
SUBSTITUTE HOUSE BILL 1452

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored 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 02/26/2001. Referred to Committee on .

1 AN ACT Relating to funding hazardous liquid and gas pipeline
2 safety; amending RCW 81.88.010, 81.88.060, 81.88.090, and 81.88.140;
3 adding a new section to chapter 80.24 RCW; adding a new section to
4 chapter 81.24 RCW; adding a new section to chapter 81.88 RCW; creating
5 a new section; repealing RCW 81.88.050 and 81.88.130; providing an
6 effective date; and declaring an 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. At a minimum, the fees
2 established under this section must be sufficient to adequately fund
3 pipeline inspection personnel, the timely review of pipeline safety and
4 integrity plans, the timely development of spill response plans, the
5 timely development of accurate maps of pipeline locations,
6 participation in federal pipeline safety efforts to the extent allowed
7 by law as now or hereafter amended, and the staffing of the citizen
8 committee on pipeline safety at levels the committee determines needed
9 to provide oversight. The commission shall by rule establish the
10 methodology it will use to set the appropriate fee for each entity
11 subject to this section and shall require reports from those entities
12 in the form and at such time as necessary to set the fees. After
13 considering the reports supplied by the entities, the commission shall
14 set the amount of the fee payable by each entity by general order
15 entered before July 1st of each year. The aggregate amount of fees set
16 must be sufficient to recover the reasonable costs of administering the
17 pipeline safety program, taking into account federal funds used to
18 offset the costs. The commission shall collect the pipeline safety fee
19 as part of the fee specified in RCW 80.24.010. The commission shall
20 allocate the moneys collected under RCW 80.24.010 between the pipeline
21 safety program and for other regulatory purposes. The commission shall
22 adopt rules that assure that fee moneys related to the pipeline safety
23 program are maintained separately from other moneys collected by the
24 commission under this chapter. Any payment of the fee imposed by this
25 section made after its due date must include a late fee of two percent
26 of the amount due. Delinquent fees accrue interest at the rate of one
27 percent per month.

28 (2) The commission shall keep accurate records of the costs
29 incurred in administering its gas pipeline safety program and the
30 records are open to inspection by interested parties. The records and
31 data upon which the commission's determination is made shall be prima
32 facie correct in any proceeding to challenge the reasonableness or
33 correctness of any order of the commission fixing fees and distributing
34 regulatory expenses.

35 (3) If any entity seeks to contest the imposition of a fee imposed
36 under this section, that entity shall pay the fee and request a refund
37 within six months of the due date for the payment by filing a petition
38 for a refund with the commission. The commission shall establish by

1 rule procedures for handling refund petitions and may delegate the
2 decisions on refund petitions to the secretary of the commission.

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

5 (1) Every hazardous liquid pipeline company as defined in RCW
6 81.88.010 shall pay an annual pipeline safety fee to the commission.
7 At a minimum, the fees established under this section shall be
8 sufficient to adequately fund pipeline inspection personnel, the timely
9 review of pipeline safety and integrity plans, the timely development
10 of spill response plans, the timely development of accurate maps of
11 pipeline locations, participation in federal pipeline safety efforts to
12 the extent allowed by law as now or hereafter amended, and the staffing
13 of the citizens committee on pipeline safety at levels the committee
14 determines necessary to provide oversight. The commission shall by
15 rule establish the methodology it will use to set the appropriate fee
16 for each entity subject to this section and shall require reports from
17 those entities in the form and at such time as necessary to set the
18 fees. After considering the reports supplied by the entities, the
19 commission shall set the amount of the fee payable by each entity by
20 general order entered before July 1st of each year. The aggregate
21 amount of fees set must be sufficient to recover the reasonable costs
22 of administering the pipeline safety program, taking into account
23 federal funds used to offset the costs. The commission shall collect
24 the pipeline safety fee as part of the fee specified in RCW 81.24.010.
25 The commission shall allocate the moneys collected under RCW 81.24.010
26 between the pipeline safety program and for other regulatory purposes.
27 The commission shall adopt rules that assure that fee moneys related to
28 the pipeline safety program are maintained separately from other moneys
29 collected by the commission under this chapter. Any payment of the fee
30 imposed by this section made after its due date must include a late fee
31 of two percent of the amount due. Delinquent fees accrue interest at
32 the rate of one percent per month.

33 (2) The commission shall keep accurate records of the costs
34 incurred in administering its hazardous liquid pipeline safety program
35 and the records are open to inspection by interested parties. The
36 records and data upon which the commission's determination is made
37 shall be prima facie correct in any proceeding to challenge the

1 reasonably or correctness of any order of the commission fixing
2 fees and distributing regulatory expenses.

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

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.88 RCW
10 to read as follows:

11 The commission shall review staff utilization, inspection activity,
12 fee methodology, and costs of the interstate pipeline safety program
13 and report to the appropriate legislative committees by November 15,
14 2002.

15 **Sec. 5.** 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

1 distribution of natural gas at retail; or (b) excavation contractors or
2 other contractors that contract with a gas pipeline company.

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

6 ~~((+8))~~ (7) "Local government" means a political subdivision of the
7 state or a city or town.

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

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

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

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

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

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

1 pipeline, pumping units, and fabricated assemblies associated with
2 pumping units. A transfer pipeline does not include process pipelines,
3 pipelines carrying ballast or bilge water, transmission pipelines, or
4 tank vessel or storage tanks.

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

10 **Sec. 6.** RCW 81.88.060 and 2000 c 191 s 5 are each amended to read
11 as follows:

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

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

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

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

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

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

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

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

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

35 (3) The commission shall approve operations safety plans if they
36 have been deemed fit for service. A plan shall be deemed fit for
37 service when it provides for pipelines that are designed, developed,
38 constructed, operated, and periodically modified to provide for

1 protection of public safety and the environment. Pipeline operations
2 safety plans shall, at a minimum, include:

3 (a) A schedule of inspection and testing within the pipeline
4 distribution system of:

5 (i) All mechanical components;

6 (ii) All electronic components; and

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

10 (b) Failsafe systems;

11 (c) Safety management systems; and

12 (d) Emergency management training for pipeline operators.

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

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

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

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

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

33 **Sec. 7.** RCW 81.88.090 and 2000 c 191 s 9 are each amended to read
34 as follows:

35 (1) The commission ~~((and the department))~~ shall apply for federal
36 delegation for the state's program for the purposes of enforcement of
37 federal hazardous liquid pipeline safety requirements. If the
38 secretary of transportation delegates inspection authority to the state

1 as provided in this subsection, the (~~department~~) commission, at a
2 minimum, shall do the following:

3 (a) Inspect hazardous liquid pipelines periodically as specified in
4 the inspection program;

5 (b) Collect fees;

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

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

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

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

18 **Sec. 8.** RCW 81.88.140 and 2000 c 191 s 14 are each amended to read
19 as follows:

20 (1) The citizens committee on pipeline safety is established to
21 advise the state agencies and other appropriate federal and local
22 government agencies and officials on matters relating to hazardous
23 liquid and gas pipeline safety, routing, construction, operation, and
24 maintenance. The committee shall serve as an advisory committee for
25 the commission on matters relating to the commission's pipeline safety
26 programs and activities. The commission shall consult with and provide
27 periodic reports to the committee on matters related to the
28 commission's pipeline safety programs and activities, including but not
29 limited to the development and regular review of funding elements for
30 pipeline safety programs and activities.

31 (2) The committee shall have thirteen total members who shall be
32 appointed by the governor to staggered three-year terms and shall
33 consist of: (a) Nine members representing local government, including
34 elected officials and the public; and (b) four nonvoting members,
35 representing owners and operators of hazardous liquid and gas
36 pipelines. All members of the committee, voting and nonvoting, may
37 participate fully in the committee's meetings, activities, and

1 deliberations and shall timely receive all notices and information
2 related to committee business and decisions.

3 (3) The committee shall review and comment on proposed rules and
4 the operation of the state pipeline safety programs.

5 ~~((2))~~ (4) The committee may create one or more technical advisory
6 committees comprised of gas and hazardous liquid pipeline owners or
7 operators, agency representatives, natural resource and environmental
8 interests, or other interested parties.

9 ~~((3))~~ (5) The committee established in ~~((subsection (1) of))~~ this
10 section constitutes a class one group under RCW 43.03.220. Expenses
11 for this group, as well as staff support, shall be provided by the
12 utilities and transportation commission ~~((and, if additional pipeline~~
13 ~~authority is transferred to it, the department of ecology))~~.

14 NEW SECTION. Sec. 9. The following acts or parts of acts are each
15 repealed:

16 (1) RCW 81.88.050 (Hazardous liquid pipeline safety account) and
17 2000 c 191 s 4; and

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

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

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