
HOUSE BILL 1452

State of Washington

57th Legislature

2001 Regular Session

By Representatives Linville, G. Chandler, Ruderman, Cooper, Barlean, Ericksen, Quall, Marine, Conway, Rockefeller, Kenney, Pearson, Schual-Berke, Van Luven, Kagi, Keiser, Santos and Wood; by request of Utilities & Transportation Commission

Read first time 01/26/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to funding hazardous liquid and gas pipeline
2 safety; amending RCW 19.122.055, 19.122.070, 81.88.010, 81.88.060, and
3 81.88.090; adding a new section to chapter 80.24 RCW; adding a new
4 section to chapter 81.24 RCW; creating a new section; repealing RCW
5 81.88.050 and 81.88.130; providing an effective date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The intent of this act is to ensure a
9 sustainable, comprehensive, pipeline safety program, to protect the
10 health and safety of the citizens of the state of Washington, and
11 maintain the quality of the state's environment. The legislature finds
12 that public safety and the environment are best protected by securing
13 permanent funding for this program through establishment of a
14 regulatory fee imposed on hazardous liquids and gas pipelines.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.24 RCW
16 to read as follows:

17 (1) Every gas company and every interstate gas pipeline company
18 subject to inspection or enforcement by the commission shall pay an

1 annual pipeline safety fee to the commission in addition to any other
2 fee now required by this chapter. The commission shall by rule
3 establish the methodology it will use to set the appropriate fee for
4 each entity subject to this section and shall require reports from
5 those entities in the form and at such time as necessary to set the
6 fees. After considering the reports supplied by the entities, the
7 commission shall set the amount of the fee payable by each entity by
8 general order entered before July 1st of each year. The aggregate
9 amount of fees set must be sufficient to recover the reasonable costs
10 of administering the pipeline safety program, taking into account
11 federal funds used to offset the costs. Any payment of the fee imposed
12 by this section made after its due date must include a late fee of two
13 percent of the amount due. Delinquent fees accrue interest at the rate
14 of one percent per month.

15 (2) The commission shall keep accurate records of the costs
16 incurred in administering its gas pipeline safety program and the
17 records are open to inspection by interested parties. The records and
18 data upon which the commission's determination is made shall be prima
19 facie correct in any proceeding to challenge the reasonableness or
20 correctness of any order of the commission fixing fees and distributing
21 regulatory expenses.

22 (3) If any entity seeks to contest the imposition of a fee imposed
23 under this section, that entity shall pay the fee and request a refund
24 within six months of the due date for the payment by filing a petition
25 for a refund with the commission. The commission shall establish by
26 rule procedures for handling refund petitions and may delegate the
27 decisions on refund petitions to the secretary of the commission.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.24 RCW
29 to read as follows:

30 (1) Every hazardous liquid pipeline company as defined in RCW
31 81.88.010 shall pay an annual pipeline safety fee to the commission in
32 addition to any other fee now required by this chapter. The commission
33 shall by rule establish the methodology it will use to set the
34 appropriate fee for each entity subject to this section and shall
35 require reports from those entities in the form and at such time as
36 necessary to set the fees. After considering the reports supplied by
37 the entities, the commission shall set the amount of the fee payable by
38 each entity by general order entered before July 1st of each year. The

1 aggregate amount of fees set must be sufficient to recover the
2 reasonable costs of administering the pipeline safety program, taking
3 into account federal funds used to offset the costs. Any payment of
4 the fee imposed by this section made after its due date must include a
5 late fee of two percent of the amount due. Delinquent fees accrue
6 interest at the rate of one percent per month.

7 (2) The commission shall keep accurate records of the costs
8 incurred in administering its hazardous liquid pipeline safety program
9 and the records are open to inspection by interested parties. The
10 records and data upon which the commission's determination is made
11 shall be prima facie correct in any proceeding to challenge the
12 reasonableness or correctness of any order of the commission fixing
13 fees and distributing regulatory expenses.

14 (3) If any entity seeks to contest the imposition of a fee imposed
15 under this section, that entity shall pay the fee and request a refund
16 within six months of the due date for the payment by filing a petition
17 for a refund with the commission. The commission shall establish by
18 rule procedures for handling refund petitions and may delegate the
19 decisions on refund petitions to the secretary of the commission.

20 **Sec. 4.** RCW 19.122.055 and 2000 c 191 s 24 are each amended to
21 read as follows:

22 (1) Any person who fails to notify the one-number locator service
23 and causes damage to a hazardous liquid or gas pipeline is subject to
24 a civil penalty of not more than ten thousand dollars for each
25 violation.

26 (2) All civil penalties recovered under this section (~~relating to~~
27 ~~hazardous liquid pipelines~~) shall be deposited into the (~~hazardous~~
28 ~~liquid pipeline safety account~~) public service revolving fund created
29 in RCW (~~81.88.050~~) 80.01.080. (~~All civil penalties recovered under~~
30 ~~this section relating to gas pipelines shall be deposited in the~~
31 ~~general fund and expended for the purpose of enforcement of gas~~
32 ~~pipeline safety laws.~~)

33 **Sec. 5.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to read
34 as follows:

35 (1) Any person who violates any provision of this chapter, and
36 which violation results in damage to underground facilities, is subject
37 to a civil penalty of not more than one thousand dollars for each

1 violation. All penalties recovered in such actions shall be deposited
2 in the (~~general~~) public service revolving fund created under RCW
3 80.01.080.

4 (2) Any excavator who willfully or maliciously damages a field-
5 marked underground facility shall be liable for treble the costs
6 incurred in repairing or relocating the facility. In those cases in
7 which an excavator fails to notify known underground facility owners or
8 the one-number locator service, any damage to the underground facility
9 shall be deemed willful and malicious and shall be subject to treble
10 damages for costs incurred in repairing or relocating the facility.

11 (3) This chapter does not affect any civil remedies for personal
12 injury or for property damage, including that to underground
13 facilities, nor does this chapter create any new civil remedies for
14 such damage.

15 **Sec. 6.** RCW 81.88.010 and 2000 c 191 s 2 are each amended to read
16 as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

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

20 (2) (~~("Department" means the department of ecology.~~

21 ~~(3))~~) "Failsafe" means a design feature that will maintain or
22 result in a safe condition in the event of malfunction or failure of a
23 power supply, component, or control device.

24 (~~(4))~~) (3) "Gas" means natural gas, flammable gas, or toxic or
25 corrosive gas.

26 (~~(5))~~) (4) "Gas pipeline" means all parts of a pipeline facility
27 through which gas moves in transportation, including, but not limited
28 to, line pipe, valves, and other appurtenances connected to line pipe,
29 pumping units, fabricated assemblies associated with pumping units,
30 metering and delivery stations and fabricated assemblies therein, and
31 breakout tanks. "Gas pipeline" does not include process or transfer
32 pipelines.

33 (~~(6))~~) (5) "Gas pipeline company" means a person or entity
34 constructing, owning, or operating a gas pipeline for transporting gas.
35 A "gas pipeline company" does not include: (a) Distribution systems
36 owned and operated under franchise for the sale, delivery, or
37 distribution of natural gas at retail; or (b) excavation contractors or
38 other contractors that contract with a gas pipeline company.

1 (~~(7)~~) (6) "Hazardous liquid" means: (a) Petroleum, petroleum
2 products, or anhydrous ammonia as those terms are defined in 49 C.F.R.
3 Part 195 in effect March 1, 1998; and (b) carbon dioxide.

4 (~~(8)~~) (7) "Local government" means a political subdivision of the
5 state or a city or town.

6 (~~(9)~~) (8) "Person" means an individual, partnership, franchise
7 holder, association, corporation, a state, a city, a county, or any
8 political subdivision or instrumentality of a state, and its employees,
9 agents, or legal representatives.

10 (~~(10)~~) (9) "Pipeline," "pipeline system," or "hazardous liquid
11 pipeline" means all parts of a pipeline facility through which a
12 hazardous liquid moves in transportation, including, but not limited
13 to, line pipe, valves, and other appurtenances connected to line pipe,
14 pumping units, fabricated assemblies associated with pumping units,
15 metering and delivery stations and fabricated assemblies therein, and
16 breakout tanks. "Pipeline" or "pipeline system" does not include
17 process or transfer pipelines.

18 (~~(11)~~) (10) "Pipeline company" or "hazardous liquid pipeline
19 company" means a person or entity constructing, owning, or operating a
20 pipeline for transporting hazardous liquid. A "pipeline company" does
21 not include: (a) Distribution systems owned and operated under
22 franchise for the sale, delivery, or distribution of natural gas at
23 retail; or (b) excavation contractors or other contractors that
24 contract with a pipeline company.

25 (~~(12)~~) (11) "Reportable release" means a spilling, leaking,
26 pouring, emitting, discharging, or any other uncontrolled escape of a
27 hazardous liquid in excess of one barrel, or forty-two gallons.

28 (~~(13)~~) (12) "Safety management systems" means management systems
29 that include coordinated and interdisciplinary evaluations of the
30 effect of significant changes to a pipeline system before such changes
31 are implemented.

32 (~~(14)~~) (13) "Transfer pipeline" means a buried or aboveground
33 pipeline used to carry oil between a tank vessel or transmission
34 pipeline and the first valve inside secondary containment at the
35 facility provided that any discharge on the facility side of that first
36 valve will not directly impact waters of the state. A transfer
37 pipeline includes valves, and other appurtenances connected to the
38 pipeline, pumping units, and fabricated assemblies associated with
39 pumping units. A transfer pipeline does not include process pipelines,

1 pipelines carrying ballast or bilge water, transmission pipelines, or
2 tank vessel or storage tanks.

3 ~~((15))~~ (14) "Transmission pipeline" means a gas pipeline that
4 transports gas within a storage field, or transports gas from an
5 interstate pipeline or storage facility to a distribution main or a
6 large volume gas user, or operates at a hoop stress of twenty percent
7 or more of the specified minimum yield strength.

8 **Sec. 7.** RCW 81.88.060 and 2000 c 191 s 5 are each amended to read
9 as follows:

10 (1) A comprehensive program of hazardous liquid pipeline safety is
11 authorized by RCW 81.88.010, 81.88.040, ~~((81.88.050,))~~ 81.88.090,
12 81.88.100, ~~((81.88.130,))~~ 48.48.160, and this section to be developed
13 and implemented consistent with federal law. ~~((Except as provided in
14 subsection (6) of this section,))~~ The commission shall administer and
15 enforce all laws related to hazardous liquid pipeline safety.

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

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

20 (b) Require pipeline companies to rapidly locate and isolate all
21 reportable releases from pipelines, that may include:

22 (i) Installation of remote control shut-off valves; and

23 (ii) Installation of remotely monitored pressure gauges and meters;

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

26 (d) Require reporting of emergency situations, including emergency
27 shutdowns and material defects or physical damage that impair the
28 serviceability of a pipeline; and

29 (e) Require pipeline companies to submit operations safety plans to
30 the commission once every five years, as well as any amendments to the
31 plan made necessary by changes to the pipeline system or its operation.
32 The safety plan shall include emergency response procedures.

33 (3) The commission shall approve operations safety plans if they
34 have been deemed fit for service. A plan shall be deemed fit for
35 service when it provides for pipelines that are designed, developed,
36 constructed, operated, and periodically modified to provide for
37 protection of public safety and the environment. Pipeline operations
38 safety plans shall, at a minimum, include:

1 (a) A schedule of inspection and testing within the pipeline
2 distribution system of:

3 (i) All mechanical components;

4 (ii) All electronic components; and

5 (iii) The structural integrity of all pipelines as determined
6 through pressure testing, internal inspection tool surveys, or another
7 appropriate technique;

8 (b) Failsafe systems;

9 (c) Safety management systems; and

10 (d) Emergency management training for pipeline operators.

11 (4) The commission shall coordinate information related to pipeline
12 safety by providing technical assistance to local planning and siting
13 authorities.

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

20 ~~((6) The authorities of RCW 81.88.010, 81.88.040, 81.88.050,~~
21 ~~81.88.090, 81.88.100, 81.88.130, 48.48.160, and this section relating~~
22 ~~to hazardous liquid pipeline safety shall be transferred from the~~
23 ~~commission to the department pursuant to RCW 81.88.130 upon the~~
24 ~~occurrence of either:~~

25 ~~(a) Amendments to federal pipeline safety laws to eliminate~~
26 ~~preemption of state authority to regulate safety requirements for such~~
27 ~~pipelines; or~~

28 ~~(b) The granting of federal authority to the state to enforce or~~
29 ~~adopt any safety requirements for interstate hazardous liquid~~
30 ~~pipelines.))~~

31 **Sec. 8.** RCW 81.88.090 and 2000 c 191 s 9 are each amended to read
32 as follows:

33 (1) The commission ~~((and the department))~~ shall apply for federal
34 delegation for the state's program for the purposes of enforcement of
35 federal hazardous liquid pipeline safety requirements. If the
36 secretary of transportation delegates inspection authority to the state
37 as provided in this subsection, the ~~((department))~~ commission, at a
38 minimum, shall do the following:

1 (a) Inspect hazardous liquid pipelines periodically as specified in
2 the inspection program;

3 (b) Collect fees;

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

6 (d) File reports with the United States secretary of transportation
7 as required to maintain the delegated authority.

8 (2) The commission (~~and the department~~) shall also seek federal
9 authority to adopt safety standards related to the monitoring and
10 testing of interstate hazardous liquid pipelines.

11 (3) Upon delegation under subsection (1) of this section or under
12 a grant of authority under subsection (2) of this section, to the
13 extent authorized by federal law, the (~~department~~) commission shall
14 adopt rules for interstate pipelines that are no less stringent than
15 the state's laws and rules for intrastate hazardous liquid pipelines.

16 NEW SECTION. Sec. 9. The following acts or parts of acts are each
17 repealed:

18 (1) RCW 81.88.050 (Hazardous liquid pipeline safety account) and
19 2000 c 191 s 4; and

20 (2) RCW 81.88.130 (Transfer of powers, duties, and functions of
21 commission to department--Delegation of federal authority--
22 Determination by office of financial management) and 2000 c 191 s 13.

23 NEW SECTION. Sec. 10. This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 July 1, 2001.

--- END ---