

2 **E2SHB 2420** - S AMD - 284  
3 By Senators Spanel and Morton

4 ADOPTED 3/8/00

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) "Gas pipeline" means all parts of a pipeline facility through  
8 which gas moves in transportation, including, but not limited to, line  
9 pipe, valves, and other appurtenances connected to line pipe, pumping  
10 units, fabricated assemblies associated with pumping units, metering  
11 and delivery stations and fabricated assemblies therein, and breakout  
12 tanks. "Gas pipeline" does not include process or transfer pipelines.
- 13           (6) "Gas pipeline company" means a person or entity constructing,  
14 owning, or operating a gas pipeline for transporting gas. A "gas  
15 pipeline company" does not include: (a) Distribution systems owned and  
16 operated under franchise for the sale, delivery, or distribution of  
17 natural gas at retail; or (b) excavation contractors or other  
18 contractors that contract with a gas pipeline company.
- 19           (7) "Hazardous liquid" means: (a) 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 (b) carbon dioxide.
- 22           (8) "Local government" means a political subdivision of the state  
23 or a city or town.
- 24           (9) "Person" means an individual, partnership, franchise holder,  
25 association, corporation, a state, a city, a county, or any political  
26 subdivision or instrumentality of a state, and its employees, agents,  
27 or legal representatives.
- 28           (10) "Pipeline," "pipeline system," or "hazardous liquid pipeline"  
29 means all parts of a pipeline facility through which a hazardous liquid  
30 moves in transportation, including, but not limited to, line pipe,  
31 valves, and other appurtenances connected to line pipe, pumping units,  
32 fabricated assemblies associated with pumping units, metering and  
33 delivery stations and fabricated assemblies therein, and breakout  
34 tanks. "Pipeline" or "pipeline system" does not include process or  
35 transfer pipelines.
- 36           (11) "Pipeline company" or "hazardous liquid pipeline company"  
37 means a person or entity constructing, owning, or operating a pipeline  
38 for transporting hazardous liquid. A "pipeline company" does not  
39 include: (a) Distribution systems owned and operated under franchise

1 for the sale, delivery, or distribution of natural gas at retail; or  
2 (b) excavation contractors or other contractors that contract with a  
3 pipeline company.

4 (12) "Reportable release" means a spilling, leaking, pouring,  
5 emitting, discharging, or any other uncontrolled escape of a hazardous  
6 liquid in excess of one barrel, or forty-two gallons.

7 (13) "Safety management systems" means management systems that  
8 include coordinated and interdisciplinary evaluations of the effect of  
9 significant changes to a pipeline system before such changes are  
10 implemented.

11 (14) "Transfer pipeline" means a buried or aboveground pipeline  
12 used to carry oil between a tank vessel or transmission pipeline and  
13 the first valve inside secondary containment at the facility provided  
14 that any discharge on the facility side of that first valve will not  
15 directly impact waters of the state. A transfer pipeline includes  
16 valves, and other appurtenances connected to the pipeline, pumping  
17 units, and fabricated assemblies associated with pumping units. A  
18 transfer pipeline does not include process pipelines, pipelines  
19 carrying ballast or bilge water, transmission pipelines, or tank vessel  
20 or storage tanks.

21 (15) "Transmission pipeline" means a gas pipeline that transports  
22 gas within a storage field, or transports gas from an interstate  
23 pipeline or storage facility to a distribution main or a large volume  
24 gas user, or operates at a hoop stress of twenty percent or more of the  
25 specified minimum yield strength.

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

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

30 ~~(a) "Pipeline company" means a person or entity constructing,~~  
31 ~~owning, or operating an intrastate pipeline for transporting hazardous~~  
32 ~~liquid, whether or not such a person or entity is a public service~~  
33 ~~company otherwise regulated by the commission. For the purposes of~~  
34 ~~this section, a pipeline company does not include: (i) Distribution~~  
35 ~~systems owned and operated under franchise for the sale, delivery, or~~  
36 ~~distribution of natural gas at retail; or (ii) excavation contractors~~  
37 ~~or other contractors that contract with a pipeline company.~~

1       ~~(b) "Hazardous liquid" means: (i) Petroleum, petroleum products,~~  
2 ~~or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195~~  
3 ~~in effect March 1, 1998; and (ii) carbon dioxide. The commission by~~  
4 ~~rule may incorporate by reference other substances designated as~~  
5 ~~hazardous by the secretary of transportation under 49 U.S.C. Sec.~~  
6 ~~60101(a)(4).~~

7       ~~(2) The commission shall adopt by rule intrastate pipeline safety~~  
8 ~~standards for pipeline transportation and pipeline facilities that:~~  
9 ~~(a) Apply to pipeline companies transporting hazardous liquids; (b)~~  
10 ~~cover the design, construction, and operation of pipelines transporting~~  
11 ~~hazardous liquids; and (c) require pipeline companies to design,~~  
12 ~~construct, and maintain their pipeline facilities so they are safe and~~  
13 ~~efficient.~~

14       ~~(3))~~ A person, officer, agent, or employee of a pipeline company  
15 who, as an individual or acting as an officer, agent, or employee of  
16 such a company, violates or fails to comply with this ~~((section))~~  
17 chapter or a rule adopted under this section, or who procures, aids, or  
18 abets another person or entity in the violation of or noncompliance  
19 with this section or a rule adopted under this section, is guilty of a  
20 gross misdemeanor.

21       ~~((4))~~ (2)(a) A pipeline company, or any person, officer, agent,  
22 or employee of a pipeline company that violates a provision of this  
23 section, or a rule adopted under this section, is subject to a civil  
24 penalty to be assessed by the commission.

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

31       (c) In determining the amount of the penalty, the commission shall  
32 consider: (i) The appropriateness of the penalty in relation to the  
33 position of the person charged with the violation; (ii) the gravity of  
34 the violation; and (iii) the good faith of the person or company  
35 charged in attempting to achieve compliance after notification of the  
36 violation.

37       (d) The amount of the penalty may be recovered in a civil action in  
38 the superior court of Thurston county or of some other county in which  
39 the violator may do business. In all actions for recovery, the rules

1 of evidence shall be the same as in ordinary civil actions. All  
2 penalties recovered under this section must be paid into the state  
3 treasury and credited to the (~~public service revolving fund~~)  
4 hazardous liquid pipeline safety account.

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

8 (~~(+5))~~ (4) The commission shall also have the power of injunctive  
9 relief, as required by 49 U.S.C. Sec. 60105(b), to enforce the  
10 provisions of this chapter.

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

13 NEW SECTION. Sec. 4. (1) The hazardous liquid pipeline safety  
14 account is created in the custody of the state treasurer. All receipts  
15 from the federal office of pipeline safety and any other state or  
16 federal funds provided for hazardous liquid pipeline safety must be  
17 deposited in the account, except as provided in subsection (2) of this  
18 section. Any fines collected under this chapter, or otherwise  
19 designated to this account must be deposited in the account. Moneys in  
20 the account may be spent only after appropriation. Expenditures from  
21 the account may be used only for funding pipeline safety.

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

25 NEW SECTION. Sec. 5. (1) A comprehensive program of hazardous  
26 liquid pipeline safety is authorized by sections 2, 4, 5, 9, 11, 13,  
27 and 20 of this act, and RCW 81.88.040 to be developed and implemented  
28 consistent with federal law. Except as provided in subsection (6) of  
29 this section, the commission shall administer and enforce all laws  
30 related to hazardous liquid pipeline safety.

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

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

35 (b) Require pipeline companies to rapidly locate and isolate all  
36 reportable releases from pipelines, that may include:

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

1 (ii) Installation of remotely monitored pressure gauges and meters;  
2 (c) Require the training and certification of personnel who operate  
3 pipelines and the associated systems;  
4 (d) Require reporting of emergency situations, including emergency  
5 shutdowns and material defects or physical damage that impair the  
6 serviceability of a pipeline; and  
7 (e) Require pipeline companies to submit operations safety plans to  
8 the commission once every five years, as well as any amendments to the  
9 plan made necessary by changes to the pipeline system or its operation.  
10 The safety plan shall include emergency response procedures.

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

17 (a) A schedule of inspection and testing within the pipeline  
18 distribution system of:

19 (i) All mechanical components;  
20 (ii) All electronic components; and  
21 (iii) The structural integrity of all pipelines as determined  
22 through pressure testing, internal inspection tool surveys, or another  
23 appropriate technique;

24 (b) Failsafe systems;  
25 (c) Safety management systems; and  
26 (d) Emergency management training for pipeline operators.

27 (4) The commission shall coordinate information related to pipeline  
28 safety by providing technical assistance to local planning and siting  
29 authorities.

30 (5) The commission shall evaluate, and consider adopting, proposals  
31 developed by the federal office of pipeline safety, the national  
32 transportation safety board, and other agencies and organizations  
33 related to methods and technologies for testing the integrity of  
34 pipeline structure, leak detection, and other elements of pipeline  
35 operation.

36 (6) The authorities of sections 2, 4, 5, 9, 11, 13, and 20 of this  
37 act, and RCW 81.88.040 relating to hazardous liquid pipeline safety  
38 shall be transferred from the commission to the department pursuant to  
39 section 13 of this act upon the occurrence of either:

1 (a) Amendments to federal pipeline safety laws to eliminate  
2 preemption of state authority to regulate safety requirements for such  
3 pipelines; or

4 (b) The granting of federal authority to the state to enforce or  
5 adopt any safety requirements for interstate hazardous liquid  
6 pipelines.

7 NEW SECTION. **Sec. 6.** (1) The commission shall develop, in  
8 consultation with representatives of hazardous liquid pipeline  
9 companies, gas pipeline companies, local governments, and the  
10 excavation and construction industries: (a) A curricula aimed at the  
11 prevention of third-party excavation damage to hazardous liquid  
12 pipelines and gas pipelines; and (b) a plan for distribution of the  
13 curricula.

14 (2) The curricula shall include training on:

15 (a) Prevention of damage to hazardous liquid and gas pipelines;

16 (b) The danger involved if a hazardous liquid or gas pipeline is  
17 damaged;

18 (c) The significance of hazardous liquid or gas pipeline damage  
19 that does not cause immediate failure; and

20 (d) The importance of immediately reporting damage to a hazardous  
21 liquid or gas pipeline and the importance of immediately repairing a  
22 damaged hazardous liquid or gas pipeline.

23 NEW SECTION. **Sec. 7.** (1) The commission shall require hazardous  
24 liquid pipeline companies, and gas pipeline companies with interstate  
25 pipelines, gas transmission pipelines, or gas pipelines operating over  
26 two hundred fifty pounds per square inch gauge, to provide accurate  
27 maps of their pipeline to specifications developed by the commission  
28 sufficient to meet the needs of first responders including installation  
29 depth information when known.

30 (2) The commission shall evaluate the sufficiency of the maps and  
31 consolidate the maps into a state-wide geographic information system.  
32 The commission shall assist local governments in obtaining hazardous  
33 liquid and gas pipeline location information and maps. The maps shall  
34 be made available to the one-number locator services as provided in  
35 chapter 19.122 RCW. The mapping system shall be consistent with the  
36 United States department of transportation national pipeline mapping  
37 program.

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

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

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

9 (1) A model ordinance that establishes setback and depth  
10 requirements for new hazardous liquid and gas pipeline construction;  
11 and

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

14 NEW SECTION. **Sec. 9.** (1) The commission and the department shall  
15 apply for federal delegation for the state's program for the purposes  
16 of enforcement of federal hazardous liquid pipeline safety  
17 requirements. If the secretary of transportation delegates inspection  
18 authority to the state as provided in this subsection, the department,  
19 at a minimum, shall do the following:

20 (a) Inspect hazardous liquid pipelines periodically as specified in  
21 the inspection program;

22 (b) Collect fees;

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

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

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

30 (3) Upon delegation under subsection (1) of this section or under  
31 a grant of authority under subsection (2) of this section, to the  
32 extent authorized by federal law, the department shall adopt rules for  
33 interstate pipelines that are no less stringent than the state's laws  
34 and rules for intrastate hazardous liquid pipelines.

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



1 (1) The commission shall seek and accept federal delegation for the  
2 commission's inspectors as federal agents for the purposes of  
3 enforcement of federal laws covering gas pipeline safety and the  
4 associated federal rules, as they exist on the effective date of this  
5 section. The commission shall establish and submit to the United  
6 States secretary of transportation an inspection program that complies  
7 with requirements for delegated interstate agent inspection authority.  
8 If the secretary of transportation delegates inspection authority to  
9 the state as provided in this subsection, the commission, at a minimum,  
10 shall do the following:

11 (a) Inspect gas pipelines periodically as specified in the  
12 inspection program;

13 (b) Collect fees;

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

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

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

21 (3) Upon designation under subsection (1) of this section or under  
22 a grant of authority under subsection (2) of this section, to the  
23 extent authorized by federal law, the commission shall adopt rules for  
24 interstate gas pipelines that are no less stringent than the state's  
25 laws and rules for intrastate gas pipelines.

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

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

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

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

16        (2)(a) All reports, documents, surveys, books, records, files,  
17 papers, or written material in the possession of the utilities and  
18 transportation commission pertaining to the powers, functions, and  
19 duties transferred shall be delivered to the custody of the department  
20 of ecology. All cabinets, furniture, office equipment, motor vehicles,  
21 and other tangible property employed by the utilities and  
22 transportation commission in carrying out the powers, functions, and  
23 duties transferred shall be made available to the department of  
24 ecology. All funds, credits, or other assets held in connection with  
25 the powers, functions, and duties transferred shall be assigned to the  
26 department of ecology.

27        (b) Any appropriations made to the utilities and transportation  
28 commission for carrying out the powers, functions, and duties  
29 transferred shall be transferred and credited to the department of  
30 ecology under the agreement authorized in subsection (1) of this  
31 section.

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

38        (3) All employees of the utilities and transportation commission  
39 engaged in performing the powers, functions, and duties transferred are

1 transferred to the jurisdiction of the department of ecology. All  
2 employees classified under chapter 41.06 RCW, the state civil service  
3 law, are assigned to the department of ecology to perform their usual  
4 duties upon the same terms as formerly, without any loss of rights,  
5 subject to any action that may be appropriate thereafter in accordance  
6 with the laws and rules governing state civil service.

7 (4) All rules and all pending business before the utilities and  
8 transportation commission pertaining to the powers, functions, and  
9 duties transferred shall be continued and acted upon by the department  
10 of ecology. All existing contracts and obligations shall remain in  
11 full force and shall be performed by the department of ecology.

12 (5) The transfer of the powers, duties, functions, and personnel of  
13 the utilities and transportation commission shall not affect the  
14 validity of any act performed before the effective date of this  
15 section.

16 (6) If apportionments of budgeted funds are required because of the  
17 transfers directed by this section, the director of financial  
18 management shall certify the apportionments to the agencies affected,  
19 the state auditor, and the state treasurer. Each of these shall make  
20 the appropriate transfer and adjustments in funds and appropriation  
21 accounts and equipment records in accordance with the certification.

22 (7) Nothing contained in this section may be construed to alter any  
23 existing collective bargaining unit or the provisions of any existing  
24 collective bargaining agreement until the agreement has expired or  
25 until the bargaining unit has been modified by action of the personnel  
26 board as provided by law.

27 NEW SECTION. **Sec. 14.** (1) The citizens committee on pipeline  
28 safety is established to advise the state agencies and other  
29 appropriate federal and local government agencies and officials on  
30 matters relating to hazardous liquid and gas pipeline safety, routing,  
31 construction, operation, and maintenance. The committee shall have  
32 thirteen total members who shall be appointed by the governor to  
33 staggered three-year terms and shall consist of: (a) Nine members  
34 representing local government, including elected officials and the  
35 public; and (b) four nonvoting members, representing owners and  
36 operators of hazardous liquid and gas pipelines. The committee shall  
37 review and comment on proposed rules and the operation of the state  
38 pipeline safety programs.

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

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

10 **Sec. 15.** RCW 19.122.020 and 1984 c 144 s 2 are each amended to  
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter:

14 (1) "Business day" means any day other than Saturday, Sunday, or a  
15 legal local, state, or federal holiday.

16 (2) "Damage" includes the substantial weakening of structural or  
17 lateral support of an underground facility, penetration, impairment, or  
18 destruction of any underground protective coating, housing, or other  
19 protective device, or the severance, partial or complete, of any  
20 underground facility to the extent that the project owner or the  
21 affected utility owner determines that repairs are required.

22 (3) "Emergency" means any condition constituting a clear and  
23 present danger to life or property, or a customer service outage.

24 (4) "Excavation" means any operation in which earth, rock, or other  
25 material on or below the ground is moved or otherwise displaced by any  
26 means, except the tilling of soil less than twelve inches in depth for  
27 agricultural purposes, or road and ditch maintenance that does not  
28 change the original road grade or ditch flowline.

29 (5) "Excavator" means any person who engages directly in  
30 excavation.

31 (6) "Gas" means natural gas, flammable gas, or toxic or corrosive  
32 gas.

33 (7) "Hazardous liquid" means: (a) Petroleum, petroleum products, or  
34 anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as  
35 in effect on March 1, 1998; and (b) carbon dioxide. The utilities and  
36 transportation commission may by rule incorporate by reference other  
37 substances designated as hazardous by the secretary of transportation.

1       (8) "Identified facility" means any underground facility which is  
2 indicated in the project plans as being located within the area of  
3 proposed excavation.

4       (~~(7)~~) (9) "Identified but unlocatable underground facility" means  
5 an underground facility which has been identified but cannot be located  
6 with reasonable accuracy.

7       (~~(8)~~) (10) "Locatable underground facility" means an underground  
8 facility which can be field-marked with reasonable accuracy.

9       (~~(9)~~) (11) "Marking" means the use of stakes, paint, or other  
10 clearly identifiable materials to show the field location of  
11 underground facilities, in accordance with the current color code  
12 standard of the American public works association. Markings shall  
13 include identification letters indicating the specific type of the  
14 underground facility.

15       (~~(10)~~) (12) "Person" means an individual, partnership, franchise  
16 holder, association, corporation, a state, a city, a county, or any  
17 subdivision or instrumentality of a state, and its employees, agents,  
18 or legal representatives.

19       (~~(11)~~) (13) Pipeline" or "pipeline system" means all or parts of  
20 a pipeline facility through which hazardous liquid or gas moves in  
21 transportation, including, but not limited to, line pipe, valves, and  
22 other appurtenances connected to line pipe, pumping units, fabricated  
23 assemblies associated with pumping units, metering and delivery  
24 stations and fabricated assemblies therein, and breakout tanks.  
25 "Pipeline" or "pipeline system" does not include process or transfer  
26 pipelines as defined in section 2 of this act.

27       (14) "Pipeline company" means a person or entity constructing,  
28 owning, or operating a pipeline for transporting hazardous liquid or  
29 gas. A pipeline company does not include: (a) Distribution systems  
30 owned and operated under franchise for the sale, delivery, or  
31 distribution of natural gas at retail; or (b) excavation contractors or  
32 other contractors that contract with a pipeline company.

33       (15) "Reasonable accuracy" means location within twenty-four inches  
34 of the outside dimensions of both sides of an underground facility.

35       (~~(12)~~) (16) "Underground facility" means any item buried or  
36 placed below ground for use in connection with the storage or  
37 conveyance of water, sewage, electronic, telephonic or telegraphic  
38 communications, cablevision, electric energy, petroleum products, gas,  
39 gaseous vapors, hazardous liquids, or other substances and including

1 but not limited to pipes, sewers, conduits, cables, valves, lines,  
2 wires, manholes, attachments, and those parts of poles or anchors below  
3 ground. This definition does not include pipelines as defined in  
4 subsection (13) of this section, but does include distribution systems  
5 owned and operated under franchise for the sale, delivery, or  
6 distribution of natural gas at retail.

7 ((-13-)) (17) "One-number locator service" means a service through  
8 which a person can notify utilities and request field-marking of  
9 underground facilities.

10 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.122  
11 RCW to read as follows:

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

16 (2) The utilities and transportation commission, in consultation  
17 with the Washington utilities coordinating council, shall establish  
18 minimum standards and best management practices for one-number locator  
19 services consistent with the recommendations of the governor's fuel  
20 accident prevention and response team issued in December 1999. By  
21 December 31, 2000, the commission shall provide its recommendations to  
22 the appropriate standing committees of the house of representatives and  
23 the senate.

24 (3) One-number locator services shall be operated by  
25 nongovernmental agencies.

26 **Sec. 17.** RCW 19.122.030 and 1988 c 99 s 1 are each amended to read  
27 as follows:

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

32 (2) All owners of underground facilities within a one-number  
33 locator service area shall subscribe to the service. One-number  
34 locator service rates for cable television companies will be based on  
35 the amount of their underground facilities. If no one-number locator  
36 service is available, notice shall be provided individually to those  
37 owners of underground facilities known to or suspected of having

1 underground facilities within the area of proposed excavation. The  
2 notice shall be communicated to the owners of underground facilities  
3 not less than two business days or more than ten business days before  
4 the scheduled date for commencement of excavation, unless otherwise  
5 agreed by the parties.

6 (3) Upon receipt of the notice provided for in this section, the  
7 owner of the underground facility shall provide the excavator with  
8 reasonably accurate information as to its locatable underground  
9 facilities by surface-marking the location of the facilities. If there  
10 are identified but unlocatable underground facilities, the owner of  
11 such facilities shall provide the excavator with the best available  
12 information as to their locations. The owner of the underground  
13 facility providing the information shall respond no later than two  
14 business days after the receipt of the notice or before the excavation  
15 time, at the option of the owner, unless otherwise agreed by the  
16 parties. Excavators shall not excavate until all known facilities have  
17 been marked. Once marked by the owner of the underground facility, the  
18 excavator is responsible for maintaining the markings. Excavators  
19 shall have the right to receive compensation from the owner of the  
20 underground facility for costs incurred if the owner of the underground  
21 facility does not locate its facilities in accordance with this  
22 section.

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

27 (5) An owner of underground facilities is not required to indicate  
28 the presence of existing service laterals or appurtenances if the  
29 presence of existing service laterals or appurtenances on the site of  
30 the construction project can be determined from the presence of other  
31 visible facilities, such as buildings, manholes, or meter and junction  
32 boxes on or adjacent to the construction site.

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

35 (7) If the excavator, while performing the contract, discovers  
36 underground facilities which are not identified, the excavator shall  
37 cease excavating in the vicinity of the facility and immediately notify  
38 the owner or operator of such facilities, or the one-number locator  
39 service.

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

3        (1) Before commencing any excavation, excluding agricultural  
4 tilling less than twelve inches in depth, an excavator shall notify  
5 pipeline companies of the scheduled commencement of excavation through  
6 a one-number locator service in the same manner as is required for  
7 notifying owners of underground facilities of excavation work under RCW  
8 19.122.030. Pipeline companies shall have the same rights and  
9 responsibilities as owners of underground facilities under RCW  
10 19.122.030 regarding excavation work. Excavators have the same rights  
11 and responsibilities under this section as they have under RCW  
12 19.122.030.

13        (2) Project owners, excavators, and pipeline companies have the  
14 same rights and responsibilities relating to excavation near pipelines  
15 that they have for excavation near underground facilities as provided  
16 in RCW 19.122.040.

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

19        (1) After a pipeline company has been notified by an excavator  
20 pursuant to section 18 of this act that excavation work will uncover  
21 any portion of the pipeline, the pipeline company shall ensure that the  
22 pipeline section in the vicinity of the excavation is examined for  
23 damage prior to being reburied.

24        (2) Immediately upon receiving information of third-party damage to  
25 a hazardous liquid pipeline, the company that operates the pipeline  
26 shall terminate the flow of hazardous liquid in that pipeline until it  
27 has visually inspected the pipeline. After visual inspection, the  
28 operator of the hazardous liquid pipeline shall determine whether the  
29 damaged pipeline section should be replaced or repaired, or whether it  
30 is safe to resume pipeline operation. Immediately upon receiving  
31 information of third-party damage to a gas pipeline, the company that  
32 operates the pipeline shall conduct a visual inspection of the pipeline  
33 to determine whether the flow of gas through that pipeline should be  
34 terminated, and whether the damaged pipeline should be replaced or  
35 repaired. A record of the pipeline company's inspection report and  
36 test results shall be provided to the utilities and transportation  
37 commission consistent with reporting requirements under 49 C.F.R. 195  
38 Subpart B.



1 (3) Pipeline companies shall immediately notify local first  
2 responders and the department of any reportable release of a hazardous  
3 liquid from a pipeline. Pipeline companies shall immediately notify  
4 local first responders and the commission of any blowing gas leak from  
5 a gas pipeline that has ignited or represents a probable hazard to  
6 persons or property. Pipeline companies shall take all appropriate  
7 steps to ensure the public safety in the event of a release of  
8 hazardous liquid or gas under this subsection.

9 (4) No damaged pipeline may be buried until it is repaired or  
10 relocated. The pipeline company shall arrange for repairs or  
11 relocation of a damaged pipeline as soon as is practical or may permit  
12 the excavator to do necessary repairs or relocation at a mutually  
13 acceptable price.

14 NEW SECTION. **Sec. 20.** A new section is added to chapter 48.48 RCW  
15 to read as follows:

16 (1) The chief of the Washington state patrol, through the director  
17 of fire protection or his or her authorized deputy, shall, in  
18 consultation with the emergency management program within the state  
19 military department, the department of ecology, the utilities and  
20 transportation commission, and local emergency services organizations:

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

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

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

37 (3) In consultation with other relevant agencies, the chief of the  
38 Washington state patrol, through the director of fire protection or his

1 or her deputy, shall identify the need and means for achieving  
2 consistent application of the national interagency incident management  
3 system.

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

6 NEW SECTION. **Sec. 21.** A pipeline company that has been notified  
7 by an excavator that excavation work will occur near a hazardous liquid  
8 pipeline shall ensure that the pipeline company's representative  
9 consults with the excavator on-site prior to the excavation. The  
10 pipeline company has the discretion to require that the pipeline  
11 section in the vicinity of the excavation is fully uncovered and  
12 examined for damage prior to being reburied.

13 NEW SECTION. **Sec. 22.** A new section is added to chapter 80.28 RCW  
14 to read as follows:

15 A gas pipeline company that has been notified by an excavator that  
16 excavation work will occur near a gas transmission pipeline shall  
17 ensure that the pipeline company's representative consults with the  
18 excavator on-site prior to the excavation. The gas pipeline company  
19 has the discretion to require that the pipeline section in the vicinity  
20 of the excavation is fully uncovered and examined for damage prior to  
21 being reburied.

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

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

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

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

34 (2) All civil penalties recovered under this section relating to  
35 hazardous liquid pipelines shall be deposited into the hazardous liquid

1 pipeline safety account created in section 4 of this act. All civil  
2 penalties recovered under this section relating to gas pipelines shall  
3 be deposited in the general fund and expended for the purpose of  
4 enforcement of gas pipeline safety laws.

5 NEW SECTION. **Sec. 25.** A pipeline containing petroleum or  
6 petroleum products that is wholly owned by an individual and which  
7 pipeline is located wholly on the individual's property, that is not  
8 adjoining marine waters, is exempt from the provisions of this chapter.  
9 This exemption applies only for pipelines that do not have any  
10 connections to pipelines or facilities that extend beyond the pipeline  
11 owner's property and the petroleum or petroleum products must be for  
12 use only at that location.

13 NEW SECTION. **Sec. 26.** If any part of this act is found to be in  
14 conflict with federal requirements that are a prescribed condition to  
15 the allocation of federal funds to the state, the conflicting part of  
16 this act is inoperative solely to the extent of the conflict and with  
17 respect to the agencies directly affected, and this finding does not  
18 affect the operation of the remainder of this act in its application to  
19 the agencies concerned. Rules adopted under this act must meet federal  
20 requirements that are a necessary condition to the receipt of federal  
21 funds by the state.

22 NEW SECTION. **Sec. 27.** This act may be known and cited as the  
23 Washington state pipeline safety act.

24 NEW SECTION. **Sec. 28.** Sections 1, 2, 4 through 7, 9, 11, 13, 14,  
25 21, and 25 through 27 of this act are each added to chapter 81.88 RCW.

26 NEW SECTION. **Sec. 29.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately."

1 **E2SHB 2420** - S AMD - 284  
2 By Senators Spanel and Morton

3 ADOPTED 3/8/00

4 On page 1, line 1 of the title, after "safety;" strike the  
5 remainder of the title and insert "amending RCW 81.88.040, 19.122.020,  
6 and 19.122.030; adding new sections to chapter 81.88 RCW; adding a new  
7 section to chapter 43.110 RCW; adding new sections to chapter 80.28  
8 RCW; adding new sections to chapter 19.122 RCW; adding a new section to  
9 chapter 48.48 RCW; prescribing penalties; and declaring an emergency."

EFFECT: Removes the requirement for an excavator to notify the one-number locator service to notify the pipeline company that excavation will occur within five feet of the pipeline. No longer requires a pipeline company representative to be present during excavation within five feet of the pipeline, but requires the representative to consult with the excavator on-site prior to excavation if excavation will occur near the pipeline. Requires the pipeline company to ensure that the pipeline in the vicinity of excavation is examined for damage prior to being reburied. Requires pipeline companies to take all appropriate steps to ensure the public safety in the event of a release. Prohibits a damaged pipeline from being reburied until it is repaired or relocated. Allows the pipeline company to arrange for repairs or relocation of damaged pipeline as soon as practical, or permits the company to allow the excavator to do necessary repairs or relocation at a mutually acceptable price. Places penalties related to hazardous liquids into the hazardous liquid pipeline safety account. Requires mapping developed by the UTC to be consistent with rather than compatible with the U.S. Department of Transportation mapping system. Adds additional definitions.

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