
SENATE BILL 6441

State of Washington

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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 01/17/2000. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to oil and gas pipeline safety; amending RCW
2 19.02.100, 19.122.050, and 19.122.070; 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.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply
16 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 or that threatens
3 a significant loss of property.

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

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

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

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

16 (6) "Liquified natural gas" means natural gas or synthetic gas
17 having as its major constituent methane that has been changed to a
18 liquid or semisolid.

19 (7) "Local government" means a subdivision of the state or a city
20 or town.

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

25 (9) "Pipeline" means: (a) Pipe with a nominal diameter of six
26 inches or more, located in the state, that is used to transport
27 hazardous liquids; or (b) pipe operated at a pressure of more than two
28 hundred seventy-five pounds per square inch that carries gas.

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

32 (11) "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 (12) "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 pipeline safety. To the extent not expressly prohibited by federal
4 law, the department shall develop and implement a comprehensive program
5 of pipeline safety.

6 (2) The department shall adopt by rule:

7 (a) Intrastate pipeline safety standards for pipeline
8 transportation that:

9 (i) Apply to pipeline companies transporting hazardous liquids;

10 (ii) Cover the design, construction, and operation of pipelines
11 transporting hazardous liquids; and

12 (iii) Require pipeline companies to design, construct, and maintain
13 their pipeline facilities so they are safe and efficient;

14 (b) Requirements for pipeline companies related to the rapid
15 location and isolation of all releases from pipelines, including:

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

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

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

28 (c) Requirements related to the training and certification of
29 personnel who operate pipelines and pipeline systems;

30 (d) Measures aimed at the prevention of third-party excavation
31 damage to pipelines through the establishment and required use of a
32 one-call system. Such measures shall require municipal workers and
33 construction workers who are involved in construction work above or
34 near pipelines to receive training on:

35 (i) Prevention of damage to pipelines;

36 (ii) The danger involved if a pipeline is damaged;

37 (iii) The significance of pipeline damage that does not cause
38 immediate failure; and

1 (iv) The importance of immediately reporting damage to a pipeline
2 and the importance of immediately repairing a damaged pipeline; and
3 (e) The department shall require pipeline companies to submit
4 operations safety plans once every five years and shall also require
5 annual plan updates that identify plan implementation progress, as well
6 as any amendments to the plan made necessary by changes to the pipeline
7 distribution system or its operation. The department shall approve
8 such plans after they have been deemed fit for service. A plan shall
9 be deemed fit for service when it results in pipelines that are
10 designed, developed, constructed, operated, and periodically modified
11 to provide the highest practicable level of public safety. Pipeline
12 operations safety plans shall include:
13 (i) A schedule of inspection and testing within the pipeline
14 distribution system of:
15 (A) All mechanical components;
16 (B) All electronic components; and
17 (C) The structural integrity of all pipelines as determined through
18 pressure testing and internal inspection tool surveys;
19 (ii) Failsafe systems;
20 (iii) Process safety management principles; and
21 (iv) Emergency management training for pipeline operators.
22 (3) The department shall coordinate information related to pipeline
23 safety by providing technical assistance to local planning and siting
24 authorities and to the energy facility site evaluation council
25 established in chapter 80.50 RCW.
26 (4) The department shall evaluate proposals developed by the
27 federal office of pipeline safety and other agencies and organizations
28 related to methods and technologies for testing the integrity of
29 pipeline structure, leak detection, and other elements of pipeline
30 operation.
31 (5) The department shall require pipeline companies to provide
32 accurate maps of their pipeline distribution networks to specifications
33 developed by the department. The department shall verify the accuracy
34 of the maps, consolidate the maps into a state-wide geographic
35 information system, and fill any gaps for which companies or local
36 governments may have no information. The mapping system shall be used
37 in conjunction with the one-number locator service as provided in
38 chapter 19.122 RCW. The mapping system shall be compatible with the

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

3 (6) Within two years of the effective date of this act, the
4 department shall develop for the consideration by local governments:

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

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

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

12 (7) The department shall seek and accept federal designation of the
13 department's inspectors as federal agents for the purposes of
14 enforcement of the federal hazardous liquid pipeline safety act (49
15 U.S.C. Sec. 1671 to 1686), and federal rules adopted to implement that
16 act, as they exist as of the effective date of this act. The
17 department shall establish and submit to the United States secretary of
18 transportation an inspection program that complies with requirements
19 for delegated interstate agent inspection authority. To the extent
20 that federal delegation of interstate agent inspection authority
21 permits, the inspection program for interstate pipelines and liquified
22 natural gas facilities must be the same as the inspection program for
23 intrastate pipelines and facilities. If the secretary of
24 transportation delegates inspection authority to the state as provided
25 in this subsection, the department, at a minimum, shall do the
26 following to carry out the delegated federal authority:

27 (a) Inspect pipelines and liquified natural gas facilities
28 periodically as specified in the inspection program;

29 (b) Collect inspection fees;

30 (c) Order and oversee the testing of pipelines and liquified
31 natural gas facilities as authorized by federal law and regulation; and

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

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

37 (9) The department shall inspect, as necessary, any record, map, or
38 written procedure required by federal law to be kept by a pipeline
39 company concerning the reporting of dangerous releases, and the design,

1 construction, testing, or operation and maintenance of pipelines and
2 liquid natural gas facilities.

3 **Sec. 4.** RCW 19.02.100 and 1997 c 58 s 865 are each amended to read
4 as follows:

5 (1) The department shall not issue or renew a master license to any
6 person if:

7 (a) The person does not have a valid tax registration, if required;

8 (b) The person is a corporation delinquent in fees or penalties
9 owing to the secretary of state or is not validly registered under
10 Title 23B RCW, chapter 18.100 RCW, Title 24 RCW, and any other statute
11 now or hereafter adopted which gives corporate or business licensing
12 responsibilities to the secretary of state; ~~((or))~~

13 (c) The person has not submitted the sum of all fees and deposits
14 required for the requested individual license endorsements, any
15 outstanding master license delinquency fee, or other fees and penalties
16 to be collected through the system; or

17 (d) The person has not complied with this act.

18 (2) Nothing in this section shall prevent registration by the state
19 of an employer for the purpose of paying an employee of that employer
20 industrial insurance or unemployment insurance benefits.

21 (3) The department shall immediately suspend the license or
22 certificate of a person who has been certified pursuant to RCW
23 74.20A.320 by the department of social and health services as a person
24 who is not in compliance with a support order or a ~~((residential-or))~~
25 visitation order. If the person has continued to meet all other
26 requirements for reinstatement during the suspension, reissuance of the
27 license or certificate shall be automatic upon the department's receipt
28 of a release issued by the department of social and health services
29 stating that the licensee is in compliance with the order.

30 NEW SECTION. **Sec. 5.** (1) All powers, duties, and functions of the
31 utilities and transportation commission pertaining to pipeline safety
32 are transferred to the department of ecology. All references to the
33 commission or the utilities and transportation commission in the
34 Revised Code of Washington shall be construed to mean the director or
35 the department of ecology when referring to the functions transferred
36 in this section.

1 (2)(a) All reports, documents, surveys, books, records, files,
2 papers, or written material in the possession of the utilities and
3 transportation commission pertaining to the powers, functions, and
4 duties transferred shall be delivered to the custody of the department
5 of ecology. All cabinets, furniture, office equipment, motor vehicles,
6 and other tangible property employed by the utilities and
7 transportation commission in carrying out the powers, functions, and
8 duties transferred shall be made available to the department of
9 ecology. All funds, credits, or other assets held in connection with
10 the powers, functions, and duties transferred shall be assigned to the
11 department of ecology.

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

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

22 (3) All employees of the utilities and transportation commission
23 engaged in performing the powers, functions, and duties transferred are
24 transferred to the jurisdiction of the department of ecology. All
25 employees classified under chapter 41.06 RCW, the state civil service
26 law, are assigned to the department of ecology to perform their usual
27 duties upon the same terms as formerly, without any loss of rights,
28 subject to any action that may be appropriate thereafter in accordance
29 with the laws and rules governing state civil service.

30 (4) All rules and all pending business before the utilities and
31 transportation commission pertaining to the powers, functions, and
32 duties transferred shall be continued and acted upon by the department
33 of ecology. All existing contracts and obligations shall remain in
34 full force and shall be performed by the department of ecology.

35 (5) The transfer of the powers, duties, functions, and personnel of
36 the utilities and transportation commission shall not affect the
37 validity of any act performed before the effective date of this
38 section.

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

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

12 NEW SECTION. **Sec. 6.** (1) A pipeline safety advisory committee is
13 established to advise the department, energy facility site evaluation
14 council, and other appropriate federal, state, and local government
15 agencies and officials on matters relating to pipeline safety, routing,
16 construction, operation, and maintenance. Members of the advisory
17 committee shall be appointed by the governor to staggered three-year
18 terms and, at a minimum, shall consist of representatives of local
19 government, including elected officials and the general public. If
20 requested by the department, the committee shall review and comment on
21 proposed rules and the operation of the state pipeline safety program.

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

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.122 RCW
27 to read as follows:

28 The department of ecology shall establish a single state-wide toll-
29 free telephone number to be used for excavation notification and shall
30 require the six one-call centers that exist as of the effective date of
31 this act to be reachable through that number.

32 **Sec. 8.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to read
33 as follows:

34 (1) An excavator who, in the course of excavation, contacts or
35 damages an underground facility shall immediately notify the utility
36 owning or operating such facility and the one-number locator service.

1 If the damage causes an emergency condition, the excavator causing the
2 damage shall also immediately alert the appropriate local public safety
3 agencies and take all appropriate steps to ensure the public safety.
4 No damaged underground facility may be buried until it is repaired or
5 relocated.

6 (2) Whenever excavation work occurs within five feet of a hazardous
7 liquid or gas pipeline, the pipeline company that owns or operates the
8 pipeline shall be notified prior to the start of excavation.

9 (3) The owner of the underground facilities damaged shall arrange
10 for repairs or relocation as soon as is practical or may permit the
11 excavator to do necessary repairs or relocation at a mutually
12 acceptable price.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.48 RCW
14 to read as follows:

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

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

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

24 (2) The chief of the Washington state patrol, through the director
25 of fire protection or his or her deputy, shall develop curricula for
26 training local first responders to deal with pipeline accidents. The
27 curricula shall be developed in conjunction with pipeline companies and
28 local first responders, and shall include a timetable and costs for
29 providing training as defined in the curricula to all communities
30 housing pipelines. The need for a training program for regional
31 incident management teams shall also be evaluated.

32 (3) In consultation with other relevant agencies, the chief of the
33 Washington state patrol, through the director of fire protection or his
34 or her deputy, shall identify the need and means for achieving
35 consistent application of the national interagency incident management
36 system.

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

1 NEW SECTION. **Sec. 10.** (1) After a pipeline company has been
2 notified by an excavator pursuant to section 8 of this act that
3 excavation work will occur within five feet of a hazardous liquid or
4 gas pipeline, the pipeline company shall ensure that the pipeline
5 section in the vicinity of the excavation is fully uncovered and
6 examined for damage prior to being reburied.

7 (2) Immediately upon receiving information of third-party damage to
8 a pipeline owned or operated by a pipeline company, that company shall
9 terminate the flow of hazardous liquid or gas in that pipeline until it
10 has visually inspected the pipeline. After visual inspection, a
11 pipeline company shall determine whether the pipeline section that has
12 sustained third-party damage should be replaced or repaired, or whether
13 it is safe to resume pipeline operation. A record of the company's
14 inspection report and test results shall be provided to the department
15 within fourteen calendar days of the inspection.

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

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

20 (1) Any person who fails to notify a pipeline company of excavation
21 work that is planned to occur within five feet of a hazardous liquid or
22 gas pipeline is subject to a civil penalty of not more than one
23 thousand dollars for each violation.

24 (2) Any person who violates any provision of this chapter, and
25 which violation results in damage to underground facilities, is subject
26 to a civil penalty of not more than ~~((one))~~ ten thousand dollars for
27 each violation. All penalties recovered in such actions shall be
28 deposited in the general fund.

29 ~~((+2+))~~ (3) Any excavator who wilfully or maliciously damages a
30 field-marked underground facility shall be liable for treble the costs
31 incurred in repairing or relocating the facility. In those cases in
32 which an excavator fails to notify known underground facility owners or
33 the one-number locator service, any damage to the underground facility
34 shall be deemed wilful and malicious and shall be subject to treble
35 damages for costs incurred in repairing or relocating the facility.

36 ~~((+3+))~~ (4) This chapter does not affect any civil remedies for
37 personal injury or for property damage, including that to underground

1 facilities, nor does this chapter create any new civil remedies for
2 such damage.

3 NEW SECTION. **Sec. 12.** (1) A pipeline company that fails to comply
4 with any provision of this chapter shall be subject to civil penalties
5 of not less than five thousand dollars.

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

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

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

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

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

23 NEW SECTION. **Sec. 14.** This act may be known and cited as the
24 Washington state pipeline safety act.

25 NEW SECTION. **Sec. 15.** Sections 1 through 3, 5, 6, 10, and 12
26 through 14 of this act constitute a new chapter in Title 70 RCW.

27 NEW SECTION. **Sec. 16.** RCW 81.88.040 (Intrastate pipeline safety
28 standards--Definitions--Rules--Violations) and 1998 c 123 s 1 are each
29 repealed.

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