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

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.

GARY F. LOCKE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to oil and gas pipeline safety; amending RCW 81.88.040, 19.122.020, and 19.122.030; adding new sections to chapter 81.88 RCW; adding a new section to chapter 43.110 RCW; adding new sections to chapter 80.28 RCW; adding new sections to chapter 19.122 RCW; adding a new section to chapter 48.48 RCW; prescribing penalties; and declaring an emergency.

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

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

(2) The legislature recognizes that additional federal authority is needed to implement a comprehensive pipeline safety program and by this 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.
(8) "Local government" means a political subdivision of the state or a city or town.

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

(10) "Pipeline," "pipeline system," or "hazardous liquid pipeline" means all parts of a pipeline facility through which a hazardous liquid 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. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

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

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

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

(14) "Transfer pipeline" means a buried or aboveground pipeline used to carry oil between a tank vessel or transmission pipeline and the first valve inside secondary containment at the facility provided that any discharge on the facility side of that first valve will not directly impact waters of the state. A transfer pipeline includes valves, and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. A transfer pipeline does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.
(15) "Transmission pipeline" means a gas pipeline that transports gas within a storage field, or transports gas from an interstate pipeline or storage facility to a distribution main or a large volume gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

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

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

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

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

(2) The commission shall adopt by rule intrastate pipeline safety standards for pipeline transportation and pipeline facilities that:

(a) Apply to pipeline companies transporting hazardous liquids; (b) cover the design, construction, and operation of pipelines transporting hazardous liquids; and (c) require pipeline companies to design, construct, and maintain their pipeline facilities so they are safe and efficient.

(3)) A person, officer, agent, or employee of a pipeline company who, as an individual or acting as an officer, agent, or employee of such a company, violates or fails to comply with this (section) chapter or a rule adopted under this section, or who procures, aids, or abets another person or entity in the violation of or noncompliance with this section or a rule adopted under this section, is guilty of a gross misdemeanor.
(2) (a) A pipeline company, or any person, officer, agent, or employee of a pipeline company that violates a provision of this section, or a rule adopted under this section, is subject to a civil penalty to be assessed by the commission.

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

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

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

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

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

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

NEW SECTION. Sec. 4. (1) The hazardous liquid pipeline safety account is created in the custody of the state treasurer. All receipts from the federal office of pipeline safety and any other state or federal funds provided for hazardous liquid pipeline safety must be deposited in the account, except as provided in subsection (2) of this section. Any fines collected under this chapter, or otherwise designated to this account must be deposited in the account. Moneys in
the account may be spent only after appropriation. Expenditures from
the account may be used only for funding pipeline safety.

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

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

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

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

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

(i) Installation of remote control shut-off valves; and
(ii) Installation of remotely monitored pressure gauges and meters;

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

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

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

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

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

(i) All mechanical components;

(ii) All electronic components; and
(iii) The structural integrity of all pipelines as determined through pressure testing, internal inspection tool surveys, or another appropriate technique;
  
  (b) Failsafe systems;
  
  (c) Safety management systems; and
  
  (d) Emergency management training for pipeline operators.

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

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

(6) The authorities of sections 2, 4, 5, 9, 11, 13, and 20 of this act, and RCW 81.88.040 relating to hazardous liquid pipeline safety shall be transferred from the commission to the department pursuant to section 13 of this act upon the occurrence of either:

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

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

NEW SECTION. Sec. 6. (1) The commission shall develop, in consultation with representatives of hazardous liquid pipeline companies, gas pipeline companies, local governments, and the excavation and construction industries: (a) A curricula aimed at the prevention of third-party excavation damage to hazardous liquid pipelines and gas pipelines; and (b) a plan for distribution of the curricula.

(2) The curricula shall include training on:

(a) Prevention of damage to hazardous liquid and gas pipelines;

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

(c) The significance of hazardous liquid or gas pipeline damage 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
authority to the state as provided in this subsection, the department, at a minimum, shall do the following:

(a) Inspect hazardous liquid pipelines periodically as specified in the inspection program;
(b) Collect fees;
(c) Order and oversee the testing of hazardous liquid pipelines as authorized by federal law and regulation; and
(d) File reports with the United States secretary of transportation as required to maintain the delegated authority.

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

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

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

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

(a) Inspect gas pipelines periodically as specified in the inspection program;
(b) Collect fees;
(c) Order and oversee the testing of gas pipelines as authorized by federal law and regulation; and
(d) File reports with the United States secretary of transportation as required to maintain the delegated authority.
(2) The commission shall also seek federal authority to adopt safety standards related to the monitoring and testing of interstate gas pipelines.

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

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

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

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

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

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the utilities and
transportation commission pertaining to the powers, functions, and
duties transferred shall be delivered to the custody of the department
of ecology. All cabinets, furniture, office equipment, motor vehicles,
and other tangible property employed by the utilities and
transportation commission in carrying out the powers, functions, and
duties transferred shall be made available to the department of
ecology. All funds, credits, or other assets held in connection with
the powers, functions, and duties transferred shall be assigned to the
department of ecology.

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

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

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

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

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

(6) If apportionments of budgeted funds are required because of the
transfers directed by this section, the director of financial
management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

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

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

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

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

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

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

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.
(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected utility owner determines that repairs are required.

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

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

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

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

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

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

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

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

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

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

((13)) (13) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or 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. "Pipeline" or "pipeline system" does not include process or transfer pipelines as defined in section 2 of this act.

(14) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. A 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 pipeline company.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Project owners, excavators, and pipeline companies have the same rights and responsibilities relating to excavation near pipelines
NEW SECTION. Sec. 19. A new section is added to chapter 19.122 RCW to read as follows:

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

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

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

(4) No damaged pipeline may be buried until it is repaired or relocated. The pipeline company shall arrange for repairs or relocation of a damaged pipeline as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.
NEW SECTION. Sec. 20. A new section is added to chapter 48.48 RCW to read as follows:

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

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

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

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

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

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

NEW SECTION. Sec. 21. A pipeline company that has been notified by an excavator that excavation work will occur near a hazardous liquid pipeline shall ensure that the pipeline company’s representative consults with the excavator on-site prior to the excavation. The pipeline company has the discretion to require that the pipeline section in the vicinity of the excavation is fully uncovered and examined for damage prior to being reburied.
NEW SECTION. Sec. 22. A new section is added to chapter 80.28 RCW to read as follows:

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

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

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

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

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

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

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

*Sec. 25 was vetoed. See message at end of chapter.
NEW SECTION. Sec. 26. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

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

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

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

Note: Governor’s explanation of partial veto is as follows:

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

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

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

Our state’s ability to implement this bill will be affected by the delegation proposal from OPS. OPS has expressed strong reservations about its delegation if the pipeline safety program is divided between two different agencies. Parts of this bill could be read to transfer inspection authority of both intrastate and interstate hazardous liquid pipelines from the Utilities and Transportation Commission (UTC) to the
Department of Ecology (DOE), while leaving authority for natural gas pipelines with UTC. It is essential that we not jeopardize our opportunity to assume oversight responsibility for interstate pipelines by ignoring OPS’s concerns.

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

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

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

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

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

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