

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.

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

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

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

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

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

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

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

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

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

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

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

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

36 (7) "Hazardous liquid" means: (a) Petroleum, petroleum products,  
37 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195  
38 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



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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 9.** (1) The commission and the department shall  
33 apply for federal delegation for the state's program for the purposes  
34 of enforcement of federal hazardous liquid pipeline safety  
35 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.

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

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

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

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

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

28 (3) Upon receipt of the notice provided for in this section, the  
29 owner of the underground facility shall provide the excavator with  
30 reasonably accurate information as to its locatable underground  
31 facilities by surface-marking the location of the facilities. If there  
32 are identified but unlocatable underground facilities, the owner of  
33 such facilities shall provide the excavator with the best available  
34 information as to their locations. The owner of the underground  
35 facility providing the information shall respond no later than two  
36 business days after the receipt of the notice or before the excavation  
37 time, at the option of the owner, unless otherwise agreed by the  
38 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."