

2 SB 6441 - S AMD - 126

3 By Senators Spanel, Fraser and Morton

4 ADOPTED 2/14/00

5 Strike everything after the enacting clause and insert the  
6 following:

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 The legislature recognizes that additional federal authority is  
17 needed to implement a comprehensive pipeline safety program and by this  
18 act and other measures directs the state to seek that authority.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Dangerous release" means a release of hazardous liquid or gas  
22 that: (a) Poses a clear and immediate danger to life or health; (b)  
23 threatens a significant loss of property; or (c) threatens significant  
24 environmental damages.

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

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

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

31 (5) "Hazardous liquid" means: (a) Petroleum, petroleum products,  
32 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195  
33 in effect March 1, 1998; and (b) carbon dioxide. The department by  
34 rule may incorporate by reference other substances designated as

1 hazardous by the secretary of transportation under 49 U.S.C. Sec.  
2 60101(a)(4).

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

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

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

15 (9) "Pipeline company" means a person or entity constructing,  
16 owning, or operating a pipeline for transporting hazardous liquid or  
17 gas.

18 (10) "Process safety management systems" means management systems  
19 that include coordinated and interdisciplinary evaluations of the  
20 effect of significant changes to a pipeline system before such changes  
21 are implemented.

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

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

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

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

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

37 (i) Installation of remote control shut-off valves at a distance of  
38 no less than four to ten miles in urban areas and twenty to sixty miles

1 in rural areas, depending on the type and density of development, the  
2 presence of environmentally sensitive areas, and the application of  
3 appropriate engineering standards. The installation of remote valves  
4 shall include design features and safety procedures to minimize risks  
5 associated with valve malfunctions;

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

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

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

13 (d) Require hazardous liquid pipeline companies to submit  
14 operations safety plans once every five years and provide no less than  
15 annual plan updates that identify plan implementation progress, as well  
16 as any amendments to the plan made necessary by changes to the pipeline  
17 system or its operation.

18 (3) The department shall approve operations safety plans if they  
19 have been deemed fit for service. A plan shall be deemed fit for  
20 service when it provides for pipelines that are designed, developed,  
21 constructed, operated, and periodically modified to provide the highest  
22 practicable level of public safety. Pipeline operations safety plans  
23 shall include:

24 (a) A schedule of inspection and testing within the pipeline  
25 distribution system of:

26 (i) All mechanical components;

27 (ii) All electronic components; and

28 (iii) The structural integrity of all pipelines as determined  
29 through pressure testing and internal inspection tool surveys;

30 (b) Failsafe systems;

31 (c) Process safety management principles; and

32 (d) Emergency management training for pipeline operators.

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

37 (5) The department shall evaluate, and consider adopting, proposals  
38 developed by the federal office of pipeline safety, the national  
39 transportation safety board, and other agencies and organizations

1 related to methods and technologies for testing the integrity of  
2 pipeline structure, leak detection, and other elements of pipeline  
3 operation.

4 NEW SECTION. **Sec. 4.** The pipeline companies shall develop a  
5 curricula aimed at the prevention of third-party excavation damage to  
6 hazardous liquid and gas pipelines. The curricula must be reviewed and  
7 approved by the department and the utilities and transportation  
8 commission. The curricula shall be made available to municipal workers  
9 and construction workers who are involved in construction work within  
10 the right-of-way or easement of a hazardous liquid and gas pipeline.  
11 The curricula shall include training on:

- 12 (1) Prevention of damage to pipelines;
- 13 (2) The danger involved if a pipeline is damaged;
- 14 (3) The significance of pipeline damage that does not cause  
15 immediate failure; and
- 16 (4) The importance of immediately reporting damage to a pipeline  
17 and the importance of immediately repairing a damaged pipeline.

18 NEW SECTION. **Sec. 5.** (1) The department and utilities and  
19 transportation commission shall require hazardous liquid and gas  
20 pipeline companies to provide accurate maps of their pipeline  
21 distribution networks to specifications developed by the department  
22 including depth information.

23 (2) The department and the utilities and transportation commission  
24 shall evaluate the accuracy of the maps and consolidate the maps into  
25 a state-wide geographic information system, and fill any gaps for which  
26 companies or local governments may have no information. The mapping  
27 system shall be used in conjunction with the one-number locator service  
28 as provided in chapter 19.122 RCW. The mapping system shall be  
29 compatible with the United States department of transportation national  
30 pipeline mapping program.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.110 RCW  
32 to read as follows:

33 The municipal research council shall, by June 30, 2001, develop and  
34 periodically update, for the consideration by local governments:

- 35 (1) A model ordinance that establishes setback and depth  
36 requirements for new hazardous liquid and gas pipeline construction;

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

3 (3) Protective standards applicable to existing and proposed  
4 hazardous liquid and gas pipelines in densely populated areas and  
5 environmentally sensitive areas.

6 NEW SECTION. **Sec. 7.** (1) The department shall seek and accept  
7 federal designation of the department's inspectors as federal agents  
8 for the purposes of enforcement of the federal hazardous liquid  
9 pipeline safety act (49 U.S.C. Sec. 60101 et seq.), and federal rules  
10 adopted to implement that act, as they exist as of the effective date  
11 of this act. The department shall establish and submit to the United  
12 States secretary of transportation an inspection program that complies  
13 with requirements for delegated interstate agent inspection authority.  
14 If the secretary of transportation delegates inspection authority to  
15 the state as provided in this subsection, the department, at a minimum,  
16 shall do the following to carry out the delegated federal authority:

17 (a) Inspect hazardous liquid pipelines periodically as specified in  
18 the inspection program;

19 (b) Collect fees;

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

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

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

27 (3) Upon designation under subsection (1) of this section or under  
28 a grant of authority under subsection (2) of this section, to the  
29 extent authorized by federal law, the department shall adopt rules for  
30 interstate pipelines that are no less stringent than the state's laws  
31 and rules for intrastate hazardous liquid pipelines.

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

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 81.88 RCW  
2 to read as follows:

3        The commission shall inspect, as necessary, any record, map, or  
4 written procedure required by federal law to be kept by a gas pipeline  
5 company concerning the reporting of dangerous releases, and the design,  
6 construction, testing, or operation and maintenance of gas pipelines.

7        NEW SECTION.    **Sec. 10.**    (1) All powers, duties, and functions of  
8 the utilities and transportation commission pertaining to hazardous  
9 liquid pipeline safety, except economic regulatory authority under  
10 chapters 80.28, 80.24, and 81.24 RCW, are transferred to the department  
11 of ecology. The timing of the transfer shall be facilitated by a  
12 memorandum of agreement between the two agencies, with any disputes  
13 resolved by the office of financial management. The transfer shall be  
14 completed by June 30, 2001. All references to the commission or the  
15 utilities and transportation commission in the Revised Code of  
16 Washington shall be construed to mean the director or the department of  
17 ecology when referring to the 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  
37 director of financial management shall make a determination as to the  
38 proper allocation and certify the same to the state agencies concerned.

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

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

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

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

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

29 NEW SECTION. **Sec. 11.** (1) A hazardous liquid and gas pipeline  
30 safety advisory committee is established to advise the department, the  
31 utilities and transportation commission, energy facility site  
32 evaluation council, and other appropriate federal, state, and local  
33 government agencies and officials on matters relating to pipeline  
34 safety, routing, construction, operation, and maintenance. Members of  
35 the advisory committee shall be appointed by the governor to staggered  
36 three-year terms and, at a minimum, shall consist of representatives of  
37 local government, including elected officials and the general public.

1 The committee shall review and comment on proposed rules and the  
2 operation of the state pipeline safety programs.

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

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.122  
8 RCW to read as follows:

9 The utilities and transportation commission shall establish by  
10 December 31, 2000, a single state-wide toll-free telephone number to be  
11 used for referring excavators to the appropriate one-number locator  
12 service. The utilities and transportation commission, in consultation  
13 with the Washington utilities coordinating council, shall establish  
14 minimum standards and best management practices for the one-number  
15 locator service consistent with the recommendations of the governor's  
16 fuel accident prevention and response team issued in December 1999.

17 **Sec. 13.** RCW 19.122.030 and 1988 c 99 s 1 are each amended to read  
18 as follows:

19 (1) Before commencing any excavation, the excavator shall provide  
20 notice of the scheduled commencement of excavation to all owners of  
21 underground facilities through a one-number locator service.

22 (2) Whenever excavation work is to occur within twenty-five feet of  
23 a hazardous liquid or gas pipeline, the state-wide one-number locator  
24 service established under section 12 of this act shall be notified. In  
25 addition, if the excavation work is to occur within five feet of a  
26 hazardous liquid or gas pipeline, the pipeline company that owns or  
27 operates the pipeline shall be notified, and its representative shall  
28 be on-site, prior to the start of excavation.

29 (3) All owners of underground facilities within a one-number  
30 locator service area shall subscribe to the service. One number  
31 locator service rates for cable television companies will be based on  
32 the amount of their underground facilities. If no one-number locator  
33 service is available, notice shall be provided individually to those  
34 owners of underground facilities known to or suspected of having  
35 underground facilities within the area of proposed excavation. The  
36 notice shall be communicated to the owners of underground facilities  
37 not less than two business days or more than ten business days before



1 the scheduled date for commencement of excavation, unless otherwise  
2 agreed by the parties. The notice shall also comply with the  
3 requirements of section 16 of this act.

4 (4) Upon receipt of the notice provided for in this section, the  
5 owner of the underground facility shall provide the excavator with  
6 reasonably accurate information as to its locatable underground  
7 facilities by surface-marking the location of the facilities. If there  
8 are identified but unlocatable underground facilities, the owner of  
9 such facilities shall provide the excavator with the best available  
10 information as to their locations. The owner of the underground  
11 facility providing the information shall respond no later than two  
12 business days after the receipt of the notice or before the excavation  
13 time, at the option of the owner, unless otherwise agreed by the  
14 parties. Excavators shall not excavate until all known facilities have  
15 been marked. Once marked by the owner of the underground facility, the  
16 excavator is responsible for maintaining the markings. Excavators  
17 shall have the right to receive compensation from the owner of the  
18 underground facility for costs incurred if the owner of the underground  
19 facility does not locate its facilities in accordance with this  
20 section.

21 (5) The owner of the underground facility shall have the right to  
22 receive compensation for costs incurred in responding to excavation  
23 notices given less than two business days prior to the excavation from  
24 the excavator.

25 (6) An owner of underground facilities is not required to indicate  
26 the presence of existing service laterals or appurtenances if the  
27 presence of existing service laterals or appurtenances on the site of  
28 the construction project can be determined from the presence of other  
29 visible facilities, such as buildings, manholes, or meter and junction  
30 boxes on or adjacent to the construction site.

31 (7) Emergency excavations are exempt from the time requirements for  
32 notification provided in this section.

33 (8) If the excavator, while performing the contract, discovers  
34 underground facilities which are not identified, the excavator shall  
35 cease excavating in the vicinity of the facility and immediately notify  
36 the owner or operator of such facilities, or the one-number locator  
37 service.

1       **Sec. 14.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to  
2 read as follows:

3       (1) An excavator who, in the course of excavation, contacts or  
4 damages an underground facility shall immediately notify the utility  
5 owning or operating such facility and the state-wide one-number locator  
6 service. If the damage causes an emergency condition, the excavator  
7 causing the damage shall also immediately alert the appropriate local  
8 public safety agencies and take all appropriate steps to ensure the  
9 public safety. No damaged underground facility may be buried until it  
10 is repaired or relocated.

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

15       NEW SECTION. **Sec. 15.** A new section is added to chapter 48.48 RCW  
16 to read as follows:

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

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

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

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

36       (3) In consultation with other relevant agencies, the chief of the  
37 Washington state patrol, through the director of fire protection or his  
38 or her deputy, shall identify the need and means for achieving

1 consistent application of the national interagency incident management  
2 system.

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

5 NEW SECTION. **Sec. 16.** (1) A pipeline company that has been  
6 notified by an excavator pursuant to RCW 19.122.050 that excavation  
7 work will occur within five feet of a hazardous liquid or gas pipeline  
8 shall ensure that the pipeline company's representative is on-site  
9 during the excavation within the five foot zone. The pipeline company  
10 has the discretion to require that the pipeline section in the vicinity  
11 of the excavation is fully uncovered and examined for damage prior to  
12 being reburied. If safety concerns exist, the pipeline company may  
13 elect, at the excavator's expense, to conduct the uncovering of the  
14 pipeline.

15 (2) Immediately upon receiving information of third-party damage to  
16 a pipeline owned or operated by a pipeline company, that company shall  
17 visually inspect the pipeline. After visual inspection, a pipeline  
18 company shall determine whether the pipeline section that has sustained  
19 third-party damage should be replaced or repaired, or whether it is  
20 safe to resume pipeline operation. A record of the company's  
21 inspection report and test results shall be provided to the department  
22 within fourteen calendar days of the inspection.

23 (3) Pipeline companies shall immediately notify local first  
24 responders and the department of any dangerous release from a hazardous  
25 liquid pipeline, or the utilities and transportation commission of any  
26 dangerous release from a gas pipeline.

27 **Sec. 17.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to  
28 read as follows:

29 (1) Any person who willfully or maliciously damages or removes a  
30 marking used to identify a hazardous liquid or gas pipeline, as defined  
31 in section 2 of this act, is subject to a civil penalty of not more  
32 than one thousand dollars for each act.

33 (2) Any person who fails to notify the one-number locator service  
34 of excavation work that is planned to occur within twenty-five feet of  
35 a hazardous liquid or gas pipeline is subject to a civil penalty of not  
36 more than five thousand dollars for each violation.

1        (3) Any person who fails to notify a pipeline company of excavation  
2 work that is planned to occur within five feet of a hazardous liquid or  
3 gas pipeline, or excavates within five feet of the pipeline without the  
4 pipeline company's representative on-site, is subject to a civil  
5 penalty of not more than ten thousand dollars for each violation.

6        (4) Any person who violates any provision of this chapter, and  
7 which violation results in damage to underground facilities, is subject  
8 to a civil penalty of not more than ((one)) ten thousand dollars for  
9 each violation.

10        (5) All civil penalties recovered ((in such actions)) under  
11 subsections (1) through (4) of this section shall be deposited in the  
12 general fund and expended for the purpose of enforcement of hazardous  
13 liquid and gas pipeline safety laws.

14        ~~((+2))~~ (6) Any excavator who willfully or maliciously damages a  
15 field-marked underground facility shall be liable for treble the costs  
16 incurred in repairing or relocating the facility. In those cases in  
17 which an excavator fails to notify known underground facility owners or  
18 the one-number locator service, any damage to the underground facility  
19 shall be deemed willful and malicious and shall be subject to treble  
20 damages for costs incurred in repairing or relocating the facility.

21        ~~((+3))~~ (7) This chapter does not affect any civil remedies for  
22 personal injury or for property damage, including that to underground  
23 facilities, nor does this chapter create any new civil remedies for  
24 such damage.

25        **Sec. 18.** RCW 47.44.150 and 1989 c 196 s 1 are each amended to read  
26 as follows:

27        In any action for damages against the state of Washington, its  
28 agents, contractors, or employees by reason of damages to a utility or  
29 other facility located on a state highway, the damages are limited to  
30 the cost of repair of the utility or facility and are recoverable only  
31 in those instances where the utility or facility is authorized to be  
32 located on the state highway. However, the state is subject to the  
33 penalties provided in RCW 19.122.070 ~~((+1))~~ (4) and ~~((+2))~~ (6) only  
34 if the state has failed to give a notice meeting the requirements of  
35 RCW 19.122.030 to utilities or facilities that are authorized to be  
36 located on the state highway.

1        NEW SECTION.    **Sec. 19.**    A pipeline company that fails to comply  
2 with any provision of this chapter shall be subject to civil penalties  
3 of not less than five thousand dollars. This penalty shall be imposed  
4 pursuant to RCW 43.21B.300.

5        NEW SECTION.    **Sec. 20.**    A pipeline company that fails to report a  
6 dangerous release shall be guilty of a class B felony punishable under  
7 RCW 9A.20.021 if:

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

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

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

14        NEW SECTION.    **Sec. 21.**    A pipeline containing petroleum or  
15 petroleum products that is wholly located on the owner's property, that  
16 is not adjoining marine waters, is exempt from the provisions of this  
17 chapter.

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

27        **Sec. 23.**    RCW 43.21B.300 and 1993 c 387 s 23 are each amended to  
28 read as follows:

29           (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,  
30 70.105.080, 70.107.050, section 19 of this act, 88.46.090, 90.03.600,  
31 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in  
32 writing, either by certified mail with return receipt requested or by  
33 personal service, to the person incurring the penalty from the  
34 department, the administrator of the ((office of marine safety))  
35 integrated oil spill prevention and response program, or the local air

1 authority, describing the violation with reasonable particularity.  
2 Within fifteen days after the notice is received, the person incurring  
3 the penalty may apply in writing to the department, the administrator,  
4 or the authority for the remission or mitigation of the penalty. Upon  
5 receipt of the application, the department, the administrator, or  
6 authority may remit or mitigate the penalty upon whatever terms the  
7 department, the administrator, or the authority in its discretion deems  
8 proper. The department or the authority may ascertain the facts  
9 regarding all such applications in such reasonable manner and under  
10 such rules as it may deem proper and shall remit or mitigate the  
11 penalty only upon a demonstration of extraordinary circumstances such  
12 as the presence of information or factors not considered in setting the  
13 original penalty.

14 (2) Any penalty imposed under this section may be appealed to the  
15 pollution control hearings board in accordance with this chapter if the  
16 appeal is filed with the hearings board and served on the department,  
17 the administrator, or authority thirty days after receipt by the person  
18 penalized of the notice imposing the penalty or thirty days after  
19 receipt of the notice of disposition of the application for relief from  
20 penalty.

21 (3) A penalty shall become due and payable on the later of:

22 (a) Thirty days after receipt of the notice imposing the penalty;

23 (b) Thirty days after receipt of the notice of disposition on  
24 application for relief from penalty, if such an application is made; or

25 (c) Thirty days after receipt of the notice of decision of the  
26 hearings board if the penalty is appealed.

27 (4) If the amount of any penalty is not paid to the department or  
28 the administrator within thirty days after it becomes due and payable,  
29 the attorney general, upon request of the department or the  
30 administrator, shall bring an action in the name of the state of  
31 Washington in the superior court of Thurston county, or of any county  
32 in which the violator does business, to recover the penalty. If the  
33 amount of the penalty is not paid to the authority within thirty days  
34 after it becomes due and payable, the authority may bring an action to  
35 recover the penalty in the superior court of the county of the  
36 authority's main office or of any county in which the violator does  
37 business. In these actions, the procedures and rules of evidence shall  
38 be the same as in an ordinary civil action.

1 (5) All penalties recovered shall be paid into the state treasury  
2 and credited to the general fund except those penalties imposed  
3 pursuant to RCW 18.104.155, which shall be credited to the reclamation  
4 account as provided in RCW 18.104.155(7), RCW 70.94.431, the  
5 disposition of which shall be governed by that provision, RCW  
6 70.105.080, which shall be credited to the hazardous waste control and  
7 elimination account, created by RCW 70.105.180, and RCW 90.56.330,  
8 which shall be credited to the coastal protection fund created by RCW  
9 90.48.390.

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

12 NEW SECTION. **Sec. 25.** Sections 1 through 5, 7, 8, 10, 11, 16, 19  
13 through 22, and 24 of this act constitute a new chapter in Title 70  
14 RCW.

15 NEW SECTION. **Sec. 26.** RCW 81.88.040 (Intrastate pipeline safety  
16 standards--Definitions--Rules--Violations) and 1998 c 123 s 1 are each  
17 repealed."

18 **SB 6441** - S AMD - 126  
19 By Senators Spanel, Fraser and Morton

20 ADOPTED 2/14/00

21 On page 1, line 1 of the title, after "safety;" strike the  
22 remainder of the title and insert "amending RCW 19.122.030, 19.122.050,  
23 19.122.070, 47.44.150, and 43.21B.300; adding a new section to chapter  
24 43.110 RCW; adding a new section to chapter 81.88 RCW; adding a new  
25 section to chapter 19.122 RCW; adding a new section to chapter 48.48  
26 RCW; adding a new chapter to Title 70 RCW; repealing RCW 81.88.040; and  
27 prescribing penalties."

--- END ---