

2 SSB 6441 - S AMD - 056
3 By Senator Honeyford

4 PULLED 2/14/00

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

7 NEW SECTION. **Sec. 1.** The intent of this act is to protect the
8 health and safety of the citizens of the state of Washington and the
9 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 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

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

19 (2) "Dangerous release" means a release of hazardous liquid that
20 poses a clear and immediate danger to life or health, threatens a
21 significant loss of property, or threatens significant environmental
22 damages.

23 (3) "Failsafe system" means a nonelectronic or mechanically based
24 system that prevents a pipeline from exceeding its maximum operating
25 pressure in the event of a failure of the primary or electronic system
26 designed for this purpose.

27 (4) "Gas" has the meaning given to it in 49 C.F.R. Part 192.

28 (5) "Hazardous liquid" means: (a) Petroleum, petroleum products,
29 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
30 in effect March 1, 1998; and (b) carbon dioxide. The commission by
31 rule may incorporate by reference other substances designated as
32 hazardous by the secretary of transportation under 49 U.S.C. Sec.
33 60101(a)(4).

34 (6) "Local government" means a subdivision of the state or a city
35 or town.

1 (7) "Person" means an individual, partnership, franchise holder,
2 association, corporation, a state, a city, a county, or any subdivision
3 or instrumentality of a state, and its employees, agents, or legal
4 representatives.

5 (8) "Pipeline" or "pipeline system" means all parts of a pipeline
6 facility through which a hazardous liquid or carbon dioxide moves in
7 transportation, including, but not limited to, line pipe, valves, and
8 other appurtenances connected to line pipe, pumping units, fabricated
9 assemblies associated with pumping units, metering and delivery
10 stations and fabricated assemblies therein, and breakout tanks.

11 (9) "Pipeline company" means a person or entity constructing,
12 owning, or operating a pipeline for transporting hazardous liquid or
13 gas.

14 (10) "Process safety management systems" means management systems
15 that include coordinated and interdisciplinary evaluations of the
16 effect of significant changes to a pipeline system before such changes
17 are implemented.

18 (11) "Release" means a spilling, leaking, pumping, pouring,
19 emitting, emptying, discharging, injecting, leaching, dumping,
20 disposing, flowing, or any other uncontrolled escape of a hazardous
21 liquid or gas from a pipeline.

22 NEW SECTION. Sec. 3. (1) The commission shall have charge for the
23 state of the administration and enforcement of all laws related to
24 hazardous liquid pipeline safety. To the extent not expressly
25 prohibited by federal law, the commission shall develop and implement
26 a comprehensive program of pipeline safety.

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

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

31 (b) Require pipeline companies to rapidly locate and isolate all
32 releases from hazardous liquid pipelines, including:

33 (i) Installation of remote control shut-off valves at a distance of
34 no less than four to ten miles in urban areas and twenty to sixty miles
35 in rural areas, depending on the type and density of development, the
36 presence of environmentally sensitive areas, and the application of
37 appropriate engineering standards. The installation of remote valves

1 shall include design features and safety procedures to minimize risks
2 associated with valve malfunctions;

3 (ii) Installation of remotely monitored pressure gauges and meters
4 at each pump station and remote valve location; and

5 (iii) Emergency response procedures, combined with training, for
6 shutting down pumps, locating leaks and spills, and shutting
7 appropriate valves as rapidly as possible;

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

10 (d) Require hazardous liquid pipeline companies to submit
11 operations safety plans once every five years and provide annual plan
12 updates that identify plan implementation progress, as well as any
13 amendments to the plan made necessary by changes to the pipeline system
14 or its operation.

15 (3) The commission shall approve operations safety plans if they
16 have been deemed fit for service. A plan shall be deemed fit for
17 service when it provides for pipelines that are designed, developed,
18 constructed, operated, and periodically modified to provide the highest
19 practicable level of public safety. Pipeline operations safety plans
20 shall include:

21 (a) A schedule of inspection and testing within the pipeline
22 distribution system of:

23 (i) All mechanical components;

24 (ii) All electronic components; and

25 (iii) The structural integrity of all pipelines as determined
26 through pressure testing and internal inspection tool surveys;

27 (b) Failsafe systems;

28 (c) Process safety management principles; and

29 (d) Emergency management training for pipeline operators.

30 (4) The commission shall coordinate information related to pipeline
31 safety by providing technical assistance to local planning and siting
32 authorities and to the energy facility site evaluation council
33 established in chapter 80.50 RCW.

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

1 NEW SECTION. **Sec. 4.** The commission shall adopt rules aimed at
2 the prevention of third-party excavation damage to pipelines through
3 the establishment and required use of a one-call system. The
4 commission shall make available to municipal workers and construction
5 workers who are involved in construction work above or near pipelines
6 training on:

7 (1) Prevention of damage to pipelines;

8 (2) The danger involved if a pipeline is damaged;

9 (3) The significance of pipeline damage that does not cause
10 immediate failure; and

11 (4) The importance of immediately reporting damage to a pipeline
12 and the importance of immediately repairing a damaged pipeline.

13 NEW SECTION. **Sec. 5.** The commission shall require hazardous
14 liquid and gas pipeline companies to provide accurate maps of their
15 pipeline distribution networks to specifications developed by the
16 commission. The specifications shall include depth information. The
17 commission shall verify the accuracy of the maps, consolidate the maps
18 into a state-wide geographic information system, and fill any gaps for
19 which companies or local governments may have no information. The
20 mapping system shall be used in conjunction with the one-number locator
21 service as provided in chapter 19.122 RCW. The mapping system shall be
22 compatible with the United States department of transportation national
23 pipeline mapping program.

24 NEW SECTION. **Sec. 6.** The commission shall, by June 30, 2002,
25 develop and periodically update, for the consideration by local
26 governments:

27 (1) A model ordinance that establishes setback and depth
28 requirements for new pipeline construction;

29 (2) A model franchise agreement for jurisdictions through which a
30 hazardous liquid or gas pipeline is located; and

31 (3) Protective standards applicable to existing and proposed
32 pipelines in densely populated areas and environmentally sensitive
33 areas.

34 NEW SECTION. **Sec. 7.** (1) The commission shall seek and accept
35 federal designation of the commission's inspectors as federal agents
36 for the purposes of enforcement of the federal hazardous liquid

1 pipeline safety act (49 U.S.C. Sec. 60101 et seq.), and federal rules
2 adopted to implement that act, as they exist as of the effective date
3 of this act. The commission shall establish and submit to the United
4 States secretary of transportation an inspection program that complies
5 with requirements for delegated interstate agent inspection authority.
6 To the extent that federal delegation of interstate agent inspection
7 authority permits, the inspection program for interstate pipelines and
8 liquified natural gas facilities must be the same as the inspection
9 program for intrastate pipelines and facilities. If the secretary of
10 transportation delegates inspection authority to the state as provided
11 in this subsection, the commission, at a minimum, shall do the
12 following to carry out the delegated federal authority:

13 (a) Inspect hazardous liquid pipelines periodically as specified in
14 the inspection program;

15 (b) Collect inspection fees;

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

18 (d) File reports with the United States secretary of transportation
19 as required to maintain the delegated inspection authority.

20 (2) The commission shall also seek federal authority to adopt
21 safety standards related to the monitoring and testing of interstate
22 hazardous liquid pipelines.

23 (3) Upon designation under subsection (1) of this section or under
24 a grant of authority under subsection (2) of this section, to the
25 extent authorized by federal law, the commission shall adopt rules for
26 interstate pipelines that are consistent with the state's laws and
27 rules for intrastate hazardous liquid pipelines.

28 NEW SECTION. **Sec. 8.** The commission shall inspect, as necessary,
29 any record, map, or written procedure required by federal law to be
30 kept by a hazardous liquid pipeline company concerning the reporting of
31 dangerous releases, and the design, construction, testing, or operation
32 and maintenance of hazardous liquid pipelines.

33 NEW SECTION. **Sec. 9.** (1) A pipeline safety advisory committee is
34 established to advise the commission, the department of ecology, energy
35 facility site evaluation council, and other appropriate federal, state,
36 and local government agencies and officials on matters relating to
37 pipeline safety, routing, construction, operation, and maintenance.

1 Members of the advisory committee shall be appointed by the governor to
2 staggered three-year terms and, at a minimum, shall consist of
3 representatives of local government, including elected officials and
4 the general public. The committee shall review and comment on proposed
5 rules and the operation of the state pipeline safety programs.

6 (2) The advisory committee established in subsection (1) of this
7 section constitutes a class one group under RCW 43.03.220. Expenses
8 for this group, as well as staff support provided by the commission,
9 shall be funded through a legislative appropriation to the commission.

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

12 The utilities and transportation commission, in consultation with
13 the department of ecology, shall establish a single state-wide toll-
14 free telephone number to be used for excavation notification and shall
15 require the six one-call centers that exist as of the effective date of
16 this act to be reachable through that number.

17 **Sec. 11.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to
18 read as follows:

19 (1) Whenever excavation work is to occur within twenty-five feet of
20 a hazardous liquid or gas pipeline, the state-wide one-call system
21 established under section 10 of this act shall be notified. In
22 addition, if the excavation work is to occur within five feet of a
23 hazardous liquid or gas pipeline, the pipeline company that owns or
24 operates the pipeline shall be notified, and its representative shall
25 be on-site, prior to the start of excavation.

26 (2) An excavator who, in the course of excavation, contacts or
27 damages an underground facility shall immediately notify the utility
28 owning or operating such facility and the ~~((one-number-locator~~
29 ~~service))~~ state-wide one-call system. If the damage causes an
30 emergency condition, the excavator causing the damage shall also
31 immediately alert the appropriate local public safety agencies and take
32 all appropriate steps to ensure the public safety. No damaged
33 underground facility may be buried until it is repaired or relocated.

34 ~~((+2))~~ (3) The owner of the underground facilities damaged shall
35 arrange for repairs or relocation as soon as is practical or may permit
36 the excavator to do necessary repairs or relocation at a mutually
37 acceptable price.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 48.48 RCW
2 to read as follows:

3 (1) In consultation with the emergency management program within
4 the state military department, the utilities and transportation
5 commission, the department of ecology, and local emergency services
6 organizations, the chief of the Washington state patrol, through the
7 director of fire protection or his or her authorized deputy, shall:

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

10 (b) Conduct an assessment of the equipment needed by local first
11 responders to meet emergency management demands related to pipelines.

12 (2) The chief of the Washington state patrol, through the director
13 of fire protection or his or her deputy, shall develop curricula for
14 training local first responders to deal with pipeline accidents. The
15 curricula shall be developed in conjunction with pipeline companies and
16 local first responders, and shall include a timetable and costs for
17 providing training as defined in the curricula to all communities
18 housing pipelines. The need for a training program for regional
19 incident management teams shall also be evaluated.

20 (3) In consultation with other relevant agencies, the chief of the
21 Washington state patrol, through the director of fire protection or his
22 or her deputy, shall identify the need and means for achieving
23 consistent application of the national interagency incident management
24 system.

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

27 NEW SECTION. **Sec. 13.** (1) A pipeline company that has been
28 notified by an excavator pursuant to RCW 19.122.050 that excavation
29 work will occur within five feet of a hazardous liquid or gas pipeline
30 shall ensure that the pipeline company's representative is on-site
31 during the excavation within the five foot zone. The pipeline company
32 has the discretion to require that the pipeline section in the vicinity
33 of the excavation is fully uncovered and examined for damage prior to
34 being reburied. If safety concerns exist, the pipeline company may
35 elect, at the excavator's expense, to conduct the uncovering of the
36 pipeline.

37 (2) Immediately upon receiving information of third-party damage to
38 a pipeline owned or operated by a pipeline company, that company shall

1 terminate the flow of hazardous liquid or gas in that pipeline until it
2 has visually inspected the pipeline. After visual inspection, a
3 pipeline company shall determine whether the pipeline section that has
4 sustained third-party damage should be replaced or repaired, or whether
5 it is safe to resume pipeline operation. A record of the company's
6 inspection report and test results shall be provided to the commission
7 within fourteen calendar days of the inspection.

8 (3) Pipeline companies shall immediately notify local first
9 responders and the commission of any dangerous release from a pipeline.

10 **Sec. 14.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to
11 read as follows:

12 (1) Any person who fails to notify the one-call system of
13 excavation work that is planned to occur within twenty-five feet of a
14 hazardous liquid or gas pipeline is subject to a civil penalty of not
15 more than five thousand dollars for each violation.

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

21 (3) Any person who violates any provision of this chapter, and
22 which violation results in damage to underground facilities, is subject
23 to a civil penalty of not more than ~~((one))~~ ten thousand dollars for
24 each violation.

25 (4) All civil penalties recovered ~~((in such actions))~~ under
26 subsection (1), (2), or (3) of this section shall be deposited in the
27 general fund.

28 ~~((+2))~~ (5) Any person who willfully or maliciously damages or
29 removes a marking used to identify a hazardous liquid or gas pipeline,
30 as defined in section 2 of this act, is subject to a civil penalty of
31 not more than one thousand dollars for each act.

32 (6) Any excavator who willfully or maliciously damages a field-
33 marked underground facility shall be liable for treble the costs
34 incurred in repairing or relocating the facility. In those cases in
35 which an excavator fails to notify known underground facility owners or
36 the one-number locator service, any damage to the underground facility
37 shall be deemed willful and malicious and shall be subject to treble
38 damages for costs incurred in repairing or relocating the facility.

1 (~~(3)~~) (7) This chapter does not affect any civil remedies for
2 personal injury or for property damage, including that to underground
3 facilities, nor does this chapter create any new civil remedies for
4 such damage.

5 **Sec. 15.** RCW 47.44.150 and 1989 c 196 s 1 are each amended to read
6 as follows:

7 In any action for damages against the state of Washington, its
8 agents, contractors, or employees by reason of damages to a utility or
9 other facility located on a state highway, the damages are limited to
10 the cost of repair of the utility or facility and are recoverable only
11 in those instances where the utility or facility is authorized to be
12 located on the state highway. However, the state is subject to the
13 penalties provided in RCW 19.122.070 (~~(1)~~) (3) and (~~(2)~~) (6) only
14 if the state has failed to give a notice meeting the requirements of
15 RCW 19.122.030 to utilities or facilities that are authorized to be
16 located on the state highway.

17 NEW SECTION. **Sec. 16.** (1) A pipeline company that fails to comply
18 with any provision of this chapter shall be subject to civil penalties
19 of not less than five thousand dollars.

20 (2) A pipeline company that fails to report a dangerous release
21 shall be guilty of a class B felony punishable under RCW 9A.20.021 if:

22 (a) The company knows or has reason to know that a dangerous
23 release exists;

24 (b) The company does not immediately report the release to the
25 local first responder; and

26 (c) The dangerous release causes the death of, or bodily injury to,
27 an individual.

28 NEW SECTION. **Sec. 17.** A pipeline that is wholly located on the
29 owner's property is exempt from the provisions of this chapter.

30 NEW SECTION. **Sec. 18.** If any part of this act is found to be in
31 conflict with federal requirements that are a prescribed condition to
32 the allocation of federal funds to the state, the conflicting part of
33 this act is inoperative solely to the extent of the conflict and with
34 respect to the agencies directly affected, and this finding does not
35 affect the operation of the remainder of this act in its application to

1 the agencies concerned. Rules adopted under this act must meet federal
2 requirements that are a necessary condition to the receipt of federal
3 funds by the state.

4 NEW SECTION. **Sec. 19.** This act may be known and cited as the
5 Washington state pipeline safety act.

6 NEW SECTION. **Sec. 20.** Sections 1 through 9, 13, and 16 through 19
7 of this act constitute a new chapter in Title 70 RCW.

8 NEW SECTION. **Sec. 21.** RCW 81.88.040 (Intrastate pipeline safety
9 standards--Definitions--Rules--Violations) and 1998 c 123 s 1 are each
10 repealed."

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14 On page 1, line 1 of the title, after "safety;" strike the
15 remainder of the title and insert "amending RCW 19.122.050, 19.122.070,
16 and 47.44.150; adding a new section to chapter 19.122 RCW; adding a new
17 section to chapter 48.48 RCW; adding a new chapter to Title 70 RCW;
18 repealing RCW 81.88.040; and prescribing penalties."

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