RCW 81.88.005
Intent -- Findings.

(1) The intent of chapter 191, Laws of 2000 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 chapter 191, Laws of 2000 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.

[2000 c 191 § 1.]
RCW 81.88.010
Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "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.

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

(4) "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.

(5) "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.

(6) "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.

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

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "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.
(13) "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.

(14) "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.

NOTES:

All corporations having for one of their principal purposes the construction, maintenance and operation of pipelines and appurtenances for the conveyance and transportation as common carriers of oils, gas, gasoline and other petroleum products shall be subject to control and regulation by the commission in the same manner and to the same extent as other public service corporations. The power of eminent domain is hereby conferred upon such corporations to be used for acquiring rights of way for common carrier pipelines and they shall have the right to condemn and appropriate lands and property and interests therein for their use under the same procedure as is provided for the condemnation and appropriation of private property by railway companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation and appropriation by railway companies. Any property or interest therein acquired by any corporation under the provisions of this section by the exercise of the right of eminent domain shall be used exclusively for the purposes for which it was acquired. In all actions brought under this section to enforce the right of eminent domain, courts wherein such actions are brought may give such actions preference over all other civil actions in the matter of setting the same for hearing or trial and in hearing the same.

[1961 c 14 § 81.88.020. Prior: 1951 c 94 § 2; 1915 c 132 § 2; RRS § 9965.]
Pipeline carriers regulated as common carriers.

Every person, copartnership, corporation or other association now or hereafter engaged in the business of producing from natural deposits and/or carrying or transporting natural gas and/or crude oil or petroleum or the products thereof for hire, by pipelines within this state shall be a common carrier within the meaning and subject to the provisions of this title: PROVIDED, HOWEVER, That the provisions of this section shall not apply to distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

[1961 c 14 § 81.88.030. Prior: 1933 ex.s. c 61 § 1; RRS § 9965-1.]
RCW 81.88.040
Violations -- Rules -- Penalties -- Injunctive relief.

(1) 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 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.

(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 *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).

(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.

[2000 c 191 § 3; 1998 c 123 § 1.]

NOTES:

*Reviser's note: The "hazardous liquid pipeline safety account" was redesignated the "pipeline safety account" by 2001 c 238 § 7.
RCW 81.88.050
Pipeline safety account.

(1) The pipeline safety account is created in the custody of the state treasurer. All fees received by the commission for the pipeline safety program according to RCW 80.24.060 and 81.24.090 and all receipts from the federal office of pipeline safety and any other state or federal funds provided for pipeline safety shall 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.

[2001 c 238 § 7; 2000 c 191 § 4.]

NOTES:

RCW 81.88.060
Comprehensive safety program -- Commission's duties -- Rules -- Standards -- Safety plan approval.

(1) A comprehensive program of hazardous liquid pipeline safety is authorized by RCW 81.88.010, 81.88.040, 81.88.050, 81.88.090, 81.88.100, 48.48.160, and this section to be developed and implemented consistent with federal law. 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.

[2001 c 238 § 9; 2000 c 191 § 5.]

NOTES:

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[2001 c 238 § 9; 2000 c 191 § 5.]

NOTES:

RCW 81.88.070
Prevention of third-party excavation damage -- Development and distribution of training curricula.

(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.

[2000 c 191 § 6.]
RCW 81.88.080  
Pipeline mapping system -- Commission specifications and evaluations.

(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 statewide 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.

[2000 c 191 § 7.]
RCW 81.88.090
Enforcement of federal hazardous liquid pipeline safety requirements -- Request for federal delegation of authority.

(1) The commission 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 commission, 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 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 commission shall adopt rules for interstate pipelines that are no less stringent than the state's laws and rules for intrastate hazardous liquid pipelines.

[2001 c 238 § 10; 2000 c 191 § 9.]

NOTES:

RCW 81.88.100
Commission inspection of records, maps, or written procedures.

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.

[2000 c 191 § 11.]
RCW 81.88.110
Pipeline company duties after notice of excavation.

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.

[2000 c 191 § 21.]
RCW 81.88.140
Citizens committee on pipeline safety -- Duties -- Membership.

(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 serve as an advisory committee for the commission on matters relating to the commission's pipeline safety programs and activities. The commission shall consult with and provide periodic reports to the committee on matters related to the commission's pipeline safety programs and activities, including but not limited to the development and regular review of funding elements for pipeline safety programs and activities.

(2) 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. All members of the committee, voting and nonvoting, may participate fully in the committee's meetings, activities, and deliberations and shall timely receive all notices and information related to committee business and decisions.

(3) The committee shall review and comment on proposed rules and the operation of the state pipeline safety programs.

(4) 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.

(5) The committee established in 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.

[2001 c 238 § 11; 2000 c 191 § 14.]

NOTES:

RCW 81.88.150
Review of hazardous liquid and gas pipeline safety programs.

The joint legislative audit and review committee shall review staff use, inspection activity, fee methodology, and costs of the hazardous liquid and gas pipeline safety programs and report to the appropriate legislative committees by July 1, 2003. The report shall include a comparison of interstate and intrastate programs, including but not limited to the number and complexity of regular and specialized inspections, mapping requirements for each program, and allocation of administrative costs to each program.

[2001 c 238 § 4.]

NOTES:

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.

[2000 c 191 § 26.]
RCW 81.88.901
Short title -- 2000 c 191.

This act may be known and cited as the Washington state pipeline safety act.

RCW 81.88.902
Effective date -- 2000 c 191.

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 [March 28, 2000].