

FINAL BILL REPORT

E2SHB 2420

PARTIAL VETO

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Synopsis as Enacted

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).

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Environmental Quality and Water Resources

Background:

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 for federal delegation to the states of 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.

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

The federal law and OPS have been criticized by government officials and others for providing inadequate protection of public and environmental safety. The chair of the National Traffic Safety Board (NTSB), the agency charged with investigating pipeline accidents, suggested in public remarks in December of 1999 that the OPS has ignored many of its longstanding recommendations, including requiring rapid shutdown of failed pipelines, periodic inspection or testing of old pipelines, and improved training of employees. The National Governors Association adopted a policy at its Winter 2000 meeting urging Congress to amend the federal Pipeline Safety Act to authorize states to establish safety standards that do not conflict with but may exceed federal standards. The policy also urges that Congress require OPS to strengthen rules, as appropriate, regarding pipeline operation, maintenance, and public reporting of spills and leaks. In addition, state and local government officials and others have noted that

the OPS has too few inspectors to adequately monitor the millions of miles of oil and gas pipeline throughout the nation.

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. The gasoline ignited and caused a fireball that traveled approximately 1.5 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.

As a result of the tragedy in Bellingham, the Governor 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 and is to be developed and implemented consistent with federal law. The Utilities and Transportation Commission (UTC) is charged with administering and enforcing all laws related to hazardous liquid pipeline safety, until federal preemption is eliminated or states are authorized to enforce safety requirements for interstate hazardous liquid pipelines. At that time, the hazardous liquid pipeline program may transfer to the Department of Ecology (DOE).

The UTC's responsibilities include adoption of rules requiring 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 UTC once every five years. The safety plans must include emergency response procedures. The UTC 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 may be expended without appropriation for the designated purposes.

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

The UTC must require hazardous liquid pipeline companies to provide maps of the location and depth of their pipelines to specifications developed by the commission. The UTC also must evaluate the sufficiency of the maps and consolidate them into a state-wide geographic information system (GIS). The UTC must assist local governments to obtain pipeline location information and maps, which are to be made available to the locator services designed to let excavators know the location of underground utilities. The mapping system must be completed by January 1, 2006. The UTC 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.

The UTC and the DOE are directed to apply for delegation of federal authority for purposes of enforcing federal hazardous liquid pipeline safety requirements. After Washington has received federal delegation of authority, the UTC is authorized to inspect pipelines periodically and to collect fees. The UTC is also directed to seek and accept delegation of federal authority for purposes of enforcing federal laws covering gas pipeline safety. The UTC 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 UTC pertaining to hazardous liquid pipeline safety may be transferred to the DOE upon the DOE'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 preemption of state regulation.

A citizen's 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 UTC 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. One-number locator services must be operated by non-governmental entities. The UTC, 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 UTC must provide its recommendations to the Legislature by December 31, 2000.

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 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 to pipelines.

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 act.

Votes on Final Passage:

House 95 0
Senate 46 0 (Senate amended)
House (House refused to concur)
Senate 47 0 (Senate amended)
House 98 0 (House concurred)

Effective: March 28, 2000

Partial Veto Summary: The Governor vetoed the section that would have exempted from inspection petroleum pipelines that are wholly owned by an individual and are wholly located on the individual's property.