
SUBSTITUTE SENATE BILL 5456

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Prentice, Esser, Spanel, Swecker and Pridemore)

READ FIRST TIME 02/25/05.

1 AN ACT Relating to failure to notify the one-number locator service
2 when excavating near a transmission pipeline; amending RCW 19.122.055,
3 19.122.070, and 19.122.020; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.122.055 and 2001 c 238 s 5 are each amended to read
6 as follows:

7 (1)(a) Any person who fails to notify the one-number locator
8 service when required under this chapter, excavates within thirty-five
9 feet of a transmission pipeline, and causes damage to the transmission
10 pipeline is guilty of a gross misdemeanor.

11 (b) Any person who fails to notify the one-number locator service
12 when required under this chapter and excavates within thirty-five feet
13 of a transmission pipeline is guilty of a misdemeanor.

14 (c) 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. The civil penalty may also be imposed on any person
18 violating (a) or (b) of this subsection.

1 (2) All fines and civil penalties recovered under this section
2 shall be deposited into the pipeline safety account created in RCW
3 81.88.050.

4 **Sec. 2.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to read
5 as follows:

6 (1) Any person who violates any provision of this chapter not
7 amounting to a violation of RCW 19.122.055, and which violation results
8 in damage to underground facilities, is subject to a civil penalty of
9 not more than one thousand dollars for each violation. All penalties
10 recovered in such actions shall be deposited in the general fund.

11 (2) Any excavator who willfully or maliciously damages a field-
12 marked underground facility shall be liable for treble the costs
13 incurred in repairing or relocating the facility. In those cases in
14 which an excavator fails to notify known underground facility owners or
15 the one-number locator service, any damage to the underground facility
16 shall be deemed willful and malicious and shall be subject to treble
17 damages for costs incurred in repairing or relocating the facility.

18 (3) This chapter does not affect any civil remedies for personal
19 injury or for property damage, including that to underground
20 facilities, nor does this chapter create any new civil remedies for
21 such damage.

22 **Sec. 3.** RCW 19.122.020 and 2000 c 191 s 15 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter:

26 (1) "Business day" means any day other than Saturday, Sunday, or a
27 legal local, state, or federal holiday.

28 (2) "Damage" includes the substantial weakening of structural or
29 lateral support of an underground facility, penetration, impairment, or
30 destruction of any underground protective coating, housing, or other
31 protective device, or the severance, partial or complete, of any
32 underground facility to the extent that the project owner or the
33 affected utility owner determines that repairs are required.

34 (3) "Emergency" means any condition constituting a clear and
35 present danger to life or property, or a customer service outage.

1 (4) "Excavation" means any operation in which earth, rock, or other
2 material on or below the ground is moved or otherwise displaced by any
3 means, except the tilling of soil less than twelve inches in depth for
4 agricultural purposes, or road and ditch maintenance that does not
5 change the original road grade or ditch flowline.

6 (5) "Excavator" means any person who engages directly in
7 excavation.

8 (6) "Gas" means natural gas, flammable gas, or toxic or corrosive
9 gas.

10 (7) "Hazardous liquid" means: (a) Petroleum, petroleum products,
11 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
12 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities
13 and transportation commission may by rule incorporate by reference
14 other substances designated as hazardous by the secretary of
15 transportation.

16 (8) "Identified facility" means any underground facility which is
17 indicated in the project plans as being located within the area of
18 proposed excavation.

19 (9) "Identified but unlocatable underground facility" means an
20 underground facility which has been identified but cannot be located
21 with reasonable accuracy.

22 (10) "Locatable underground facility" means an underground facility
23 which can be field-marked with reasonable accuracy.

24 (11) "Marking" means the use of stakes, paint, or other clearly
25 identifiable materials to show the field location of underground
26 facilities, in accordance with the current color code standard of the
27 American public works association. Markings shall include
28 identification letters indicating the specific type of the underground
29 facility.

30 (12) "Person" means an individual, partnership, franchise holder,
31 association, corporation, a state, a city, a county, or any subdivision
32 or instrumentality of a state, and its employees, agents, or legal
33 representatives.

34 (13) "Pipeline" or "pipeline system" means all or parts of a
35 pipeline facility through which hazardous liquid or gas moves in
36 transportation, including, but not limited to, line pipe, valves, and
37 other appurtenances connected to line pipe, pumping units, fabricated
38 assemblies associated with pumping units, metering and delivery

1 stations and fabricated assemblies therein, and breakout tanks.
2 "Pipeline" or "pipeline system" does not include process or transfer
3 pipelines as defined in RCW 81.88.010.

4 (14) "Pipeline company" means a person or entity constructing,
5 owning, or operating a pipeline for transporting hazardous liquid or
6 gas. A pipeline company does not include: (a) Distribution systems
7 owned and operated under franchise for the sale, delivery, or
8 distribution of natural gas at retail; or (b) excavation contractors or
9 other contractors that contract with a pipeline company.

10 (15) "Reasonable accuracy" means location within twenty-four inches
11 of the outside dimensions of both sides of an underground facility.

12 (16) "Transmission pipeline" means a pipeline that transports
13 hazardous liquid or gas within a storage field, or transports hazardous
14 liquid or gas from an interstate pipeline or storage facility to a
15 distribution main or a large volume hazardous liquid or gas user, or
16 operates at a hoop stress of twenty percent or more of the specified
17 minimum yield strength.

18 (17) "Underground facility" means any item buried or placed below
19 ground for use in connection with the storage or conveyance of water,
20 sewage, electronic, telephonic or telegraphic communications,
21 cablevision, electric energy, petroleum products, gas, gaseous vapors,
22 hazardous liquids, or other substances and including but not limited to
23 pipes, sewers, conduits, cables, valves, lines, wires, manholes,
24 attachments, and those parts of poles or anchors below ground. This
25 definition does not include pipelines as defined in subsection (13) of
26 this section, but does include distribution systems owned and operated
27 under franchise for the sale, delivery, or distribution of natural gas
28 at retail.

29 ((+17)) (18) "One-number locator service" means a service through
30 which a person can notify utilities and request field-marking of
31 underground facilities.

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