

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2420

Chapter 191, Laws of 2000
(partial veto)

56th Legislature
2000 Regular Session

PIPELINE SAFETY

EFFECTIVE DATE: 3/28/00

Passed by the House March 9, 2000
Yeas 98 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 8, 2000
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved March 28, 2000, with the
exception of section 25, which is
vetoed.

GARY F. LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2420** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED
March 28, 2000 - 3:30 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2420

AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Linville, G. Chandler, Morris, Ericksen, Quall, Kastama, Santos, Grant, Stensen, Keiser, Poulsen, Wensman, Scott, Rockefeller, Reardon, Kenney, Cody, Lovick, Cooper, Koster, Haigh, McDonald, Van Luven, Lantz, Wood, Regala, Edmonds, Hurst, Dunshee, Constantine, Dickerson, Wolfe, Ogden, Ruderman and McIntire)

Read first time 02/08/2000. Referred to Committee on .

1 AN ACT Relating to oil and gas pipeline safety; amending RCW
2 81.88.040, 19.122.020, and 19.122.030; adding new sections to chapter
3 81.88 RCW; adding a new section to chapter 43.110 RCW; adding new
4 sections to chapter 80.28 RCW; adding new sections to chapter 19.122
5 RCW; adding a new section to chapter 48.48 RCW; prescribing penalties;
6 and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The intent of this act is to protect the
9 health and safety of the citizens of the state of Washington and the
10 quality of the state's environment by developing and implementing
11 environmental and public safety measures applicable to persons
12 transporting hazardous liquids and gas by pipeline within the state of
13 Washington. The legislature finds that public safety and the
14 environment may best be protected by adopting standards that are equal
15 to, or more stringent than, those adopted by the federal government, so
16 long as they do not impermissibly interfere with interstate commerce.

17 (2) The legislature recognizes that additional federal authority is
18 needed to implement a comprehensive pipeline safety program and by this
19 act and other measures directs the state to seek that authority.

(3) It is also the intent of the legislature that the governor work with the state congressional delegation in seeking:

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

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

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

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

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

(1) "Commission" means the utilities and transportation commission.

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

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

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

(5) "Gas pipeline" means all parts of a pipeline facility through which gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Gas pipeline" does not include process or transfer pipelines.

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

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

1 (8) "Local government" means a political subdivision of the state
2 or a city or town.

3 (9) "Person" means an individual, partnership, franchise holder,
4 association, corporation, a state, a city, a county, or any political
5 subdivision or instrumentality of a state, and its employees, agents,
6 or legal representatives.

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

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

22 (12) "Reportable release" means a spilling, leaking, pouring,
23 emitting, discharging, or any other uncontrolled escape of a hazardous
24 liquid in excess of one barrel, or forty-two gallons.

25 (13) "Safety management systems" means management systems that
26 include coordinated and interdisciplinary evaluations of the effect of
27 significant changes to a pipeline system before such changes are
28 implemented.

29 (14) "Transfer pipeline" means a buried or aboveground pipeline
30 used to carry oil between a tank vessel or transmission pipeline and
31 the first valve inside secondary containment at the facility provided
32 that any discharge on the facility side of that first valve will not
33 directly impact waters of the state. A transfer pipeline includes
34 valves, and other appurtenances connected to the pipeline, pumping
35 units, and fabricated assemblies associated with pumping units. A
36 transfer pipeline does not include process pipelines, pipelines
37 carrying ballast or bilge water, transmission pipelines, or tank vessel
38 or storage tanks.

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

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

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

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

18 (b) ~~"Hazardous liquid" means: (i) Petroleum, petroleum products,~~
19 ~~or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195~~
20 ~~in effect March 1, 1998; and (ii) carbon dioxide. The commission by~~
21 ~~rule may incorporate by reference other substances designated as~~
22 ~~hazardous by the secretary of transportation under 49 U.S.C. Sec.~~
23 ~~60101(a)(4).~~

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

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

1 ~~((4))~~ (2)(a) A pipeline company, or any person, officer, agent,
2 or employee of a pipeline company that violates a provision of this
3 section, or a rule adopted under this section, is subject to a civil
4 penalty to be assessed by the commission.

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

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

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

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

27 ~~((5))~~ (4) The commission shall also have the power of injunctive
28 relief, as required by 49 U.S.C. Sec. 60105(b), to enforce the
29 provisions of this chapter.

30 (5) Nothing in this section duplicates the authority of the energy
31 facility site evaluation council under chapter 80.50 RCW.

32 NEW SECTION. Sec. 4. (1) The hazardous liquid pipeline safety
33 account is created in the custody of the state treasurer. All receipts
34 from the federal office of pipeline safety and any other state or
35 federal funds provided for hazardous liquid pipeline safety must be
36 deposited in the account, except as provided in subsection (2) of this
37 section. Any fines collected under this chapter, or otherwise
38 designated to this account must be deposited in the account. Moneys in

1 the account may be spent only after appropriation. Expenditures from
2 the account may be used only for funding pipeline safety.

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

6 NEW SECTION. **Sec. 5.** (1) A comprehensive program of hazardous
7 liquid pipeline safety is authorized by sections 2, 4, 5, 9, 11, 13,
8 and 20 of this act, and RCW 81.88.040 to be developed and implemented
9 consistent with federal law. Except as provided in subsection (6) of
10 this section, the commission shall administer and enforce all laws
11 related to hazardous liquid pipeline safety.

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

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

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

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

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

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

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

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

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

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

37 (i) All mechanical components;

38 (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 20 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 hazardous liquid pipeline
28 companies, gas pipeline companies, 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 hazardous liquid and gas pipelines;

35 (b) The danger involved if a hazardous liquid or gas pipeline is
36 damaged;

37 (c) The significance of hazardous liquid or gas pipeline damage
38 that does not cause immediate failure; and

(d) The importance of immediately reporting damage to a hazardous liquid or gas pipeline and the importance of immediately repairing a damaged hazardous liquid or gas pipeline.

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

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

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

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

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

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

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

NEW SECTION. Sec. 9. (1) The commission and the department shall apply for federal delegation for the state's program for the purposes of enforcement of federal hazardous liquid pipeline safety requirements. If the secretary of transportation delegates inspection

1 authority to the state as provided in this subsection, the department,
2 at a minimum, shall do the following:

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

5 (b) Collect fees;

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

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

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

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

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

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

30 (a) Inspect gas pipelines periodically as specified in the
31 inspection program;

32 (b) Collect fees;

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

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

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

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

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

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

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

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

35 (2)(a) All reports, documents, surveys, books, records, files,
36 papers, or written material in the possession of the utilities and

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

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

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

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

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

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

38 (6) If apportionments of budgeted funds are required because of the
39 transfers directed by this section, the director of financial

1 management shall certify the apportionments to the agencies affected,
2 the state auditor, and the state treasurer. Each of these shall make
3 the appropriate transfer and adjustments in funds and appropriation
4 accounts and equipment records in accordance with the certification.

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

10 NEW SECTION. **Sec. 14.** (1) The citizens committee on pipeline
11 safety is established to advise the state agencies and other
12 appropriate federal and local government agencies and officials on
13 matters relating to hazardous liquid and gas pipeline safety, routing,
14 construction, operation, and maintenance. The committee shall have
15 thirteen total members who shall be appointed by the governor to
16 staggered three-year terms and shall consist of: (a) Nine members
17 representing local government, including elected officials and the
18 public; and (b) four nonvoting members, representing owners and
19 operators of hazardous liquid and gas pipelines. The committee shall
20 review and comment on proposed rules and the operation of the state
21 pipeline safety programs.

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

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

31 **Sec. 15.** RCW 19.122.020 and 1984 c 144 s 2 are each amended to
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter:

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

1 (2) "Damage" includes the substantial weakening of structural or
2 lateral support of an underground facility, penetration, impairment, or
3 destruction of any underground protective coating, housing, or other
4 protective device, or the severance, partial or complete, of any
5 underground facility to the extent that the project owner or the
6 affected utility owner determines that repairs are required.

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

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

14 (5) "Excavator" means any person who engages directly in
15 excavation.

16 (6) "Gas" means natural gas, flammable gas, or toxic or corrosive
17 gas.

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

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

26 ((~~7~~)) (9) "Identified but unlocatable underground facility" means
27 an underground facility which has been identified but cannot be located
28 with reasonable accuracy.

29 ((~~8~~)) (10) "Locatable underground facility" means an underground
30 facility which can be field-marked with reasonable accuracy.

31 ((~~9~~)) (11) "Marking" means the use of stakes, paint, or other
32 clearly identifiable materials to show the field location of
33 underground facilities, in accordance with the current color code
34 standard of the American public works association. Markings shall
35 include identification letters indicating the specific type of the
36 underground facility.

37 ((~~10~~)) (12) "Person" means an individual, partnership, franchise
38 holder, association, corporation, a state, a city, a county, or any

1 subdivision or instrumentality of a state, and its employees, agents,
2 or legal representatives.

3 ~~((11))~~ (13) "Pipeline" or "pipeline system" means all or parts of
4 a pipeline facility through which hazardous liquid or gas moves in
5 transportation, including, but not limited to, line pipe, valves, and
6 other appurtenances connected to line pipe, pumping units, fabricated
7 assemblies associated with pumping units, metering and delivery
8 stations and fabricated assemblies therein, and breakout tanks.
9 "Pipeline" or "pipeline system" does not include process or transfer
10 pipelines as defined in section 2 of this act.

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

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

19 ~~((12))~~ (16) "Underground facility" means any item buried or
20 placed below ground for use in connection with the storage or
21 conveyance of water, sewage, electronic, telephonic or telegraphic
22 communications, cablevision, electric energy, petroleum products, gas,
23 gaseous vapors, hazardous liquids, or other substances and including
24 but not limited to pipes, sewers, conduits, cables, valves, lines,
25 wires, manholes, attachments, and those parts of poles or anchors below
26 ground. This definition does not include pipelines as defined in
27 subsection (13) of this section, but does include distribution systems
28 owned and operated under franchise for the sale, delivery, or
29 distribution of natural gas at retail.

30 ~~((13))~~ (17) "One-number locator service" means a service through
31 which a person can notify utilities and request field-marking of
32 underground facilities.

33 NEW SECTION. Sec. 16. A new section is added to chapter 19.122
34 RCW to read as follows:

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

(2) The utilities and transportation commission, in consultation with the Washington utilities coordinating council, shall establish minimum standards and best management practices for one-number locator services consistent with the recommendations of the governor's fuel accident prevention and response team issued in December 1999. By December 31, 2000, the commission shall provide its recommendations to the appropriate standing committees of the house of representatives and the senate.

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

Sec. 17. RCW 19.122.030 and 1988 c 99 s 1 are each amended to read as follows:

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

(2) All owners of underground facilities within a one-number locator service area shall subscribe to the service. One-number locator service rates for cable television companies will be based on the amount of their underground facilities. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities not less than two business days or more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed by the parties.

(3) Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities shall provide the excavator with the best available information as to their locations. The owner of the underground facility providing the information shall respond no later than two business days after the receipt of the notice or before the excavation time, at the option of the owner, unless otherwise agreed by the parties. Excavators shall not excavate until all known facilities have

1 been marked. Once marked by the owner of the underground facility, the
2 excavator is responsible for maintaining the markings. Excavators
3 shall have the right to receive compensation from the owner of the
4 underground facility for costs incurred if the owner of the underground
5 facility does not locate its facilities in accordance with this
6 section.

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

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

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

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

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 19.122
25 RCW to read as follows:

26 (1) Before commencing any excavation, excluding agricultural
27 tilling less than twelve inches in depth, an excavator shall notify
28 pipeline companies of the scheduled commencement of excavation through
29 a one-number locator service in the same manner as is required for
30 notifying owners of underground facilities of excavation work under RCW
31 19.122.030. Pipeline companies shall have the same rights and
32 responsibilities as owners of underground facilities under RCW
33 19.122.030 regarding excavation work. Excavators have the same rights
34 and responsibilities under this section as they have under RCW
35 19.122.030.

36 (2) Project owners, excavators, and pipeline companies have the
37 same rights and responsibilities relating to excavation near pipelines

1 that they have for excavation near underground facilities as provided
2 in RCW 19.122.040.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 19.122
4 RCW to read as follows:

5 (1) After a pipeline company has been notified by an excavator
6 pursuant to section 18 of this act that excavation work will uncover
7 any portion of the pipeline, the pipeline company shall ensure that the
8 pipeline section in the vicinity of the excavation is examined for
9 damage prior to being reburied.

10 (2) Immediately upon receiving information of third-party damage to
11 a hazardous liquid pipeline, the company that operates the pipeline
12 shall terminate the flow of hazardous liquid in that pipeline until it
13 has visually inspected the pipeline. After visual inspection, the
14 operator of the hazardous liquid pipeline shall determine whether the
15 damaged pipeline section should be replaced or repaired, or whether it
16 is safe to resume pipeline operation. Immediately upon receiving
17 information of third-party damage to a gas pipeline, the company that
18 operates the pipeline shall conduct a visual inspection of the pipeline
19 to determine whether the flow of gas through that pipeline should be
20 terminated, and whether the damaged pipeline should be replaced or
21 repaired. A record of the pipeline company's inspection report and
22 test results shall be provided to the utilities and transportation
23 commission consistent with reporting requirements under 49 C.F.R. 195
24 Subpart B.

25 (3) Pipeline companies shall immediately notify local first
26 responders and the department of any reportable release of a hazardous
27 liquid from a pipeline. Pipeline companies shall immediately notify
28 local first responders and the commission of any blowing gas leak from
29 a gas pipeline that has ignited or represents a probable hazard to
30 persons or property. Pipeline companies shall take all appropriate
31 steps to ensure the public safety in the event of a release of
32 hazardous liquid or gas under this subsection.

33 (4) No damaged pipeline may be buried until it is repaired or
34 relocated. The pipeline company shall arrange for repairs or
35 relocation of a damaged pipeline as soon as is practical or may permit
36 the excavator to do necessary repairs or relocation at a mutually
37 acceptable price.

1 NEW SECTION. **Sec. 20.** A new section is added to chapter 48.48 RCW
2 to read as follows:

3 (1) The chief of the Washington state patrol, through the director
4 of fire protection or his or her authorized deputy, shall, in
5 consultation with the emergency management program within the state
6 military department, the department of ecology, the utilities and
7 transportation commission, and local emergency services organizations:

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

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

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

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

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

31 NEW SECTION. **Sec. 21.** A pipeline company that has been notified
32 by an excavator that excavation work will occur near a hazardous liquid
33 pipeline shall ensure that the pipeline company's representative
34 consults with the excavator on-site prior to the excavation. The
35 pipeline company has the discretion to require that the pipeline
36 section in the vicinity of the excavation is fully uncovered and
37 examined for damage prior to being reburied.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 80.28 RCW
2 to read as follows:

3 A gas pipeline company that has been notified by an excavator that
4 excavation work will occur near a gas transmission pipeline shall
5 ensure that the pipeline company's representative consults with the
6 excavator on-site prior to the excavation. The gas pipeline company
7 has the discretion to require that the pipeline section in the vicinity
8 of the excavation is fully uncovered and examined for damage prior to
9 being reburied.

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

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

16 NEW SECTION. **Sec. 24.** A new section is added to chapter 19.122
17 RCW to read as follows:

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

22 (2) All civil penalties recovered under this section relating to
23 hazardous liquid pipelines shall be deposited into the hazardous liquid
24 pipeline safety account created in section 4 of this act. All civil
25 penalties recovered under this section relating to gas pipelines shall
26 be deposited in the general fund and expended for the purpose of
27 enforcement of gas pipeline safety laws.

28 ***NEW SECTION.** **Sec. 25.** *A pipeline containing petroleum or*
29 *petroleum products that is wholly owned by an individual and which*
30 *pipeline is located wholly on the individual's property, that is not*
31 *adjoining marine waters, is exempt from the provisions of this chapter.*
32 *This exemption applies only for pipelines that do not have any*
33 *connections to pipelines or facilities that extend beyond the pipeline*
34 *owner's property and the petroleum or petroleum products must be for*
35 *use only at that location.*

36 **Sec. 25 was vetoed. See message at end of chapter.*

1 NEW SECTION. **Sec. 26.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application to
7 the agencies concerned. Rules adopted under this act must meet federal
8 requirements that are a necessary condition to the receipt of federal
9 funds by the state.

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

12 NEW SECTION. **Sec. 28.** Sections 1, 2, 4 through 7, 9, 11, 13, 14,
13 21, and 25 through 27 of this act are each added to chapter 81.88 RCW.

14 NEW SECTION. **Sec. 29.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

 Passed the House March 9, 2000.

 Passed the Senate March 8, 2000.

 Approved by the Governor March 28, 2000, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State March 28, 2000.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 25,
3 Engrossed Second Substitute House Bill No. 2420 entitled:

4 "AN ACT Relating to oil and gas pipeline safety;"

5 This bill authorizes the state to strengthen its pipeline safety
6 programs and to assume responsibility for inspection of interstate
7 hazardous liquid and natural gas pipelines. The federal Office of
8 Pipeline Safety (OPS) has a policy that such inspection should not be
9 delegated to states and, in fact, has recently revoked delegations to
10 other states. In spite of that policy, I have convinced OPS that the
11 state of Washington can do a better job of making certain that these
12 pipelines are safe, and that inspection authority should be delegated
13 to the state.

14 Our state's ability to implement this bill will be affected by the
15 delegation proposal from OPS. OPS has expressed strong reservations
16 about its delegation if the pipeline safety program is divided between
17 two different agencies. Parts of this bill could be read to transfer
18 inspection authority of both intrastate and interstate hazardous liquid
19 pipelines from the Utilities and Transportation Commission (UTC) to the

1 Department of Ecology (DOE), while leaving authority for natural gas
2 pipelines with UTC. It is essential that we not jeopardize our
3 opportunity to assume oversight responsibility for interstate pipelines
4 by ignoring OPS's concerns.

5 It is my legal interpretation that the bill does not mandate such
6 a transfer to DOE if OPS delegates inspection authority to UTC. In
7 signing this bill, I anticipate that UTC will regulate all pipelines "
8 intrastate and interstate, hazardous liquid and natural gas " in
9 Washington as an agent of OPS. If problems appear in our
10 implementation of the law, or in our relationship with OPS because of
11 provisions in the bill, the prime sponsors have committed to amending
12 it in the next legislative session.

13 In order to assume delegation of inspection authority, we will need
14 to hire highly qualified inspectors and provide them with the necessary
15 equipment. I have asked the Legislature to grant a one-time
16 appropriation in the 2000 supplemental budget to allow us to begin work
17 as soon as possible. However, for the longer term we expect to pay for
18 this program with a fee charged to pipeline operators. I expect to
19 work with legislative leadership to address this funding issue.

20 Section 25 of the bill would have exempted from inspection
21 petroleum pipelines that are wholly owned by an individual and are
22 located wholly on the individual's property. Because the general
23 public may visit such private property or other property in close
24 proximity to such pipelines, section 25 may have allowed unsuspecting
25 citizens to enter sites where hazardous liquid pipelines may be
26 inadequately operated or maintained.

27 We have learned all too painfully the dangers that can result from
28 a pipeline failure, and cannot allow such a prospect by precluding *all*
29 government oversight of *any* pipeline in Washington.

30 For these reasons, I have vetoed section 25 of Engrossed Second
31 Substitute House Bill No. 2420.

32 With the exception of section 25, Engrossed Second Substitute House
33 Bill No. 2420 is approved."