
SUBSTITUTE SENATE BILL 6441

State of Washington

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2000 Regular Session

By Senate Committee on Environmental Quality & Water Resources (originally sponsored by Senators Spanel, Gardner, Oke, Franklin, Costa, Kline, Bauer, B. Sheldon, Shin, Eide, Patterson, Haugen, Swecker, Kohl-Welles, Goings, Rasmussen, Fairley, McAuliffe, Prentice, Fraser and Thibaudeau)

Read first time 02/04/2000.

1 AN ACT Relating to oil and gas pipeline safety; amending RCW
2 19.122.050, 19.122.070, and 47.44.150; adding a new section to chapter
3 19.122 RCW; adding a new section to chapter 48.48 RCW; adding a new
4 chapter to Title 70 RCW; repealing RCW 81.88.040; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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.

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

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

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

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

11 (5) "Hazardous liquid" means: (a) Petroleum, petroleum products,
12 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
13 in effect March 1, 1998; and (b) carbon dioxide. The department by
14 rule may incorporate by reference other substances designated as
15 hazardous by the secretary of transportation under 49 U.S.C. Sec.
16 60101(a)(4).

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

19 (7) "Person" means an individual, partnership, franchise holder,
20 association, corporation, a state, a city, a county, or any subdivision
21 or instrumentality of a state, and its employees, agents, or legal
22 representatives.

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

29 (9) "Pipeline company" means a person or entity constructing,
30 owning, or operating a pipeline for transporting hazardous liquid or
31 gas.

32 (10) "Process safety management systems" means management systems
33 that include coordinated and interdisciplinary evaluations of the
34 effect of significant changes to a pipeline system before such changes
35 are implemented.

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

1 NEW SECTION. **Sec. 3.** (1) The department shall have charge for the
2 state of the administration and enforcement of all laws related to
3 hazardous liquid pipeline safety. To the extent not expressly
4 prohibited by federal law, the department shall develop and implement
5 a comprehensive program of pipeline safety.

6 (2) The department shall adopt rules for pipeline safety standards
7 for hazardous liquid pipeline transportation that:

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

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

12 (i) Installation of remote control shut-off valves at a distance of
13 no less than four to ten miles in urban areas and twenty to sixty miles
14 in rural areas, depending on the type and density of development, the
15 presence of environmentally sensitive areas, and the application of
16 appropriate engineering standards. The installation of remote valves
17 shall include design features and safety procedures to minimize risks
18 associated with valve malfunctions;

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

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

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

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

31 (3) The department shall approve operations safety plans if they
32 have been deemed fit for service. A plan shall be deemed fit for
33 service when it provides for pipelines that are designed, developed,
34 constructed, operated, and periodically modified to provide the highest
35 practicable level of public safety. Pipeline operations safety plans
36 shall include:

37 (a) A schedule of inspection and testing within the pipeline
38 distribution system of:

39 (i) All mechanical components;

- 1 (ii) All electronic components; and
- 2 (iii) The structural integrity of all pipelines as determined
- 3 through pressure testing and internal inspection tool surveys;
- 4 (b) Failsafe systems;
- 5 (c) Process safety management principles; and
- 6 (d) Emergency management training for pipeline operators.

7 (4) The department shall coordinate information related to pipeline
8 safety by providing technical assistance to local planning and siting
9 authorities and to the energy facility site evaluation council
10 established in chapter 80.50 RCW.

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

17 NEW SECTION. **Sec. 4.** The department shall adopt rules aimed at
18 the prevention of third-party excavation damage to pipelines through
19 the establishment and required use of a one-call system. The
20 department shall make available to municipal workers and construction
21 workers who are involved in construction work above or near pipelines
22 training on:

- 23 (1) Prevention of damage to pipelines;
- 24 (2) The danger involved if a pipeline is damaged;
- 25 (3) The significance of pipeline damage that does not cause
- 26 immediate failure; and
- 27 (4) The importance of immediately reporting damage to a pipeline
- 28 and the importance of immediately repairing a damaged pipeline.

29 NEW SECTION. **Sec. 5.** The department shall require hazardous
30 liquid and gas pipeline companies to provide accurate maps of their
31 pipeline distribution networks to specifications developed by the
32 department. The specifications shall include depth information. The
33 department shall verify the accuracy of the maps, consolidate the maps
34 into a state-wide geographic information system, and fill any gaps for
35 which companies or local governments may have no information. The
36 mapping system shall be used in conjunction with the one-number locator
37 service as provided in chapter 19.122 RCW. The mapping system shall be

1 compatible with the United States department of transportation national
2 pipeline mapping program.

3 NEW SECTION. **Sec. 6.** The department shall, by June 30, 2002,
4 develop and periodically update, for the consideration by local
5 governments:

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

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

10 (3) Protective standards applicable to existing and proposed
11 pipelines in densely populated areas and environmentally sensitive
12 areas.

13 NEW SECTION. **Sec. 7.** (1) The department shall seek and accept
14 federal designation of the department's inspectors as federal agents
15 for the purposes of enforcement of the federal hazardous liquid
16 pipeline safety act (49 U.S.C. Sec. 60101 et seq.), and federal rules
17 adopted to implement that act, as they exist as of the effective date
18 of this act. The department shall establish and submit to the United
19 States secretary of transportation an inspection program that complies
20 with requirements for delegated interstate agent inspection authority.
21 To the extent that federal delegation of interstate agent inspection
22 authority permits, the inspection program for interstate pipelines and
23 liquified natural gas facilities must be the same as the inspection
24 program for intrastate pipelines and facilities. If the secretary of
25 transportation delegates inspection authority to the state as provided
26 in this subsection, the department, at a minimum, shall do the
27 following to carry out the delegated federal authority:

28 (a) Inspect hazardous liquid pipelines periodically as specified in
29 the inspection program;

30 (b) Collect inspection fees;

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

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

35 (2) The department shall also seek federal authority to adopt
36 safety standards related to the monitoring and testing of interstate
37 hazardous liquid pipelines.

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

6 NEW SECTION. **Sec. 8.** The department shall inspect, as necessary,
7 any record, map, or written procedure required by federal law to be
8 kept by a hazardous liquid pipeline company concerning the reporting of
9 dangerous releases, and the design, construction, testing, or operation
10 and maintenance of hazardous liquid pipelines.

11 NEW SECTION. **Sec. 9.** (1) All powers, duties, and functions of the
12 utilities and transportation commission pertaining to hazardous liquid
13 pipeline safety are transferred to the department of ecology. All
14 references to the commission or the utilities and transportation
15 commission in the Revised Code of Washington shall be construed to mean
16 the director or the department of ecology when referring to the
17 functions transferred in this section.

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

29 (b) Any appropriations made to the utilities and transportation
30 commission for carrying out the powers, functions, and duties
31 transferred shall, on the effective date of this section, be
32 transferred and credited to the department of ecology.

33 (c) Whenever any question arises as to the transfer of any
34 personnel, funds, books, documents, records, papers, files, equipment,
35 or other tangible property used or held in the exercise of the powers
36 and the performance of the duties and functions transferred, the

1 director of financial management shall make a determination as to the
2 proper allocation and certify the same to the state agencies concerned.

3 (3) All employees of the utilities and transportation commission
4 engaged in performing the powers, functions, and duties transferred are
5 transferred to the jurisdiction of the department of ecology. All
6 employees classified under chapter 41.06 RCW, the state civil service
7 law, are assigned to the department of ecology to perform their usual
8 duties upon the same terms as formerly, without any loss of rights,
9 subject to any action that may be appropriate thereafter in accordance
10 with the laws and rules governing state civil service.

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

16 (5) The transfer of the powers, duties, functions, and personnel of
17 the utilities and transportation commission shall not affect the
18 validity of any act performed before the effective date of this
19 section.

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

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

31 NEW SECTION. **Sec. 10.** (1) A pipeline safety advisory committee is
32 established to advise the department, the utilities and transportation
33 commission, energy facility site evaluation council, and other
34 appropriate federal, state, and local government agencies and officials
35 on matters relating to pipeline safety, routing, construction,
36 operation, and maintenance. Members of the advisory committee shall be
37 appointed by the governor to staggered three-year terms and, at a
38 minimum, shall consist of representatives of local government,

1 including elected officials and the general public. The committee
2 shall review and comment on proposed rules and the operation of the
3 state pipeline safety programs.

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

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

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

15 **Sec. 12.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to
16 read as follows:

17 (1) Whenever excavation work is to occur within twenty-five feet of
18 a hazardous liquid or gas pipeline, the state-wide one-call system
19 established under section 11 of this act shall be notified. In
20 addition, if the excavation work is to occur within five feet of a
21 hazardous liquid or gas pipeline, the pipeline company that owns or
22 operates the pipeline shall be notified, and its representative shall
23 be on-site, prior to the start of excavation.

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

32 ~~((+2))~~ (3) The owner of the underground facilities damaged shall
33 arrange for repairs or relocation as soon as is practical or may permit
34 the excavator to do necessary repairs or relocation at a mutually
35 acceptable price.

1 NEW SECTION. **Sec. 13.** 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 department of ecology, the utilities
5 and transportation commission, 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. 14.** (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 department
7 within fourteen calendar days of the inspection.

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

10 **Sec. 15.** 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. 16.** 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. 17.** (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. 18.** A pipeline that is wholly located on the
29 owner's property is exempt from the provisions of this chapter.

30 NEW SECTION. **Sec. 19.** 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. 20.** This act may be known and cited as the
5 Washington state pipeline safety act.

6 NEW SECTION. **Sec. 21.** Sections 1 through 10, 14, and 17 through
7 20 of this act constitute a new chapter in Title 70 RCW.

8 NEW SECTION. **Sec. 22.** 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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