

SENATE BILL REPORT

SB 6441

As Reported By Senate Committee On:
Environmental Quality & Water Resources, February 4, 2000
Ways & Means, February 8, 2000

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

Brief Description: Providing for oil and gas pipeline safety.

Sponsors: 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.

Brief History:

Committee Activity: Environmental Quality & Water Resources: 1/25/2000, 2/4/2000 [DPS-WM, DNPS].
Ways & Means: 2/8/2000 [DPS (EQWR)].

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: That Substitute Senate Bill No. 6441 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen, McAuliffe, Morton and Swecker.

Minority Report: Do not pass substitute.

Signed by Senator Honeyford.

Staff: Richard Rodger (786-7461)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6441 as recommended by Committee on Environmental Quality & Water Resources be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Rossi, B. Sheldon, Spanel, Winsley and Wojahn.

Staff: Kari Guy (786-7437)

Background: 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 the Hanna and Whatcom Creeks in Whatcom Falls Park in Bellingham. 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.

As a result of the tragedy in Bellingham, Governor Locke convened a Fuel Accident Prevention and Response Task Force. The task force issued a set of recommendations in December 1999.

The federal Pipeline Safety Act preempts states from adopting safety or environmental standards. The act does allow states 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. The federal Office of Pipeline Safety has not allowed additional states to obtain this designation since the mid-1990s.

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. The National Transportation Safety Board (NTSB), which is charged with investigating pipeline accidents, 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. In part, this law provides for: (1) the identification of the costs and benefits of minimum safety standards; and (2) establishment of risk management demonstration projects to allow owners and operators to be exempt from all or a portion of safety standards that would otherwise apply. This law is authorized until 2000.

The state of Washington through the Utilities and Transportation Committee (UTC) is presently certified to assume safety responsibilities related to intrastate pipelines, but not interstate pipelines.

Summary of Substitute Bill: This bill is known as the Washington State Pipeline Safety Act.

The current duties of the UTC covering hazardous liquid pipelines are transferred to the Department of Ecology. The UTC retains jurisdiction over natural gas pipelines. Ecology is given additional responsibilities, to the extent not expressly prohibited by federal law, for administering pipeline safety laws.

Ecology must adopt rules regarding:

- hazardous liquid pipelines safety standards;
- requirements related to detection and control of leaks;
- requirements related to training and certification of personnel who operate pipelines;
- measures aimed at prevention of third-party excavation damage through establishment of a one-call system; and
- pipeline operations safety plans that are fit for service.–

Ecology is also required to: (1) providing technical assistance; (2) evaluate any proposals related to pipeline testing; (3) compile accurate GIS maps of the pipeline distribution systems; (4) develop, for the consideration of local governments: (a) a model ordinance related to setbacks and depth of new pipeline construction; (b) a model franchise agreement; and (c) protective standards applicable to pipelines in densely populated areas and environmentally sensitive areas.

Ecology must seek federal designation of the department's inspectors as federal agents for the inspection of interstate hazardous liquid pipelines. Ecology is also required to seek federal authority to adopt safety standards related to the monitoring and testing of interstate hazardous liquid pipelines.

Ecology is authorized to inspect any documents that federal law requires hazardous liquid pipeline companies to keep.

A citizens advisory committee is established to advise Ecology, the Energy Facility Site Evaluation Council (EFSEC), and other agencies on matters relating to pipeline safety, routing, construction, and maintenance.

A single statewide toll-free telephone number to be used for excavation notification is established.

The state Fire Marshal's Office, located within the Washington State Patrol, is required to address emergency management and training curricula for training local first responders.

Whenever an excavator works within five feet of a hazardous liquid or gas pipeline, the pipeline company that owns or operates the pipeline must be notified, and the company must have a representative on-site during the excavation. The pipeline company may require, at the excavator's expense, the pipe to be uncovered and inspected.

Pipeline companies must: (1) terminate the flow of hazardous liquids when they are notified of third party damage to a pipeline they own or operate, and to not resume the flow of hazardous liquids until the pipeline has been visually inspected and, if necessary, repaired or replaced; and (2) notify first responders in the event of a dangerous release.

A "dangerous release" is release of hazardous liquid that poses a clear and immediate danger to life, health, or that threatens a significant loss of property, or substantial damage to the environment.

Civil and criminal penalties are established: (1) failure to notify pipeline companies that excavation work will occur within five feet of hazardous liquid or gas pipelines is subject to penalties not more than \$10,000 per violation; (2) any pipeline company that fails to comply with any provision of the Pipeline Safety Act (this bill) is subject to civil penalties of not less than \$5,000; (3) failure to report a dangerous release— that results in death or injury is a class B felony, punishable by a fine of not more than \$20,000, or by imprisonment for not more than ten years, or both; (4) failure to call the one-call center before excavating may result in a \$5,000 fine; and (5) destruction or removal of pipeline locator signs may result in a \$1,000 fine.

Substitute Bill Compared to Original Bill: Ecology is the lead agency for hazardous liquid pipelines, while the UTC retains lead agency status for natural gas. Ecology's jurisdiction is clarified to the "extent allowed by federal law and the federal constitutional commerce clause." Definitions of "dangerous release" and "pipeline" are modified. Private and municipal lines located on owner's property are exempt from the act.

Training programs shall be made available to, instead of mandated for, municipal and construction workers.

Notice must be provided to the one-call center when excavating within 25 feet of a pipeline. A civil penalty for not calling the one center is created in the amount of \$5,000. A new penalty is created for the intentional and malicious destruction or removal of pipeline location signs. The civil penalty for failure to notify a pipeline company of excavation within five feet is increased to \$10,000. A pipeline representative must be on-site if excavation is within five feet of a hazardous liquid or gas pipeline. The pipeline company has discretion to require, at the excavator's expense, the pipeline to be uncovered and inspected.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Environmental Quality & Water Resources): We need a greater ability to regulate intrastate and interstate pipelines. This bill addresses real issues and should not be narrowed. The steps and rules required for DOE are very positive and will assist in protecting the public's health and safety. The one-call improvements are very good changes, as are the associated penalties. The educational components are a necessity, as the mapping and training requirements.

Testimony Against (Environmental Quality & Water Resources): The bill should separate hazardous liquid pipelines from natural gas pipelines and should be treated differently. The definition of pipeline is too narrow. The one-call provisions should not be dealt with until the utilities council has had an opportunity to make their recommendations to the Governor. The bill should include penalties for removal of pipeline locator signs.

The bill should create additional safety measures. The bill should not cover interstate pipelines until Congress grants additional authorities to the state. The bill creates unjustifiably high expectations with the public. Dangerous release should include environmental damage.

Testified (Environmental Quality & Water Resources): PRO: Senator Spanel, prime sponsor; Mark Asmundson, Mayor of Bellingham; Tracy Cereghino, Washington Public Interest Research Group; Richard Gilda; Eric Espenhoist, Friends of the Earth; Donald Norman; Nancy S. Lewis, Department of Licensing; Joe Daniels, City of SeaTac; Josh Baldi, Washington Enviro Council; Susan Harper, Cascade Columbia Alliance; CONCERNS: Brian Sullivan, Dennis Bays, ARCO; Tom Hullinger, U.S. Oil & Refining; Don Evans, Utilities Underground Location Center; Terry Oxley, PSE/PG&E Gas Transmission; Carol Jolly, Governor's Office; Dan Sexton, Washington State Association

of Plumbers & Pipefitters; Mark Greenberg, One-Call Concepts, Inc.; Kristen Harte Swin, AVISTA Corporation; Shari Jensen, Washington Utility Coordinating Council; Deanne Kopkas, Maggie Brown, Olympic Pipe Line Co.

Testimony For (Ways & Means): This bill ensures the state will play an important role in providing safety for our citizens.

Testimony Against (Ways & Means): Long-term funding should not be provided from the general fund, but instead should rely on fees and federal grants.

Testified (Ways & Means): PRO: Senator Georgia Gardner; Carol Jolly, Governor's Office.