

HOUSE BILL REPORT

E2SHB 2420

As Passed Legislature

Title: An act relating to oil and gas pipeline safety.

Brief Description: Providing for oil and gas pipeline safety.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Linville, G. Chandler, Morris, Ericksen, Quall, Kastama, Santos, Grant, Stensen, Keiser, Poulsen, Wensman, Scott, Rockefeller, Reardon, Kenney, Cody, Lovick, Cooper, Koster, Haigh, McDonald, Van Luven, Lantz, Wood, Regala, Edmonds, Hurst, Dunshee, Constantine, Dickerson, Wolfe, Ogden, Ruderman and McIntire).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/20/00, 2/4/00 [DPS];

Appropriations: 2/7/00, 2/8/00 [DP2S(w/o sub AGECE)].

Floor Activity:

Passed House: 2/14/00, 95-0.

Senate Amended.

Passed Senate: 3/2/00, 46-0.

Senate Receded.

Senate Amended.

Passed Senate: 3/8/00, 47-0.

House Concurred.

Passed House: 3/9/00, 98-0.

Passed Legislature.

Brief Summary of Second Substitute Bill

- Requiring the Utilities and Transportation Commission to develop a hazardous liquid pipeline safety program.
- Requiring additional safety measures when excavation work takes place near pipelines.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Koster, Republican Vice Chair; Anderson; B. Chandler; Delvin; Fortunato; Grant; Reardon; Stensen and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schoesler and Sump.

Staff: Carole Richmond (786-7114).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

Staff: Jeff Olsen (786-7157).

Background:

Regulation of Pipeline Safety

The Federal Pipeline Safety Act provides the statutory basis for the federal and state oil and gas pipeline safety programs. This law provides for exclusive federal authority over the regulation of interstate pipeline facilities, and federal delegation to the states for all or part of the responsibility for intrastate pipeline facilities under annual certification or agreement. The federal Office of Pipeline Safety (OPS) within the U.S. Department of Transportation is responsible for administering the act.

The state of Washington is certified to assume safety responsibilities related to intrastate pipelines. The state's program is carried out within the Utilities and Transportation Commission (UTC).

Criticism of the Federal Pipeline Safety Act falls into two areas: (1) it does not allow states to develop more stringent requirements, and (2) the existing federal requirements are viewed by some as inadequate. One of the critics of the current law is the National Transportation Safety Board (NTSB), which is charged with

investigating pipeline accidents. The NTSB alleges that many of its recommendations to OPS have not been adopted.

Hazardous Liquid Pipeline Accidents

On June 10, 1999, a 16-inch diameter pipeline owned by the Olympic Pipe Line Company ruptured and leaked approximately 277,000 gallons of gasoline into creeks in Whatcom Falls Park in Bellingham, Washington. About an hour and half later, the gasoline ignited and caused a fireball that traveled approximately one and a half miles downstream from the pipeline failure location. As a result, three young people lost their lives. Significant property and environmental damage also occurred. Since 1964 spills in Washington have totaled 905,000 gallons for pipelines, 1.3 million gallons for facilities such as refineries and terminals, and 4.6 million gallons for vessels.

Governor's Fuel Accident Prevention and Response Task Force

As a result of the tragedy in Bellingham, Governor Gary Locke convened a fuel accident prevention and response task force. The task force met six times between July and December 1999 and issued a set of recommendations. The Governor's principal priorities are to seek reauthorization of the Federal Pipeline Safety Act that provides additional authority to states for setting of safety standards, as well as additional funding for the state's pipeline safety activities.

Summary of Bill:

Definitions are provided to clarify the distinctions between hazardous liquid and gas pipelines. A reportable release is defined as a release of more than 42 gallons of hazardous liquid.

A comprehensive program of hazardous liquid pipeline safety is authorized to be developed and implemented consistent with federal law. The Utilities and Transportation Commission (commission) is charged with administering and enforcing all laws related to hazardous liquid pipeline safety, until such time as federal pre-emption is eliminated or states are granted federal authority to enforce safety requirements for interstate hazardous liquid pipelines. At that time, the hazardous liquid pipeline program may transfer to the Department of Ecology.

The commission's responsibilities include adoption of rules that require pipeline companies to: design, construct, operate, and maintain their pipeline facilities so that they are safe and efficient; rapidly locate and isolate reportable releases from pipelines; report emergency situations; have trained and certified personnel who operate the pipelines and associated systems; and submit operations safety plans to the commission once every five years. The safety plans must include emergency

response procedures. The commission approves the plans when they are deemed fit for service for a particular pipeline system.

A hazardous liquid pipeline safety account is created. Federal funds received before June 30, 2001 are treated as unanticipated funds and expended without appropriation for the designated purposes.

The commission is directed to develop a curriculum aimed at the prevention of third party damage to pipelines, in consultation with pipeline companies and operators, and excavation and construction industries. The commission must also develop a plan for distributing the curriculum.

The commission must require hazardous liquid pipeline companies to provide maps of the location and depth of their pipelines to specifications developed by the commission. The commission must evaluate the sufficiency of the maps and consolidate them into a state-wide geographic information system (GIS). The commission must assist local governments in obtaining pipeline location information and maps. The maps are to be made available to the one-number locator services. The mapping system must be completed by January 1, 2006. The commission must develop a plan for funding the GIS and report its recommendations to the legislature by December 15, 2000.

By June 30, 2001, the Municipal Research Council is directed to develop a model ordinance that establishes setback and depth requirements for new pipeline construction, and a model franchise agreement for jurisdictions through which a pipeline is located. Fines collected are deposited into the hazardous liquid pipeline safety account.

The commission and the department are directed to apply for delegation of federal authority for purposes of enforcing federal hazardous liquid pipeline safety requirements. After the state has received federal delegation of authority, the commission is authorized to inspect pipelines periodically and to collect fees. The commission is also directed to seek and accept delegation of federal authority for purposes of enforcing federal laws covering gas pipeline safety. The commission may inspect any record and other appropriate information required to be kept by hazardous liquid or gas pipeline companies.

All powers, duties, and functions of the commission pertaining to hazardous liquid pipeline safety may be transferred to the department of ecology effective upon the department's receipt of delegated federal authority over interstate hazardous liquid pipelines, or earlier, as the Office of Financial Management may determine, in the event that federal law is amended to remove the pre-emption of state regulation.

A citizens committee on pipeline safety is established. The 13-member committee consists of: nine voting members representing local government and the public, and four nonvoting members representing owners and operators of hazardous liquid and gas pipelines.

The commission is directed to establish or cause to be established a single state-wide telephone number to be used for referring excavators to the appropriate one-number locator service. The commission, in consultation with the Washington Utilities Coordinating Council, must establish minimum standards and best management practices for one-number services consistent with the recommendations in the governor's accident prevention and response task force report. The commission must provide its recommendations to the Legislature by December 31, 2000. One-number locator services must be operated by non-governmental entities.

The director of fire protection, within the Washington State Patrol, is required to assess the preparedness and needs of local emergency services organizations, develop training curricula for training local first responders, and address emergency management.

Before any excavation, excluding agricultural tilling less than twelve inches in depth, the excavator must notify pipeline companies of the scheduled excavation through a one-number locator service. If a pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must consult with the excavator on-site prior to excavation. No damaged pipeline may be buried until it is repaired or relocated. Pipeline companies must take all appropriate steps to ensure the public safety in the event of a release of hazardous liquid or gas.

Penalties are provided for:

- Willful damage or removal of a permanent or temporary marking to identify underground facilities; and
- Failure to notify the one-number locator service and causing damage. Penalties recovered related to damage of hazardous liquid pipelines are deposited into the hazardous liquid pipeline safety account, and penalties recovered related to gas pipelines are deposited in the general fund for the purpose of enforcing gas pipeline safety laws.

Pipelines wholly located on a person's property are exempt from the provisions of this chapter.

Appropriation: None.

Fiscal Note: Available (original bill).

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately; however, the bill is null and void unless funded in the budget.

Testimony For: (Agriculture & Ecology) The Governor's task force concluded that states need to adopt stronger regulations. The bill helps get us there. Leaks occur repeatedly. Federal enforcement is inadequate. Even without additional authority, a lot can be done: information to locals, locations of pipelines, and development of first responder capabilities. The industry always says third-party damage is the largest cause of failure, but it's the cumulative total of the other causes, that is the greatest problem. The bill goes a long way. The needs and training of local firefighters should be addressed. Citizens in Bellingham want a citizen advisory committee. We support one-call, mapping of pipelines, penalties for third-party damage, and additional training for first responders. Experts agree on the need for certain methods of pipeline testing and corrosion control. This bill sends a clear message that Washington is well prepared to deal with issues. Prevention is most important. We recommend that persons not be allowed to build within pipeline right-of-ways. Ecology is the appropriate agency to be dealing with pipeline safety.

(In support with concerns) This Legislation would not affect interstate pipelines, but would affect intrastate pipelines. The responsibilities in the bill need to be further refined. The appropriate agency needs to be in charge of pipeline safety. The language is overly prescriptive. Definitions need to be consistent with federal definitions. State regulations should incorporate recommendations of the American Society of Mechanical Engineers. Pipeline safety does not happen by mandate alone. You need to have commitment of resources and public support. In Washington, the greatest cause of accident is earth movement. This is not addressed in the bill. Fuel gas installers need to be certified. The state needs to develop certification requirements.

Intrastate pipelines do not need additional regulation. They are already well regulated. This bill would only regulate intrastate pipelines, and create dual standards. One size doesn't fit all. You have to consider history, operating conditions, and complexity. Regulations cannot be prescriptive. Third-party excavation is the biggest threat to pipelines. The Utilities and Transportation Commission should be in charge of pipeline safety. Lines should not be exposed if possible. Gas must not be regulated in the same way as liquid fuels. We do not support delegation of authority to states to set standards, but states can implement those standards.

(Appropriations) The provision requiring the Department of Labor and Industries to assess pipefitters' skills and training cannot be supported from the plumbers program, a dedicated account. The department has not had time to conduct a detailed fiscal estimate; however, the cost to conduct the assessment will most likely not exceed

\$50,000, and may be done for less. The fiscal impact of the substitute version of the bill closely matches the \$345,000 level requested in the Governor's supplemental budget. This funding would be transitional until the state is delegated authority to regulate interstate pipelines to support the state pipeline safety program. Funding transferred from the Utilities and Transportation Commission to the Department of Ecology includes a federal grant of approximately \$34,000, and the portion of the regulatory fee for program safety, for a total of \$59,700. The Utilities and Transportation Commission wants to ensure that the bill does not weaken the state's current authority to regulate hazardous liquid and gas pipeline safety.

Testimony Against: (Agriculture & Ecology)None.

(Appropriations) None.

Testified: (Agriculture & Ecology)(In support) Representative Jeff Morris; Dan Sexton, Washington Association of Plumbers and Pipefitters; Mark Asmundson, Mayor, city of Bellingham; Mark Brown, city of Vancouver; Julie Rodwell, city of Seattle; Michael Mann, representing U.S. Representative Jay Inslee; Parker Blackman, WashPIRG; Susan Harper; Greg Winter, Safe Bellingham; and Kenneth Meyer.

(In support with concerns) Brian Matsumaya, Cascade Natural Gas, Inc.; Bob Sluder, Williams Gas Pipelines West; Kristen Harte Sawin; Carol Jolly, Office of the Governor; Shari Jensen, Washington Utility Coordinating Council; and Cody Arledge, Washington State Council of Fire Fighters.

(Appropriations) Suzanne Mager, Labor & Industries; Joe Stohr, Department of Ecology; and Carol Washburn, Washington State Utilities and Transportation Commission.