

2 **E2SHB 2420** - S AMD - 224

3 By Senators Spanel, Morton, Gardner and Fraser

4 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) "Commission" means the utilities and transportation commission.

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

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

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

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

10 (6) "Local government" means a political subdivision of the state
11 or a city or town.

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

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

24 (9) "Pipeline company" means a person or entity constructing,
25 owning, or operating a pipeline for transporting hazardous liquid.

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

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

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

1 transfer pipeline does not include process pipelines, pipelines
2 carrying ballast or bilge water, transmission pipelines, or tank vessel
3 or storage tanks.

4 **Sec. 3.** RCW 81.88.040 and 1998 c 123 s 1 are each amended to read
5 as follows:

6 ~~(1) ((The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.~~

8 ~~(a) "Pipeline company" means a person or entity constructing,
9 owning, or operating an intrastate pipeline for transporting hazardous
10 liquid, whether or not such a person or entity is a public service
11 company otherwise regulated by the commission.)) For the purposes of
12 this section, a pipeline company does not include: ((i)) (a)
13 Distribution systems owned and operated under franchise for the sale,
14 delivery, or distribution of natural gas at retail; or ((ii)) (b)
15 excavation contractors or other contractors that contract with a
16 pipeline company.~~

17 ~~((b) "Hazardous liquid" means: (i) Petroleum, petroleum products,
18 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
19 in effect March 1, 1998; and (ii) carbon dioxide. The commission by
20 rule may incorporate by reference other substances designated as
21 hazardous by the secretary of transportation under 49 U.S.C. Sec.
22 60101(a)(4).))~~

23 ~~(2) ((The commission shall adopt by rule intrastate pipeline safety
24 standards for pipeline transportation and pipeline facilities that:
25 (a) Apply to pipeline companies transporting hazardous liquids; (b)
26 cover the design, construction, and operation of pipelines transporting
27 hazardous liquids; and (c) require pipeline companies to design,
28 construct, and maintain their pipeline facilities so they are safe and
29 efficient.~~

30 ~~(3)) A person, officer, agent, or employee of a pipeline company
31 who, as an individual or acting as an officer, agent, or employee of
32 such a company, violates or fails to comply with this ((section))
33 chapter or a rule adopted under this section, or who procures, aids, or
34 abets another person or entity in the violation of or noncompliance
35 with this section or a rule adopted under this section, is guilty of a
36 gross misdemeanor.~~

37 ~~((4)) (3)(a) A pipeline company, or any person, officer, agent,
38 or employee of a pipeline company that violates a provision of this~~

1 section, or a rule adopted under this section, is subject to a civil
2 penalty to be assessed by the commission.

3 (b) The commission shall adopt rules: (i) Setting penalty amounts,
4 but may not exceed the penalties specified in the federal pipeline
5 safety laws, 49 U.S.C. Sec. 60101 et seq.; and (ii) establishing
6 procedures for mitigating penalties assessed(~~(; and (iii) incorporating~~
7 ~~by reference other substances designated as hazardous by the secretary~~
8 ~~of transportation under 49 U.S.C. Sec. 60101(a)(4))~~).

9 (c) In determining the amount of the penalty, the commission shall
10 consider: (i) The appropriateness of the penalty in relation to the
11 position of the person charged with the violation; (ii) the gravity of
12 the violation; and (iii) the good faith of the person or company
13 charged in attempting to achieve compliance after notification of the
14 violation.

15 (d) The amount of the penalty may be recovered in a civil action in
16 the superior court of Thurston county or of some other county in which
17 the violator may do business. In all actions for recovery, the rules
18 of evidence shall be the same as in ordinary civil actions. All
19 penalties recovered under this section must be paid into the state
20 treasury and credited to the public service revolving fund.

21 (4) The commission shall adopt rules incorporating by reference
22 other substances designated as hazardous by the secretary of
23 transportation under 49 U.S.C. Sec. 60101(a)(4).

24 (5) The commission shall also have the power of injunctive relief,
25 as required by 49 U.S.C. Sec. 60105(b), to enforce the provisions of
26 this chapter.

27 (6) Nothing in this section duplicates the authority of the energy
28 facility site evaluation council under chapter 80.50 RCW.

29 NEW SECTION. Sec. 4. (1) The hazardous liquid pipeline safety
30 account is created in the custody of the state treasurer. All receipts
31 from the federal office of pipeline safety and any other state or
32 federal funds provided for hazardous liquid pipeline safety must be
33 deposited in the account, except as provided in subsection (2) of this
34 section. Moneys in the account may be spent only after appropriation.
35 Expenditures from the account may be used only for funding pipeline
36 safety.

1 (2) Federal funds received before June 30, 2001, shall be treated
2 as receipt of unanticipated funds and expended, without appropriation,
3 for the designated purposes.

4 NEW SECTION. **Sec. 5.** (1) A comprehensive program of hazardous
5 liquid pipeline safety is authorized by sections 2, 4, 5, 9, 11, 13,
6 and 19 of this act, and RCW 81.88.040 to be developed and implemented
7 consistent with federal law. Except as provided in subsection (6) of
8 this section, the commission shall administer and enforce all laws
9 related to hazardous liquid pipeline safety.

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

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

14 (b) Require pipeline companies to rapidly locate and isolate all
15 reportable releases from hazardous liquid pipelines, that may include:

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

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

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

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

23 (e) Require hazardous liquid pipeline companies to submit
24 operations safety plans to the commission once every five years, as
25 well as any amendments to the plan made necessary by changes to the
26 pipeline system or its operation. The safety plan shall include
27 emergency response procedures.

28 (3) The commission shall approve operations safety plans if they
29 have been deemed fit for service. A plan shall be deemed fit for
30 service when it provides for pipelines that are designed, developed,
31 constructed, operated, and periodically modified to provide for
32 protection of public safety and the environment. Pipeline operations
33 safety plans shall, at a minimum, include:

34 (a) A schedule of inspection and testing within the pipeline
35 distribution system of:

36 (i) All mechanical components;

37 (ii) All electronic components; and

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

4 (b) Failsafe systems;

5 (c) Safety management systems; and

6 (d) Emergency management training for pipeline operators.

7 (4) The commission shall coordinate information related to pipeline
8 safety by providing technical assistance to local planning and siting
9 authorities.

10 (5) The commission shall evaluate, and consider adopting, proposals
11 developed by the federal office of pipeline safety, the national
12 transportation safety board, and other agencies and organizations
13 related to methods and technologies for testing the integrity of
14 pipeline structure, leak detection, and other elements of pipeline
15 operation.

16 (6) The authorities of sections 2, 4, 5, 9, 11, 13, and 19 of this
17 act, and RCW 81.88.040 relating to hazardous liquid pipeline safety
18 shall be transferred from the commission to the department pursuant to
19 section 13 of this act upon the occurrence of either:

20 (a) Amendments to federal pipeline safety laws to eliminate
21 preemption of state authority to regulate safety requirements for such
22 pipelines; or

23 (b) The granting of federal authority to the state to enforce or
24 adopt any safety requirements for interstate hazardous liquid
25 pipelines.

26 NEW SECTION. **Sec. 6.** (1) The commission shall develop, in
27 consultation with representatives of owners and operators of hazardous
28 liquid pipelines and gas pipelines, local governments, and the
29 excavation and construction industries: (a) A curricula aimed at the
30 prevention of third-party excavation damage to hazardous liquid
31 pipelines and gas pipelines; and (b) a plan for distribution of the
32 curricula.

33 (2) The curricula shall include training on:

34 (a) Prevention of damage to pipelines;

35 (b) The danger involved if a pipeline is damaged;

36 (c) The significance of pipeline damage that does not cause
37 immediate failure; and

1 (d) The importance of immediately reporting damage to a pipeline
2 and the importance of immediately repairing a damaged pipeline.

3 NEW SECTION. **Sec. 7.** (1) The commission shall require hazardous
4 liquid pipelines, and gas pipeline companies with gas transmission
5 pipelines or gas pipelines operating over two hundred fifty pounds per
6 square inch gauge, to provide accurate maps of their pipeline to
7 specifications developed by the commission sufficient to meet the needs
8 of first responders including installation depth information when
9 known.

10 (2) The commission shall evaluate the sufficiency of the maps and
11 consolidate the maps into a state-wide geographic information system.
12 The commission shall assist local governments in obtaining pipeline
13 location information and maps. The maps shall be made available to the
14 one-number locator services as provided in chapter 19.122 RCW. The
15 mapping system shall be compatible with the United States department of
16 transportation national pipeline mapping program.

17 (3) The mapping system shall be completed by January 1, 2006, and
18 periodically updated thereafter. The commission shall develop a plan
19 for funding the geographic information system and report its
20 recommendations to the legislature by December 15, 2000.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.110 RCW
22 to read as follows:

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

25 (1) A model ordinance that establishes setback and depth
26 requirements for new hazardous liquid and gas pipeline construction;
27 and

28 (2) A model franchise agreement for jurisdictions through which a
29 hazardous liquid or gas pipeline is located.

30 NEW SECTION. **Sec. 9.** (1) The commission and the department shall
31 apply for federal designation of the state's program for the purposes
32 of enforcement of federal hazardous liquid pipeline safety
33 requirements. If the secretary of transportation delegates inspection
34 authority to the state as provided in this subsection, the department,
35 at a minimum, shall do the following:

1 (a) Inspect hazardous liquid pipelines periodically as specified in
2 the inspection program;

3 (b) Collect fees;

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

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

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

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

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

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

28 (a) Inspect gas pipelines periodically as specified in the
29 inspection program;

30 (b) Collect fees;

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

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

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

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

6 NEW SECTION. **Sec. 11.** The commission may inspect any record, map,
7 or written procedure required by federal law to be kept by a hazardous
8 liquid pipeline company concerning the reportable releases, and the
9 design, construction, testing, or operation and maintenance of
10 hazardous liquid pipelines.

11 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.28 RCW
12 to read as follows:

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

17 NEW SECTION. **Sec. 13.** (1) All powers, duties, and functions of
18 the utilities and transportation commission pertaining to hazardous
19 liquid pipeline safety, except economic regulatory authority under
20 chapters 81.88, 80.24, and 81.24 RCW, are transferred to the department
21 of ecology effective upon the department's receipt of any delegated
22 federal authority over interstate hazardous liquid pipelines, or upon
23 such earlier date as the office of financial management may determine
24 in the event that federal law is amended to remove all or part of the
25 federal preemption of state regulation of hazardous liquid pipelines.
26 The timing of the transfer shall be facilitated by a memorandum of
27 agreement between the two agencies, with any disputes resolved by the
28 office of financial management. All references to the commission or
29 the utilities and transportation commission in the Revised Code of
30 Washington shall be construed to mean the director or the department of
31 ecology when referring to the functions transferred in this section.

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

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

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

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

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

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

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

35 (6) If apportionments of budgeted funds are required because of the
36 transfers directed by this section, the director of financial
37 management shall certify the apportionments to the agencies affected,
38 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) The citizens committee on pipeline
9 safety is established to advise the state agencies and other
10 appropriate federal and local government agencies and officials on
11 matters relating to pipeline safety, routing, construction, operation,
12 and maintenance. The committee shall have thirteen total members who
13 shall be appointed by the governor to staggered three-year terms and
14 shall consist of: (a) Nine members representing local government,
15 including elected officials and the public; and (b) four nonvoting
16 members, representing owners and operators of hazardous liquid and gas
17 pipelines. The committee shall review and comment on proposed rules
18 and the operation of the state pipeline safety programs.

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

23 (3) The committee established in subsection (1) of this section
24 constitutes a class one group under RCW 43.03.220. Expenses for this
25 group, as well as staff support, shall be provided by the utilities and
26 transportation commission and, if additional pipeline authority is
27 transferred to it, the department of ecology.

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

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

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

1 accident prevention and response team issued in December 1999. By
2 December 31, 2000, the commission shall provide its recommendations to
3 the appropriate standing committees of the house of representatives and
4 the senate.

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

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

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

13 (2) All owners of underground facilities within a one-number
14 locator service area shall subscribe to the service. One-number
15 locator service rates for cable television companies will be based on
16 the amount of their underground facilities. If no one-number locator
17 service is available, notice shall be provided individually to those
18 owners of underground facilities known to or suspected of having
19 underground facilities within the area of proposed excavation. The
20 notice shall be communicated to the owners of underground facilities
21 not less than two business days or more than ten business days before
22 the scheduled date for commencement of excavation, unless otherwise
23 agreed by the parties. The notice shall also comply with the
24 requirements of section 20 of this act.

25 (3) Upon receipt of the notice provided for in this section, the
26 owner of the underground facility shall provide the excavator with
27 reasonably accurate information as to its locatable underground
28 facilities by surface-marking the location of the facilities. If there
29 are identified but unlocatable underground facilities, the owner of
30 such facilities shall provide the excavator with the best available
31 information as to their locations. The owner of the underground
32 facility providing the information shall respond no later than two
33 business days after the receipt of the notice or before the excavation
34 time, at the option of the owner, unless otherwise agreed by the
35 parties. Excavators shall not excavate until all known facilities have
36 been marked. Once marked by the owner of the underground facility, the
37 excavator is responsible for maintaining the markings. Excavators
38 shall have the right to receive compensation from the owner of the

1 underground facility for costs incurred if the owner of the underground
2 facility does not locate its facilities in accordance with this
3 section.

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

8 (5) An owner of underground facilities is not required to indicate
9 the presence of existing service laterals or appurtenances if the
10 presence of existing service laterals or appurtenances on the site of
11 the construction project can be determined from the presence of other
12 visible facilities, such as buildings, manholes, or meter and junction
13 boxes on or adjacent to the construction site.

14 (6) Emergency excavations are exempt from the time requirements for
15 notification provided in this section.

16 (7) If the excavator, while performing the contract, discovers
17 underground facilities which are not identified, the excavator shall
18 cease excavating in the vicinity of the facility and immediately notify
19 the owner or operator of such facilities, or the one-number locator
20 service.

21 NEW SECTION. **Sec. 17.** A new section is added to chapter 19.122
22 RCW to read as follows:

23 When the excavator contacts the one-number locator service under
24 RCW 19.122.030(1), the excavator shall notify the service if surface
25 markings or other information indicates that the excavation work,
26 excluding agricultural tilling less than twelve inches in depth, is to
27 occur within five feet of a hazardous liquid pipeline or gas
28 transmission pipeline. The one-number locator service shall inform the
29 pipeline company that owns or operates the pipeline that excavation is
30 to occur within five feet of their pipeline and inform the company that
31 its representative must be on-site, prior to the start of excavation.

32 **Sec. 18.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to
33 read as follows:

34 An excavator who, in the course of excavation, contacts or damages
35 an underground facility shall immediately notify the utility owning or
36 operating such facility and the state-wide one-number (~~locator~~)
37 referral service. If the damage causes an emergency condition, the

1 excavator causing the damage shall also immediately alert the
2 appropriate local public safety agencies and take all appropriate steps
3 to ensure the public safety. No damaged underground facility may be
4 buried until it is repaired or relocated.

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

9 NEW SECTION. Sec. 19. A new section is added to chapter 48.48 RCW
10 to read as follows:

11 (1) The chief of the Washington state patrol, through the director
12 of fire protection or his or her authorized deputy, shall, in
13 consultation with the emergency management program within the state
14 military department, the department of ecology, the utilities and
15 transportation commission, and local emergency services organizations:

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

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

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

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

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

1 NEW SECTION. **Sec. 20.** (1) A pipeline company that has been
2 notified by an excavator pursuant to RCW 19.122.050 that excavation
3 work will occur within five feet of a hazardous liquid pipeline shall
4 ensure that the pipeline company's representative is on-site during the
5 excavation within the five foot zone. The pipeline company has the
6 discretion to require that the pipeline section in the vicinity of the
7 excavation is fully uncovered and examined for damage prior to being
8 reburied. If safety concerns exist, the pipeline company may elect, at
9 the excavator's expense, to conduct the uncovering of the pipeline.

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

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

20 NEW SECTION. **Sec. 21.** A new section is added to chapter 80.28 RCW
21 to read as follows:

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

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

1 (3) Pipeline companies shall immediately notify local first
2 responders and the commission of any blowing gas leak from a gas
3 pipeline that has ignited or represents a probable hazard to persons or
4 property.

5 NEW SECTION. **Sec. 22.** A new section is added to chapter 19.122
6 RCW to read as follows:

7 Any person who willfully damages or removes a permanent marking
8 used to identify an underground facility, or a temporary marking prior
9 to its intended use, is subject to a civil penalty of not more than one
10 thousand dollars for each act.

11 NEW SECTION. **Sec. 23.** A new section is added to chapter 19.122
12 RCW to read as follows:

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

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

21 (3) All civil penalties recovered under subsections (1) and (2) of
22 this section shall be deposited in the general fund and expended for
23 the purpose of enforcement of hazardous liquid and gas pipeline safety
24 laws.

25 (4) For the purposes of this section and section 17 of this act:
26 (a) "Hazardous liquid" means: (i) Petroleum, petroleum products, or
27 anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in
28 effect March 1, 1998; and (ii) carbon dioxide. The utilities and
29 transportation commission by rule may incorporate by reference other
30 substances designated as hazardous by the secretary of transportation
31 under 49 U.S.C. Sec. 60101(a)(4); and (b) "gas" means natural gas,
32 flammable gas, or toxic or corrosive gas.

33 NEW SECTION. **Sec. 24.** A pipeline containing petroleum or
34 petroleum products that is wholly owned by an individual and which
35 pipeline is located wholly on the individual's property, that is not
36 adjoining marine waters, is exempt from the provisions of this chapter.

1 This exemption applies only for pipelines that do not have any
2 connections to pipelines or facilities that extend beyond the pipeline
3 owner's property and the petroleum or petroleum products must be for
4 use only at that location.

5 NEW SECTION. **Sec. 25.** If any part of this act is found to be in
6 conflict with federal requirements that are a prescribed condition to
7 the allocation of federal funds to the state, the conflicting part of
8 this act is inoperative solely to the extent of the conflict and with
9 respect to the agencies directly affected, and this finding does not
10 affect the operation of the remainder of this act in its application to
11 the agencies concerned. Rules adopted under this act must meet federal
12 requirements that are a necessary condition to the receipt of federal
13 funds by the state.

14 NEW SECTION. **Sec. 26.** This act may be known and cited as the
15 Washington state pipeline safety act.

16 NEW SECTION. **Sec. 27.** Sections 1, 2, 4 through 7, 9, 11, 13, 14,
17 20, and 24 through 26 of this act are each added to chapter 81.88 RCW.

18 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 immediately."

22 **E2SHB 2420** - S AMD - 224

23 By Senators Spanel, Morton, Gardner and Fraser

24 ADOPTED 3/2/00

25 On page 1, line 1 of the title, after "safety;" strike the
26 remainder of the title and insert "amending RCW 81.88.040, 19.122.030,
27 and 19.122.050; adding new sections to chapter 81.88 RCW; adding a new
28 section to chapter 43.110 RCW; adding new sections to chapter 80.28
29 RCW; adding new sections to chapter 19.122 RCW; adding a new section to
30 chapter 48.48 RCW; prescribing penalties; and declaring an emergency."

--- END ---