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HOUSE BILL 1539

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Linville, Roach, Morris, DeBolt, Ericksen,  
Williams and Upthegrove

Read first time 01/27/2005. Referred to Committee on Technology,  
Energy & Communications.

1            AN ACT Relating to failure to notify the one-number locator service  
2 when excavating near a transmission pipeline; amending RCW 19.122.055,  
3 19.122.070, and 19.122.020; and prescribing penalties.

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

5            **Sec. 1.** RCW 19.122.055 and 2001 c 238 s 5 are each amended to read  
6 as follows:

7            (1) Any person who fails to notify the one-number locator service  
8 when required under this chapter and excavates within one hundred feet  
9 of a transmission pipeline is guilty of a gross misdemeanor and subject  
10 to a fine of not more than ten thousand dollars for each offense.

11            (2)(a) Except when subsection (1) of this section applies, any  
12 person who fails to notify the one-number locator service and causes  
13 damage to a hazardous liquid or gas pipeline is subject to a civil  
14 penalty of not more than ten thousand dollars for each violation.

15            ((+2)) (b) All fines and civil penalties recovered under this  
16 section shall be deposited into the pipeline safety account created in  
17 RCW 81.88.050.

1       **Sec. 2.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to read  
2 as follows:

3       (1) Any person who violates any provision of this chapter not  
4 amounting to a violation of RCW 19.122.055, and which violation results  
5 in damage to underground facilities, is subject to a civil penalty of  
6 not more than one thousand dollars for each violation. All penalties  
7 recovered in such actions shall be deposited in the general fund.

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

15       (3) This chapter does not affect any civil remedies for personal  
16 injury or for property damage, including that to underground  
17 facilities, nor does this chapter create any new civil remedies for  
18 such damage.

19       **Sec. 3.** RCW 19.122.020 and 2000 c 191 s 15 are each amended to  
20 read as follows:

21       Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this chapter:

23       (1) "Business day" means any day other than Saturday, Sunday, or a  
24 legal local, state, or federal holiday.

25       (2) "Damage" includes the substantial weakening of structural or  
26 lateral support of an underground facility, penetration, impairment, or  
27 destruction of any underground protective coating, housing, or other  
28 protective device, or the severance, partial or complete, of any  
29 underground facility to the extent that the project owner or the  
30 affected utility owner determines that repairs are required.

31       (3) "Emergency" means any condition constituting a clear and  
32 present danger to life or property, or a customer service outage.

33       (4) "Excavation" means any operation in which earth, rock, or other  
34 material on or below the ground is moved or otherwise displaced by any  
35 means, except the tilling of soil less than twelve inches in depth for  
36 agricultural purposes, or road and ditch maintenance that does not  
37 change the original road grade or ditch flowline.

- 1 (5) "Excavator" means any person who engages directly in  
2 excavation.
- 3 (6) "Gas" means natural gas, flammable gas, or toxic or corrosive  
4 gas.
- 5 (7) "Hazardous liquid" means: (a) Petroleum, petroleum products,  
6 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195  
7 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities  
8 and transportation commission may by rule incorporate by reference  
9 other substances designated as hazardous by the secretary of  
10 transportation.
- 11 (8) "Identified facility" means any underground facility which is  
12 indicated in the project plans as being located within the area of  
13 proposed excavation.
- 14 (9) "Identified but unlocatable underground facility" means an  
15 underground facility which has been identified but cannot be located  
16 with reasonable accuracy.
- 17 (10) "Locatable underground facility" means an underground facility  
18 which can be field-marked with reasonable accuracy.
- 19 (11) "Marking" means the use of stakes, paint, or other clearly  
20 identifiable materials to show the field location of underground  
21 facilities, in accordance with the current color code standard of the  
22 American public works association. Markings shall include  
23 identification letters indicating the specific type of the underground  
24 facility.
- 25 (12) "Person" means an individual, partnership, franchise holder,  
26 association, corporation, a state, a city, a county, or any subdivision  
27 or instrumentality of a state, and its employees, agents, or legal  
28 representatives.
- 29 (13) "Pipeline" or "pipeline system" means all or parts of a  
30 pipeline facility through which hazardous liquid or gas moves in  
31 transportation, including, but not limited to, line pipe, valves, and  
32 other appurtenances connected to line pipe, pumping units, fabricated  
33 assemblies associated with pumping units, metering and delivery  
34 stations and fabricated assemblies therein, and breakout tanks.  
35 "Pipeline" or "pipeline system" does not include process or transfer  
36 pipelines as defined in RCW 81.88.010.
- 37 (14) "Pipeline company" means a person or entity constructing,  
38 owning, or operating a pipeline for transporting hazardous liquid or

1 gas. A pipeline company does not include: (a) Distribution systems  
2 owned and operated under franchise for the sale, delivery, or  
3 distribution of natural gas at retail; or (b) excavation contractors or  
4 other contractors that contract with a pipeline company.

5 (15) "Reasonable accuracy" means location within twenty-four inches  
6 of the outside dimensions of both sides of an underground facility.

7 (16) "Transmission pipeline" means a pipeline that transports  
8 hazardous liquid or gas within a storage field, or transports hazardous  
9 liquid or gas from an interstate pipeline or storage facility to a  
10 distribution main or a large volume hazardous liquid or gas user, or  
11 operates at a hoop stress of twenty percent or more of the specified  
12 minimum yield strength.

13 (17) "Underground facility" means any item buried or placed below  
14 ground for use in connection with the storage or conveyance of water,  
15 sewage, electronic, telephonic or telegraphic communications,  
16 cablevision, electric energy, petroleum products, gas, gaseous vapors,  
17 hazardous liquids, or other substances and including but not limited to  
18 pipes, sewers, conduits, cables, valves, lines, wires, manholes,  
19 attachments, and those parts of poles or anchors below ground. This  
20 definition does not include pipelines as defined in subsection (13) of  
21 this section, but does include distribution systems owned and operated  
22 under franchise for the sale, delivery, or distribution of natural gas  
23 at retail.

24 ((+17)) (18) "One-number locator service" means a service through  
25 which a person can notify utilities and request field-marking of  
26 underground facilities.

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