

2 **E2SHB 2420** - S AMD

3 By Committee on Environmental Quality & Water Resources

4 NOT ADOPTED 3/2/00

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

7 NEW SECTION. **Sec. 1.** (1) The intent of this act is to protect
8 the health and safety of the citizens of the state of Washington and
9 the 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 (2) 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 (3) It is also the intent of the legislature that the governor work
20 with the state congressional delegation in seeking:

21 (a) To amend the federal pipeline safety act to delegate authority
22 to qualified states to adopt and enforce standards equal to or more
23 stringent than federal standards;

24 (b) State authority to administer and enforce federal requirements
25 related to pipeline safety; and

26 (c) Higher levels of funding for state and federal pipeline safety
27 activities and for states to respond to pipeline accident emergencies.

28 (4) While the legislature acknowledges that serious accidents have
29 occurred for hazardous liquid and gas pipelines in this nation and
30 elsewhere, it recognizes that there are fundamental differences between
31 hazardous liquid pipelines and gas pipelines and that a different
32 system of safety regulations must be applied for each kind of pipeline.

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

35 (1) "Department" means the department of ecology.

1 (2) "Failsafe" means a design feature that will maintain or result
2 in a safe condition in the event of malfunction or failure of a power
3 supply, component, or control device.

4 (3) "Gas" means natural gas, flammable gas, or toxic or corrosive
5 gas.

6 (4) "Hazardous liquid" means: (a) Petroleum, petroleum products,
7 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
8 in effect March 1, 1998; and (b) carbon dioxide. The department by
9 rule may incorporate by reference other substances designated as
10 hazardous by the secretary of transportation under 49 U.S.C. Sec.
11 60101(a)(4).

12 (5) "Local government" means a subdivision of the state or a city
13 or town.

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

18 (7) "Pipeline" or "pipeline system" means all parts of a pipeline
19 facility through which a hazardous liquid or carbon dioxide moves in
20 transportation, including, but not limited to, line pipe, valves, and
21 other appurtenances connected to line pipe, pumping units, fabricated
22 assemblies associated with pumping units, metering and delivery
23 stations and fabricated assemblies therein, and breakout tanks.
24 "Pipeline" or "pipeline system" does not include process or transfer
25 pipelines.

26 (8) "Pipeline company" means a person or entity constructing,
27 owning, or operating a pipeline for transporting hazardous liquid.

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

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

35 NEW SECTION. **Sec. 3.** (1) The hazardous liquid pipeline safety
36 account is created in the custody of the state treasurer. All receipts
37 from the federal office of pipeline safety and any other state or
38 federal funds provided for hazardous liquid pipeline safety must be

1 deposited in the account, except as provided in subsection (2) of this
2 section. Moneys in the account may be spent only after appropriation.
3 Expenditures from the account may be used only for funding the pipeline
4 safety program within the department of ecology. Only the director of
5 the department or the director's designee may authorize expenditures
6 from the account.

7 (2) Federal funds received before June 30, 2001, shall be treated
8 as receipt of unanticipated funds and expended by the department of
9 ecology or the utilities and transportation commission, without
10 appropriation, for the designated purposes.

11 NEW SECTION. **Sec. 4.** (1) The department shall have charge for the
12 state of the administration and enforcement of all laws related to
13 hazardous liquid pipeline safety. To the extent not expressly
14 prohibited by federal law, the department shall develop and implement
15 a comprehensive program of pipeline safety.

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

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

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

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

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

24 and

25 (iii) Emergency response procedures;

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

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

31 (e) Require hazardous liquid pipeline companies to submit
32 operations safety plans once every five years, as well as any
33 amendments to the plan made necessary by changes to the pipeline system
34 or its operation.

35 (3) The department 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 department shall coordinate information related to pipeline
14 safety by providing technical assistance to local planning and siting
15 authorities.

16 (5) The department 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 NEW SECTION. **Sec. 5.** The department of ecology shall not, before
23 January 1, 2001, initiate rule making under section 4(2) of this act
24 for intrastate hazardous liquid pipelines, unless the state has been
25 granted additional authority over interstate hazardous liquid
26 pipelines.

27 NEW SECTION. **Sec. 6.** Operators of hazardous liquid pipeline
28 companies and operators of gas transmission pipelines shall develop a
29 curricula aimed at the prevention of third-party excavation damage to
30 hazardous liquid pipelines and gas transmission pipelines. The
31 curricula must be reviewed and approved by the department and the
32 utilities and transportation commission. The curricula shall be made
33 available to municipal workers and construction workers who are
34 involved in construction work within the right-of-way or easement of a
35 hazardous liquid and gas pipeline. The curricula shall include
36 training on:

37 (1) Prevention of damage to pipelines;

- 1 (2) The danger involved if a pipeline is damaged;
- 2 (3) The significance of pipeline damage that does not cause
- 3 immediate failure; and
- 4 (4) The importance of immediately reporting damage to a pipeline
- 5 and the importance of immediately repairing a damaged pipeline.

6 NEW SECTION. **Sec. 7.** (1) The department and utilities and

7 transportation commission shall require hazardous liquid and gas

8 pipeline companies to provide accurate maps of their pipeline to

9 specifications developed by the department including depth information.

10 (2) The department and the utilities and transportation commission

11 shall evaluate the accuracy of the maps and consolidate the maps into

12 a state-wide geographic information system, and fill any gaps for which

13 companies or local governments may have no information. The mapping

14 system shall be used in conjunction with the one-number locator service

15 as provided in chapter 19.122 RCW. The mapping system shall be

16 compatible with the United States department of transportation national

17 pipeline mapping program.

18 (3) The mapping system shall be completed by January 1, 2006, and

19 periodically updated thereafter. The mapping system shall be funded,

20 to the greatest extent possible, by the owner and operators of the

21 hazardous liquid and gas pipelines.

22 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.110 RCW

23 to read as follows:

24 The municipal research council shall, by June 30, 2001, develop and

25 periodically update, for the consideration by local governments:

26 (1) A model ordinance that establishes setback and depth

27 requirements for new hazardous liquid and gas pipeline construction;

28 and

29 (2) A model franchise agreement for jurisdictions through which a

30 hazardous liquid or gas pipeline is located.

31 NEW SECTION. **Sec. 9.** (1) The department shall seek and accept

32 federal designation of the department's inspectors as federal agents

33 for the purposes of enforcement of the federal hazardous liquid

34 pipeline safety act (49 U.S.C. Sec. 60101 et seq.), and federal rules

35 adopted to implement that act, as they exist as of the effective date

36 of this section. The department shall establish and submit to the

1 United States secretary of transportation an inspection program that
2 complies with requirements for delegated interstate agent inspection
3 authority. If the secretary of transportation delegates inspection
4 authority to the state as provided in this subsection, the department,
5 at a minimum, shall do the following to carry out the delegated federal
6 authority:

7 (a) Inspect hazardous liquid pipelines periodically as specified in
8 the inspection program;

9 (b) Collect fees;

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

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

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

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

22 NEW SECTION. Sec. 10. A new section is added to chapter 80.28 RCW
23 to read as follows:

24 (1) The commission shall seek and accept federal designation of the
25 commission's inspectors as federal agents for the purposes of
26 enforcement of federal laws covering gas pipeline safety and the
27 associated federal rules, as they exist on the effective date of this
28 section. The commission shall establish and submit to the United
29 States secretary of transportation an inspection program that complies
30 with requirements for delegated interstate agent inspection authority.
31 If the secretary of transportation delegates inspection authority to
32 the state as provided in this subsection, the commission, at a minimum,
33 shall do the following to carry out the delegated federal authority:

34 (a) Inspect gas pipelines periodically as specified in the
35 inspection program;

36 (b) Collect fees;

37 (c) Order and oversee the testing of gas pipelines as authorized by
38 federal law and regulation; and

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

3 (2) The commission shall also seek federal authority to adopt
4 safety standards related to the monitoring and testing of interstate
5 gas pipelines.

6 (3) Upon designation under subsection (1) of this section or under
7 a grant of authority under subsection (2) of this section, to the
8 extent authorized by federal law, the commission shall adopt rules for
9 interstate gas pipelines that are no less stringent than the state's
10 laws and rules for intrastate gas pipelines.

11 NEW SECTION. **Sec. 11.** The department may inspect any record, map,
12 or written procedure required by federal law to be kept by a hazardous
13 liquid pipeline company concerning the reportable releases, and the
14 design, construction, testing, or operation and maintenance of
15 hazardous liquid pipelines.

16 NEW SECTION. **Sec. 12.** A new section is added to chapter 81.88 RCW
17 to read as follows:

18 The commission may inspect any record, map, or written procedure
19 required by federal law to be kept by a gas pipeline company concerning
20 the reporting of gas releases, and the design, construction, testing,
21 or operation and maintenance of gas pipelines.

22 NEW SECTION. **Sec. 13.** (1) All powers, duties, and functions of
23 the utilities and transportation commission pertaining to hazardous
24 liquid pipeline safety, except economic regulatory authority under
25 chapters 80.28, 80.24, and 81.24 RCW, are transferred to the department
26 of ecology. The timing of the transfer shall be facilitated by a
27 memorandum of agreement between the two agencies, with any disputes
28 resolved by the office of financial management. The transfer shall be
29 completed by June 30, 2001. All references to the commission or the
30 utilities and transportation commission in the Revised Code of
31 Washington shall be construed to mean the director or the department of
32 ecology when referring to the functions transferred in this section.

33 (2)(a) All reports, documents, surveys, books, records, files,
34 papers, or written material in the possession of the utilities and
35 transportation commission pertaining to the powers, functions, and
36 duties transferred shall be delivered to the custody of the department

1 of ecology. All cabinets, furniture, office equipment, motor vehicles,
2 and other tangible property employed by the utilities and
3 transportation commission in carrying out the powers, functions, and
4 duties transferred shall be made available to the department of
5 ecology. All funds, credits, or other assets held in connection with
6 the powers, functions, and duties transferred shall be assigned to the
7 department of ecology.

8 (b) Any appropriations made to the utilities and transportation
9 commission for carrying out the powers, functions, and duties
10 transferred shall be transferred and credited to the department of
11 ecology under the agreement authorized in subsection (1) of this
12 section.

13 (c) Whenever any question arises as to the transfer of any
14 personnel, funds, books, documents, records, papers, files, equipment,
15 or other tangible property used or held in the exercise of the powers
16 and the performance of the duties and functions transferred, the
17 director of financial management shall make a determination as to the
18 proper allocation and certify the same to the state agencies concerned.

19 (3) All employees of the utilities and transportation commission
20 engaged in performing the powers, functions, and duties transferred are
21 transferred to the jurisdiction of the department of ecology. All
22 employees classified under chapter 41.06 RCW, the state civil service
23 law, are assigned to the department of ecology to perform their usual
24 duties upon the same terms as formerly, without any loss of rights,
25 subject to any action that may be appropriate thereafter in accordance
26 with the laws and rules governing state civil service.

27 (4) All rules and all pending business before the utilities and
28 transportation commission pertaining to the powers, functions, and
29 duties transferred shall be continued and acted upon by the department
30 of ecology. All existing contracts and obligations shall remain in
31 full force and shall be performed by the department of ecology.

32 (5) The transfer of the powers, duties, functions, and personnel of
33 the utilities and transportation commission shall not affect the
34 validity of any act performed before the effective date of this
35 section.

36 (6) If apportionments of budgeted funds are required because of the
37 transfers directed by this section, the director of financial
38 management shall certify the apportionments to the agencies affected,
39 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation
2 accounts and equipment records in accordance with the certification.

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

8 NEW SECTION. **Sec. 14.** (1) A hazardous liquid and gas pipeline
9 safety advisory committee is established to advise the department, the
10 utilities and transportation commission, and other appropriate federal,
11 state, and local government agencies and officials on matters relating
12 to pipeline safety, routing, construction, operation, and maintenance.
13 Members of the advisory committee shall be appointed by the governor to
14 staggered three-year terms and, at a minimum, shall consist of
15 representatives of local government, including elected officials and
16 the general public. The committee shall review and comment on proposed
17 rules and the operation of the state pipeline safety programs.

18 (2) The advisory committee may create one or more technical
19 advisory committees comprised of gas and hazardous liquid pipeline
20 owners or operators, agency representatives, natural resource and
21 environmental interests, or other interested parties.

22 (3) The advisory committee established in subsection (1) of this
23 section constitutes a class one group under RCW 43.03.220. Expenses
24 for this group, as well as staff support provided by the department and
25 the utilities and transportation commission, shall be funded through a
26 legislative appropriation to the department.

27 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.122
28 RCW to read as follows:

29 (1) By December 31, 2000, the utilities and transportation
30 commission shall establish or cause to be established a single state-
31 wide toll-free telephone number to be used for referring excavators to
32 the appropriate one-number locator service.

33 (2) The utilities and transportation commission, in consultation
34 with the Washington utilities coordinating council, shall establish
35 minimum standards and best management practices for one-number locator
36 services consistent with the recommendations of the governor's fuel
37 accident prevention and response team issued in December 1999. By

1 December 31, 2000, the commission shall provide its recommendations to
2 the appropriate standing committees of the house of representatives and
3 the senate.

4 (3) One-number locator services shall be operated by
5 nongovernmental agencies.

6 **Sec. 16.** RCW 19.122.030 and 1988 c 99 s 1 are each amended to read
7 as follows:

8 (1) Before commencing any excavation, excluding agriculture tilling
9 of soil less than twelve inches in depth, the excavator shall provide
10 notice of the scheduled commencement of excavation to all owners of
11 underground facilities through a one-number locator service.

12 (2) Whenever surface markings or other information indicates that
13 excavation work is to occur within twenty-five feet of a hazardous
14 liquid pipeline or gas transmission pipeline, the state-wide one-number
15 locator service established under section 15 of this act shall be
16 notified. In addition, whenever surface markings or other information
17 indicates that the excavation work is to occur within five feet of a
18 hazardous liquid pipeline or gas transmission pipeline, the pipeline
19 company that owns or operates the pipeline shall be notified, and its
20 representative shall be on-site, prior to the start of excavation.

21 (3) All owners of underground facilities within a one-number
22 locator service area shall subscribe to the service. One-number
23 locator service rates for cable television companies will be based on
24 the amount of their underground facilities. If no one-number locator
25 service is available, notice shall be provided individually to those
26 owners of underground facilities known to or suspected of having
27 underground facilities within the area of proposed excavation. The
28 notice shall be communicated to the owners of underground facilities
29 not less than two business days or more than ten business days before
30 the scheduled date for commencement of excavation, unless otherwise
31 agreed by the parties. The notice shall also comply with the
32 requirements of section 19 of this act.

33 (4) Upon receipt of the notice provided for in this section, the
34 owner of the underground facility shall provide the excavator with
35 reasonably accurate information as to its locatable underground
36 facilities by surface-marking the location of the facilities. If there
37 are identified but unlocatable underground facilities, the owner of
38 such facilities shall provide the excavator with the best available

1 information as to their locations. The owner of the underground
2 facility providing the information shall respond no later than two
3 business days after the receipt of the notice or before the excavation
4 time, at the option of the owner, unless otherwise agreed by the
5 parties. Excavators shall not excavate until all known facilities have
6 been marked. Once marked by the owner of the underground facility, the
7 excavator is responsible for maintaining the markings. Excavators
8 shall have the right to receive compensation from the owner of the
9 underground facility for costs incurred if the owner of the underground
10 facility does not locate its facilities in accordance with this
11 section.

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

16 (6) An owner of underground facilities is not required to indicate
17 the presence of existing service laterals or appurtenances if the
18 presence of existing service laterals or appurtenances on the site of
19 the construction project can be determined from the presence of other
20 visible facilities, such as buildings, manholes, or meter and junction
21 boxes on or adjacent to the construction site.

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

24 (8) If the excavator, while performing the contract, discovers
25 underground facilities which are not identified, the excavator shall
26 cease excavating in the vicinity of the facility and immediately notify
27 the owner or operator of such facilities, or the one-number locator
28 service.

29 **Sec. 17.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to
30 read as follows:

31 (1) An excavator who, in the course of excavation, contacts or
32 damages an underground facility shall immediately notify the utility
33 owning or operating such facility and the state-wide one-number locator
34 service. If the damage causes an emergency condition, the excavator
35 causing the damage shall also immediately alert the appropriate local
36 public safety agencies and take all appropriate steps to ensure the
37 public safety. No damaged underground facility may be buried until it
38 is repaired or relocated.

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

5 NEW SECTION. **Sec. 18.** A new section is added to chapter 48.48 RCW
6 to read as follows:

7 (1) In consultation with the emergency management program within
8 the state military department, the department of ecology, the utilities
9 and transportation commission, and local emergency services
10 organizations, the chief of the Washington state patrol, through the
11 director of fire protection or his or her authorized deputy, shall:

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

14 (b) Conduct an assessment of the equipment and personnel needed by
15 local first responders to meet emergency management demands related to
16 pipelines.

17 (2) The chief of the Washington state patrol, through the director
18 of fire protection or his or her deputy, shall develop curricula for
19 training local first responders to deal with hazardous liquid and gas
20 pipeline accidents. The curricula shall be developed in conjunction
21 with pipeline companies and local first responders, and shall include
22 a timetable and costs for providing training as defined in the
23 curricula to all communities housing pipelines. Separate curricula
24 shall be developed for hazardous liquid and gas pipelines so that the
25 differences between pipelines may be recognized and appropriate
26 accident responses provided. The need for a training program for
27 regional incident management teams shall also be evaluated.

28 (3) In consultation with other relevant agencies, the chief of the
29 Washington state patrol, through the director of fire protection or his
30 or her deputy, shall identify the need and means for achieving
31 consistent application of the national interagency incident management
32 system.

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

35 NEW SECTION. **Sec. 19.** (1) A pipeline company that has been
36 notified by an excavator pursuant to RCW 19.122.050 that excavation
37 work will occur within five feet of a hazardous liquid pipeline shall

1 ensure that the pipeline company's representative is on-site during the
2 excavation within the five foot zone. The pipeline company has the
3 discretion to require that the pipeline section in the vicinity of the
4 excavation is fully uncovered and examined for damage prior to being
5 reburied. If safety concerns exist, the pipeline company may elect, at
6 the excavator's expense, to conduct the uncovering of the pipeline.

7 (2) Immediately upon receiving information of third-party damage to
8 a pipeline owned or operated by a pipeline company, that company shall
9 visually inspect the pipeline. After visual inspection, a pipeline
10 company shall determine whether the pipeline section that has sustained
11 third-party damage should be replaced or repaired, or whether it is
12 safe to resume pipeline operation. A record of the company's
13 inspection report and test results shall be provided to the department
14 within fourteen calendar days of the inspection.

15 (3) Pipeline companies shall immediately notify local first
16 responders and the department of any reportable release from a
17 hazardous liquid pipeline.

18 NEW SECTION. Sec. 20. A new section is added to chapter 80.28 RCW
19 to read as follows:

20 (1) A pipeline company that has been notified by an excavator
21 pursuant to RCW 19.122.050 that excavation work will occur within five
22 feet of a gas transmission pipeline shall ensure that the pipeline
23 company's representative is on-site during the excavation within the
24 five foot zone. The pipeline company has the discretion to require
25 that the pipeline section in the vicinity of the excavation is fully
26 uncovered and examined for damage prior to being reburied. If safety
27 concerns exist, the pipeline company may elect, at the excavator's
28 expense, to conduct the uncovering of the pipeline.

29 (2) Immediately upon receiving information of third-party damage to
30 a pipeline owned or operated by a pipeline company, that company shall
31 visually inspect the pipeline. After visual inspection, a pipeline
32 company shall determine whether the pipeline section that has sustained
33 third-party damage should be replaced or repaired, or whether it is
34 safe to resume pipeline operation. A record of the company's
35 inspection report and test results shall be provided to the commission
36 within fourteen calendar days of the inspection.

1 (3) Pipeline companies shall immediately notify local first
2 responders and the commission of any substantial or dangerous release
3 from a gas transmission pipeline.

4 **Sec. 21.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to
5 read as follows:

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

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

14 (3) Any person who fails to notify the one-number locator service
15 and causes damage to a hazardous liquid or gas pipeline is subject to
16 a civil penalty of not more than ten thousand dollars for each
17 violation.

18 (4) Any person who excavates within five feet of a hazardous liquid
19 pipeline or gas transmission pipeline without the pipeline company's
20 representative on-site, is subject to a civil penalty of not more than
21 ten thousand dollars for each violation.

22 (5) Any person who violates any provision of this chapter, and
23 which violation results in damage to underground facilities, is subject
24 to a civil penalty of not more than ~~((one))~~ ten thousand dollars for
25 each violation.

26 (6) All civil penalties recovered ~~((in such actions))~~ under
27 subsections (1) through (5) of this section shall be deposited in the
28 general fund and expended for the purpose of enforcement of hazardous
29 liquid and gas pipeline safety laws.

30 ~~((+2))~~ (7) Any excavator who willfully or maliciously damages a
31 field-marked underground facility shall be liable for treble the costs
32 incurred in repairing or relocating the facility. In those cases in
33 which an excavator fails to notify known underground facility owners or
34 the one-number locator service, any damage to the underground facility
35 shall be deemed willful and malicious and shall be subject to treble
36 damages for costs incurred in repairing or relocating the facility.

37 ~~((+3))~~ (8) This chapter does not affect any civil remedies for
38 personal injury or for property damage, including that to underground

1 facilities, nor does this chapter create any new civil remedies for
2 such damage.

3 **Sec. 22.** RCW 47.44.150 and 1989 c 196 s 1 are each amended to read
4 as follows:

5 In any action for damages against the state of Washington, its
6 agents, contractors, or employees by reason of damages to a utility or
7 other facility located on a state highway, the damages are limited to
8 the cost of repair of the utility or facility and are recoverable only
9 in those instances where the utility or facility is authorized to be
10 located on the state highway. However, the state is subject to the
11 penalties provided in RCW 19.122.070 (~~((+1))~~) (5) and (~~((+2))~~) (7) only
12 if the state has failed to give a notice meeting the requirements of
13 RCW 19.122.030 to utilities or facilities that are authorized to be
14 located on the state highway.

15 NEW SECTION. **Sec. 23.** A pipeline company that fails to comply
16 with any provision of this chapter shall be subject to civil penalties
17 of not less than five thousand dollars nor more than twenty-five
18 thousand dollars. This penalty shall be imposed pursuant to RCW
19 43.21B.300.

20 NEW SECTION. **Sec. 24.** A pipeline containing petroleum or
21 petroleum products that is wholly located on the pipeline owner's
22 property, that is not adjoining marine waters, is exempt from the
23 provisions of this chapter. This exemption applies only for pipelines
24 that do not have any connections to pipelines or facilities not located
25 on the pipeline owner's property and the petroleum or petroleum
26 products must be for use only at that location.

27 NEW SECTION. **Sec. 25.** If any part of this act is found to be in
28 conflict with federal requirements that are a prescribed condition to
29 the allocation of federal funds to the state, the conflicting part of
30 this act is inoperative solely to the extent of the conflict and with
31 respect to the agencies directly affected, and this finding does not
32 affect the operation of the remainder of this act in its application to
33 the agencies concerned. Rules adopted under this act must meet federal
34 requirements that are a necessary condition to the receipt of federal
35 funds by the state.

1 **Sec. 26.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
2 read as follows:

3 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
4 70.105.080, 70.107.050, section 23 of this act, 88.46.090, 90.03.600,
5 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in
6 writing, either by certified mail with return receipt requested or by
7 personal service, to the person incurring the penalty from the
8 department(~~(, the administrator of the office of marine safety,)~~) or
9 the local air authority, describing the violation with reasonable
10 particularity. Within fifteen days after the notice is received, the
11 person incurring the penalty may apply in writing to the department,
12 the administrator, or the authority for the remission or mitigation of
13 the penalty. Upon receipt of the application, the department, the
14 administrator, or authority may remit or mitigate the penalty upon
15 whatever terms the department, the administrator, or the authority in
16 its discretion deems proper. The department or the authority may
17 ascertain the facts regarding all such applications in such reasonable
18 manner and under such rules as it may deem proper and shall remit or
19 mitigate the penalty only upon a demonstration of extraordinary
20 circumstances such as the presence of information or factors not
21 considered in setting the original penalty.

22 (2) Any penalty imposed under this section may be appealed to the
23 pollution control hearings board in accordance with this chapter if the
24 appeal is filed with the hearings board and served on the department,
25 the administrator, or authority thirty days after receipt by the person
26 penalized of the notice imposing the penalty or thirty days after
27 receipt of the notice of disposition of the application for relief from
28 penalty.

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

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

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

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

35 (4) If the amount of any penalty is not paid to the department or
36 the administrator within thirty days after it becomes due and payable,
37 the attorney general, upon request of the department or the
38 administrator, shall bring an action in the name of the state of
39 Washington in the superior court of Thurston county, or of any county

1 in which the violator does business, to recover the penalty. If the
2 amount of the penalty is not paid to the authority within thirty days
3 after it becomes due and payable, the authority may bring an action to
4 recover the penalty in the superior court of the county of the
5 authority's main office or of any county in which the violator does
6 business. In these actions, the procedures and rules of evidence shall
7 be the same as in an ordinary civil action.

8 (5) All penalties recovered shall be paid into the state treasury
9 and credited to the general fund except those penalties imposed
10 pursuant to RCW 18.104.155, which shall be credited to the reclamation
11 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
12 disposition of which shall be governed by that provision, RCW
13 70.105.080, which shall be credited to the hazardous waste control and
14 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
15 which shall be credited to the coastal protection fund created by RCW
16 90.48.390.

17 NEW SECTION. **Sec. 27.** This act may be known and cited as the
18 Washington state pipeline safety act.

19 NEW SECTION. **Sec. 28.** Sections 1 through 7, 9, 11, 13, 14, 19, 23
20 through 25, and 27 of this act constitute a new chapter in Title 70
21 RCW.

22 NEW SECTION. **Sec. 29.** Sections 1 through 4, 9 through 15, 18, and
23 23 through 26 of this act are necessary for the immediate preservation
24 of the public peace, health, or safety, or support of the state
25 government and its existing public institutions, and take effect
26 immediately.

27 NEW SECTION. **Sec. 30.** RCW 81.88.040 (Intrastate pipeline safety
28 standards--Definitions--Rules--Violations) and 1998 c 123 s 1 are each
29 repealed, effective June 30, 2001."

1 **E2SHB 2420** - S AMD

2 By Committee on Environmental Quality & Water Resources

3 NOT ADOPTED 3/2/00

4 On page 1, line 1 of the title, after "safety;" strike the
5 remainder of the title and insert "amending RCW 19.122.030, 19.122.050,
6 19.122.070, 47.44.150, and 43.21B.300; adding a new section to chapter
7 43.110 RCW; adding new sections to chapter 80.28 RCW; adding a new
8 section to chapter 81.88 RCW; adding a new section to chapter 19.122
9 RCW; adding a new section to chapter 48.48 RCW; adding a new chapter to
10 Title 70 RCW; repealing RCW 81.88.040; prescribing penalties; and
11 declaring an emergency."

--- END ---