 17.** A new section is added to chapter 19.122  
19 RCW to read as follows:

20       When the excavator contacts the one-number locator service under  
21 RCW 19.122.030(1), the excavator shall notify the service if surface  
22 markings or other information indicates that the excavation work,  
23 excluding agricultural tilling less than twelve inches in depth, is to  
24 occur within five feet of a hazardous liquid pipeline or gas  
25 transmission pipeline. The one-number locator service shall inform the  
26 pipeline company that owns or operates the pipeline that excavation is  
27 to occur within five feet of their pipeline and inform the company that  
28 its representative must be on-site, prior to the start of excavation.

29       **Sec. 18.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to  
30 read as follows:

31       An excavator who, in the course of excavation, contacts or damages  
32 an underground facility shall immediately notify the utility owning or  
33 operating such facility and the state-wide one-number (~~locator~~)  
34 referral service. If the damage causes an emergency condition, the  
35 excavator causing the damage shall also immediately alert the  
36 appropriate local public safety agencies and take all appropriate steps

1 to ensure the public safety. No damaged underground facility may be  
2 buried until it is repaired or relocated.

3 (2) The owner of the underground facilities damaged shall arrange  
4 for repairs or relocation as soon as is practical or may permit the  
5 excavator to do necessary repairs or relocation at a mutually  
6 acceptable price.

7 NEW SECTION. **Sec. 19.** A new section is added to chapter 48.48 RCW  
8 to read as follows:

9 (1) The chief of the Washington state patrol, through the director  
10 of fire protection or his or her authorized deputy, shall, in  
11 consultation with the emergency management program within the state  
12 military department, the department of ecology, the utilities and  
13 transportation commission, and local emergency services organizations:

14 (a) Evaluate the preparedness of local first responders in meeting  
15 emergency management demands under subsection (2) of this section; and

16 (b) Conduct an assessment of the equipment and personnel needed by  
17 local first responders to meet emergency management demands related to  
18 pipelines.

19 (2) The chief of the Washington state patrol, through the director  
20 of fire protection or his or her deputy, shall develop curricula for  
21 training local first responders to deal with hazardous liquid and gas  
22 pipeline accidents. The curricula shall be developed in conjunction  
23 with pipeline companies and local first responders, and shall include  
24 a timetable and costs for providing training as defined in the  
25 curricula to all communities housing pipelines. Separate curricula  
26 shall be developed for hazardous liquid and gas pipelines so that the  
27 differences between pipelines may be recognized and appropriate  
28 accident responses provided. The need for a training program for  
29 regional incident management teams shall also be evaluated.

30 (3) In consultation with other relevant agencies, the chief of the  
31 Washington state patrol, through the director of fire protection or his  
32 or her deputy, shall identify the need and means for achieving  
33 consistent application of the national interagency incident management  
34 system.

35 (4) For the purposes of this section, "local first responders"  
36 means police, fire, emergency medical staff, and volunteers.

1        NEW SECTION.    **Sec. 20.**    (1) A pipeline company that has been  
2 notified by an excavator pursuant to RCW 19.122.050 that excavation  
3 work will occur within five feet of a hazardous liquid pipeline shall  
4 ensure that the pipeline company's representative is on-site during the  
5 excavation within the five foot zone. The pipeline company has the  
6 discretion to require that the pipeline section in the vicinity of the  
7 excavation is fully uncovered and examined for damage prior to being  
8 reburied.

9        (2) Immediately upon receiving information of third-party damage to  
10 a pipeline owned or operated by a pipeline company, that company shall  
11 visually inspect the pipeline. After visual inspection, a pipeline  
12 company shall determine whether the pipeline section that has sustained  
13 third-party damage should be replaced or repaired. A record of the  
14 company's inspection report and test results shall be provided to the  
15 commission within fourteen calendar days of the inspection.

16        (3) Pipeline companies shall immediately notify local first  
17 responders and the department of any reportable release from a  
18 hazardous liquid pipeline.

19        NEW SECTION.    **Sec. 21.** A new section is added to chapter 80.28 RCW  
20 to read as follows:

21        (1) A gas pipeline company that has been notified by an excavator  
22 pursuant to RCW 19.122.050 that excavation work will occur within five  
23 feet of a gas transmission pipeline shall ensure that the pipeline  
24 company's representative is on-site during the excavation within the  
25 five foot zone. The gas pipeline company has the discretion to require  
26 that the pipeline section in the vicinity of the excavation is fully  
27 uncovered and examined for damage prior to being reburied.

28        (2) Immediately upon receiving information of third-party damage to  
29 any gas pipeline owned or operated by a gas pipeline company, that  
30 company shall visually inspect the pipeline. After visual inspection,  
31 a gas pipeline company shall determine whether the pipeline section  
32 that has sustained third-party damage should be replaced or repaired.  
33 A record of the company's inspection report and test results shall be  
34 provided to the commission within fourteen calendar days of the  
35 inspection.

36        (3) Pipeline companies shall immediately notify local first  
37 responders and the commission of any blowing gas leak from a gas

1 pipeline that has ignited or represents a probable hazard to persons or  
2 property.

3 NEW SECTION. **Sec. 22.** A new section is added to chapter 19.122  
4 RCW to read as follows:

5 Any person who willfully damages or removes a permanent marking  
6 used to identify an underground facility, or a temporary marking prior  
7 to its intended use, is subject to a civil penalty of not more than one  
8 thousand dollars for each act.

9 NEW SECTION. **Sec. 23.** A new section is added to chapter 19.122  
10 RCW to read as follows:

11 (1) Any person who fails to notify the one-number locator service  
12 and causes damage to a hazardous liquid or gas pipeline is subject to  
13 a civil penalty of not more than ten thousand dollars for each  
14 violation.

15 (2) Any person who excavates within five feet of a hazardous liquid  
16 pipeline or gas transmission pipeline without the pipeline company's  
17 representative on-site, is subject to a civil penalty of not more than  
18 ten thousand dollars for each violation.

19 (3) All civil penalties recovered under subsections (1) and (2) of  
20 this section shall be deposited in the general fund and expended for  
21 the purpose of enforcement of hazardous liquid and gas pipeline safety  
22 laws.

23 (4) For the purposes of this section and section 17 of this act:  
24 (a) "Hazardous liquid" means: (i) Petroleum, petroleum products, or  
25 anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in  
26 effect March 1, 1998; and (ii) carbon dioxide. The utilities and  
27 transportation commission by rule may incorporate by reference other  
28 substances designated as hazardous by the secretary of transportation  
29 under 49 U.S.C. Sec. 60101(a)(4); and (b) "gas" means natural gas,  
30 flammable gas, or toxic or corrosive gas.

31 NEW SECTION. **Sec. 24.** A pipeline containing petroleum or  
32 petroleum products that is wholly owned by an individual and which  
33 pipeline is located wholly on the individual's property, that is not  
34 adjoining marine waters, is exempt from the provisions of this chapter.  
35 This exemption applies only for pipelines that do not have any  
36 connections to pipelines or facilities that extend beyond the pipeline



1 owner's property and the petroleum or petroleum products must be for  
2 use only at that location.

3 NEW SECTION. **Sec. 25.** If any part of this act is found to be in  
4 conflict with federal requirements that are a prescribed condition to  
5 the allocation of federal funds to the state, the conflicting part of  
6 this act is inoperative solely to the extent of the conflict and with  
7 respect to the agencies directly affected, and this finding does not  
8 affect the operation of the remainder of this act in its application to  
9 the agencies concerned. Rules adopted under this act must meet federal  
10 requirements that are a necessary condition to the receipt of federal  
11 funds by the state.

12 NEW SECTION. **Sec. 26.** This act may be known and cited as the  
13 Washington state pipeline safety act.

14 NEW SECTION. **Sec. 27.** Sections 1, 2, 4 through 7, 9, 11, 13, 14,  
15 20, and 24 through 26 of this act are each added to chapter 81.88 RCW.

16 NEW SECTION. **Sec. 28.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and takes effect  
19 immediately."

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21 By Senators Spanel, Morton, Gardner and Fraser

22 ADOPTED 3/2/00

23 On page 1, line 1 of the title, after "safety;" strike the  
24 remainder of the title and insert "amending RCW 81.88.040, 19.122.030,  
25 and 19.122.050; adding new sections to chapter 81.88 RCW; adding a new  
26 section to chapter 43.110 RCW; adding new sections to chapter 80.28  
27 RCW; adding new sections to chapter 19.122 RCW; adding a new section to  
28 chapter 48.48 RCW; prescribing penalties; and declaring an emergency."

--- END ---