

SENATE BILL REPORT

SB 5456

As Reported By Senate Committee On:
Water, Energy & Environment, February 23, 2005

Title: An act relating to failure to notify the one-number locator service when excavating near a transmission pipeline.

Brief Description: Making it a crime to excavate without notification near a transmission pipeline.

Sponsors: Senators Prentice, Esser, Spanel, Swecker and Pridemore.

Brief History:

Committee Activity: Water, Energy & Environment: 2/16/05, 2/23/05 [DPS].

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 5456 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hewitt, Honeyford, Mulliken, Pridemore and Regala.

Staff: Richard Rodger (786-7461)

Background: Under current law, a single state-wide telephone number exists for referring excavators to the appropriate one-number locator service. A one-number locator service is operated by non-governmental entities and is a means by which a person can notify utilities of excavation and request field marking of underground facilities. In general, a one-number locator service receives requests for the location of buried utility facilities and relays those requests to member utilities and governmental agencies. The Utilities and Transportation Commission, in consultation with the Washington Utilities Coordinating Council, establishes minimum standards and best management practices for one-number services.

Before conducting any excavation, excluding agricultural tilling less than 12 inches in depth, a person must notify pipeline companies of the scheduled excavation through the one-number locator service. Notification must occur in a window of not less than two business days but not more than 10 business days before beginning the excavation. If a pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must consult with the excavator on-site prior to excavation.

A civil penalty of not more than \$10,000 applies when a person fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline.

Summary of Substitute Bill: Any person who fails to notify the one-number locator service, as required under law, before excavating within 35 feet of a transmission pipeline is guilty of a gross misdemeanor if the pipeline is damaged. A new misdemeanor is created for excavating

within 35 feet of the transmission pipeline without first calling the locator service. A person committing either of these offenses is also subject to the existing \$10,000 civil penalty in addition to any criminal sentence or fine.

A "transmission pipeline" is defined as a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of 20 percent or more of the specified minimum yield strength.

Substitute Bill Compared to Original Bill: Narrows the distance for the criminal penalties to those digging within 35 feet (versus 100 feet) of a transmission pipeline without calling the one-number locator service. Makes the gross misdemeanor applicable if the person dug near a transmission pipeline without calling the one-number locator service and caused damage. Created a new lesser misdemeanor offense of digging near the transmission pipeline without calling the one-number service. Eliminates the \$10,000 criminal fine and allows the civil penalty (\$10,000) to be imposed in addition to any criminal penalties.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill poses very little burden on individuals and businesses that might be excavating near hazardous liquid pipelines, which offering a great benefit to the public through the avoidance of pipeline explosions. The current law only carries a civil penalty for failing to use the call-before-you-dig service and there is no enforcement mechanism for violators. The current law only provides a remedy if actual damage to the pipeline occurs. The bill doesn't create a new obligation, but merely provides for enforcement of the existing law.

Testimony Against: The provision providing for criminal penalties for digging with 100 feet of a pipeline should be revised to a more reasonable distance on 50 feet. The current distance would include whole houses located near these pipelines. This bill doesn't address the real issue of adequate education to the public about the hazards of digging without checking on the location of underground utilities first. Law enforcement doesn't have sufficient staff to enforce this law.

Who Testified: PRO: Katherine Hansen, Citizens Committee on Pipeline Safety; Carl Weimer, Pipeline Safety Trust; Brad Tower, Olympic Pipe Line Company; Dave Barnes, Olympic Pipe Line Company; Dan Coyne, Williams NW Pipeline. OTHER: Rick Slunaker, Associated General Contractors.

CON: Lester Olsen, Thurston County Roads & Transportation Services.