

HOUSE BILL REPORT

HB 2420

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to oil and gas pipeline safety.

Brief Description: Providing for oil and gas pipeline safety.

Sponsors: Representatives Linville, G. Chandler, Morris, Ericksen, Quall, Kastama, Santos, Grant, Stensen, Keiser, Poulsen, Wensman, Scott, Rockefeller, Reardon, Kenney, Cody, Lovick, Cooper, Koster, Haigh, McDonald, Van Luven, Lantz, Wood, Regala, Edmonds, Hurst, Dunshee, Constantine, Dickerson, Wolfe, Ogden, Ruderman and McIntire.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/20/00, 2/4/00 [DPS];

Appropriations: 2/7/00, 2/8/00 [DP2S(w/o sub AGEC)].

Brief Summary of Second Substitute Bill

- Transferring responsibilities for hazardous liquid pipeline safety from the Utilities and Transportation Commission to the Department of Ecology (DOE);
- Requiring ecology to develop a hazardous liquid pipeline safety program for legislative review.
- Requiring additional safety measures when excavation work takes place near pipelines.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Koster, Republican Vice Chair; Anderson; B. Chandler; Delvin; Fortunato; Grant; Reardon; Stensen and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schoesler and Sump.

Staff: Carole Richmond (786-7114).

Background:

Regulation of Pipeline Safety

The Federal Pipeline Safety Act (49 U.S.C. 60101 et seq.) provides the statutory basis for the federal and state pipeline safety programs. This law provides for exclusive federal authority over the regulation of interstate pipeline facilities, and federal delegation to the states for all or part of the responsibility for intrastate pipeline facilities under annual certification or agreement. Chapter 601 authorizes grants to states for up to 50 percent of a state's pipeline safety program. The federal Office of Pipeline Safety within the U.S. Department of Transportation is responsible for administering the act.

Unlike many environmental laws, such as the Clean Air Act or the Clean Water Act, which allow states to set standards that are equal to or more stringent than federal standards, the Federal Pipeline Safety Act preempts states from adopting safety or environmental standards. The act does allow states, however, to seek and accept designation as federal agents for the purpose of enforcing existing federal requirements on interstate hazardous liquid pipelines. To date, only four states have obtained this additional designation for hazardous liquid pipelines: Arizona, California, Minnesota, and New York. Three other states have obtained this designation for natural gas pipelines. The federal Office of Pipeline Safety has not provided delegation of authority to states since the mid-1990s.

The state of Washington is certified to assume safety responsibilities related to intrastate pipelines. The state's program is carried out within the Utilities and Transportation Commission.

Criticism of the Federal Pipeline Safety Act falls into two areas: (1) it does not allow states to develop more stringent requirements, and (2) the existing requirements are viewed by some as inadequate. One of the critics of the current law is the National Transportation Safety Board (NTSB), which is charged with investigating pipeline

accidents. The NTSB alleges that many of its recommendations to the Office of Pipeline Safety have not been adopted.

In 1996 the Federal Pipeline Safety Act was amended by the Accountable Pipeline Safety and Partnership Act. Among several provision of this law are the following:

- identification of the costs and benefits of minimum safety standards; and
- establishment of risk management demonstration projects to allow owners and operators to be exempted from all or a portion of safety standards that would otherwise apply.

This law is authorized until 2000 and reauthorization bills have been introduced by members of the Washington congressional delegation.

Hazardous Liquid Pipeline Accidents

Nationally since 1984 there have been over 3,000 incidents spilling a total of 1.7 million barrels resulting in 35 fatalities, 246 injuries, and \$500 million in property damage. The record is worse for the nation's 302,000 mile network of gas pipelines: 241 deaths and 1,105 injuries since 1986.

On June 10, 1999, a 16-inch diameter pipeline owned by the Olympic Pipe Line Company ruptured and leaked approximately 277,000 gallons of gasoline into creeks in Whatcom Falls Park in Bellingham, Washington. About an hour and half later, the gasoline ignited and caused a fireball that traveled approximately one and a half miles downstream from the pipeline failure location. As a result, two children and a young man lost their lives. Significant property and environmental damage also occurred. This is not the only pipeline spill to have occurred in Washington, but it is the only one to have resulted in fatalities. Since 1964 spills in Washington have totaled 905,000 gallons for pipelines, 1.3 million gallons for facilities such as refineries and terminals, and 4.6 million gallons for vessels.

Governor's Fuel Accident Prevention and Response Task Force

As a result of the tragedy in Bellingham, Governor Gary Locke convened a fuel accident prevention and response task force. The task force met six times between July and December 1999 and issued a set of recommendations. The Governor's principal priorities are to seek reauthorization of the Federal Pipeline Safety Act that allows for provision of additional authority for states to set standards, as well as additional funding for the state's pipeline safety activities.

Summary of Substitute Bill:

It is the intent of the Legislature that the Governor work with the congressional delegation in seeking elimination of federal preemption or the delegation of authority for pipeline safety when the Federal Pipeline Safety Act is reauthorized.

A "reportable release" is defined as one barrel, or 42 gallons of hazardous liquid.

A Pipeline Safety Account is created in the state treasury. All receipts from the federal Office of Pipeline Safety and any other state or federal funds provided for hazardous liquid pipeline safety must be deposited in the account. An appropriation is not required for expenditures.

The DOE is charged with administration and enforcement of all laws related to hazardous liquid pipeline safety. By December 1, 2000, the department is charged with developing, for the consideration of the Legislature, a program of pipeline safety that promotes the best achievable protection of public health and the environment. The program must include elements related to pipeline testing and inspection of all components and systems of a hazardous liquid pipeline. The program must also include elements related to training and certification of pipeline operators and measures aimed at the prevention of third party excavation damage through the use of a one-call system.

Prior to presenting this program to the Legislature for review during the 2001 session, the department must determine whether federal authority exists for each element or must be obtained. The department is required to hold interstate and intrastate hazardous liquid pipelines to the same standard of safety. After authority has been provided by the federal Office of Pipeline Safety, the program elements must be implemented through operations safety plans to be submitted to the department by pipeline companies. The department deems the plans "fit for service" when they achieve the highest practicable level of pipeline safety.

The department and the Utilities and Transportation Commission are directed to support the Governor in seeking delegation of federal authority to inspect interstate pipelines and enforce state and federal pipeline safety requirements. Elements of a delegation of authority are provided.

A pipeline safety committee is established to advise the department and other agencies on matters relating to hazardous liquid and gas safety. The committee must not exceed 15 members, including representatives of state agencies, local government, pipeline companies, and the general public. The committee must review and comment on proposed rules and the operation of the pipeline safety program.

The Utilities and Transportation Commission is required to establish a single statewide telephone number to be used for referring excavators to the appropriate one-call center. The commission is required to consult with the Washington Utilities

Coordinating Council to establish minimum standards and best management practices for one-call centers consistent with the recommendations of the Governor's fuel accident prevention and response task force.

Whenever excavation work is to occur within five feet of a hazardous liquid or gas pipeline, the one-call center is to be notified by the excavator at least two working days prior to the start of the excavation.

Pipeline companies are required to examine for damage any pipeline sections in the vicinity of excavation work that uncovers that section. If a pipeline company is informed of third party damage, the company is required to stop the flow of hazardous liquid in the pipeline and make a determination of whether the pipeline section should be replaced or repaired. A copy of the company's inspection report and test results must be provided to the department. Any release of over 42 gallons must be reported to the department and to local first responders.

The Department of Labor and Industries must conduct an assessment of the current skills and training needs that qualify pipefitters and fuel gas installers to construct, assemble, maintain, or repair any hazardous liquid or gas pipeline. The department must report its findings to the Legislature by October 1, 2000.

Penalties of not more than \$10,000 are provided for each failure to notify one-call systems of excavation work that is planned within the right-of-way of a hazardous liquid pipeline. The department is required to adopt rules setting penalty amounts for violations of pipeline safety provisions. Such penalties may not exceed the penalties specified in federal law.

Substitute Bill Compared to Original Bill: The definition of pipelines is changed to the federal definition. The definition of reportable release is changed.

The Utilities and Transportation Commission retains management authority for gas pipeline safety. The DOE is not required to write rules, but to develop a program of pipeline safety for the consideration of the Legislature.

The department is not required to collect maps from pipeline companies and to compile them into a statewide geographic information system-supported map.

The department is not required to develop a model ordinance related to setbacks and depth of new pipeline construction, a model franchise agreement, or more protective standards applicable to pipelines in densely populated or environmentally sensitive areas.

The Citizen Advisory Committee on Pipeline Safety is changed to the Pipeline Safety Committee with industry representation.

Definitions of penalties for pipeline companies in violation of pipeline safety provisions are deferred to agency rulemaking.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The Governor's task force concluded that states need to adopt stronger regulations. The bill helps get us there. Leaks occur repeatedly. Federal enforcement is inadequate. Even without additional authority, a lot can be done: information to locals, locations of pipelines, and development of first responder capabilities. The industry always says third-party damage is the largest cause of failure, but it's the cumulative total of the other causes, that is the greatest problem. The bill goes a long way. The needs and training of local firefighters should be addressed. Citizens in Bellingham want a citizen advisory committee. We support one-call, mapping of pipelines, penalties for third-party damage, and additional training for first responders. Experts agree on the need for certain methods of pipeline testing and corrosion control. This bill sends a clear message that Washington is well prepared to deal with issues. Prevention is most important. We recommend that persons not be allowed to build within pipeline right-of-ways. Ecology is the appropriate agency to be dealing with pipeline safety.

(In support with concerns) This Legislation would not affect interstate pipelines, but would affect intrastate pipelines. The responsibilities in the bill need to be further refined. The appropriate agency needs to be in charge of pipeline safety. The language is overly prescriptive. Definitions need to be consistent with federal definitions. State regulations should incorporate recommendations of the American Society of Mechanical Engineers. Pipeline safety does not happen by mandate alone. You need to have commitment of resources and public support. In Washington, the greatest cause of accident is earth movement. This is not addressed in the bill. Fuel gas installers need to be certified. The state needs to develop certification requirements.

Intrastate pipelines do not need additional regulation. They are already well regulated. This bill would only regulate intrastate pipelines, and create dual standards. One size doesn't fit all. You have to consider history, operating conditions, and complexity. Regulations cannot be prescriptive. Third-party excavation is the biggest threat to pipelines. The Utilities and Transportation Commission should be in charge of pipeline safety. Lines should not be exposed if possible. Gas must not be regulated in the same way as liquid fuels. We do not

support delegation of authority to states to set standards, but states can implement those standards.

Testimony Against: None.

Testified: (In support) Representative Jeff Morris; Dan Sexton, Washington Association of Plumbers and Pipefitters; Mark Asmundson, Mayor, city of Bellingham; Mark Brown, city of Vancouver; Julie Rodwell, city of Seattle; Michael Mann, representing U.S. Representative Jay Inslee; Parker Blackman, WashPIRG; Susan Harper; Greg Winter, Safe Bellingham; and Kenneth Meyer.

(In support with concerns) Brian Matsumaya, Cascade Natural Gas, Inc.; Bob Sluder, Williams Gas Pipelines West; Kristen Harte Sawin; Carol Jolly, Office of the Governor; Shari Jensen, Washington Utility Coordinating Council; and Cody Arledge, Washington State Council of Fire Fighters.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

Staff: Jeff Olsen (786-7157).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: The bill is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available (original bill).

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately; however, the bill is null and void unless funded in the budget.

Testimony For: The provision requiring the Department of Labor and Industries to assess pipefitters' skills and training cannot be supported from the plumbers program,

a dedicated account. The department has not had time to conduct a detailed fiscal estimate; however, the cost to conduct the assessment will most likely not exceed \$50,000, and may be done for less. The fiscal impact of the substitute version of the bill closely matches the \$345,000 level requested in the Governor's supplemental budget. This funding would be transitional until the state is delegated authority to regulate interstate pipelines to support the state pipeline safety program. Funding transferred from the Utilities and Transportation Commission to the Department of Ecology includes a federal grant of approximately \$34,000, and the portion of the regulatory fee for program safety, for a total of \$59,700. The Utilities and Transportation Commission wants to ensure that the bill does not weaken the state's current authority to regulate hazardous liquid and gas pipeline safety.

Testimony Against: None.

Testified: Suzanne Mager, Labor & Industries; Joe Stohr, Department of Ecology; and Carol Washburn, Washington State Utilities and Transportation Commission.