

# SENATE BILL REPORT

## SB 5552

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As Amended by House, April 5, 2007

**Title:** An act relating to discharges of oil.

**Brief Description:** Changing compensation and penalties for oil spills.

**Sponsors:** Senators Rockefeller, Spanel, Regala, Kohl-Welles, Kline and Oemig.

**Brief History:**

**Committee Activity:** Water, Energy & Telecommunications: 2/09/07, 2/27/07 [DP, DNP, w/oRec].

Passed Senate: 3/13/07, 40-8.

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Majority Report:** Do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Marr, Oemig, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senators Delvin, Holmquist and Morton.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Honeyford, Ranking Minority Member.

**Staff:** Sam Thompson (786-7413)

**Background:** Persons discharging oil into state waters are potentially subject to penalties imposed by the state. For every violation and for each day a spill poses risks to the environment, as determined by the Department of Ecology (DOE), persons negligently discharging oil incur a penalty of up to \$20,000, and persons intentionally or recklessly discharging oil incur a penalty of up to \$100,000.

DOE determines penalty amounts after considering the gravity of the violation, previous compliance with the state Water Pollution Control Act, speed and thoroughness of oil collection and removal, and other considerations deemed appropriate. Other state agencies assessing penalties in other contexts—including the Utilities & Transportation Commission when it assesses a penalty against a gas pipeline company for violating pipeline safety regulations—may consider the size of a company in determining penalty amounts.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Persons discharging oil into state waters must potentially pay compensation for cleanup and damage costs. Compensation under an oil spill compensation schedule is limited to \$50 per gallon of oil spilled.

Damage assessment after oil spills is conducted by a resource damage assessment committee that is statutorily made up of representatives of DOE and the Departments of Fish and Wildlife, Natural Resources, Social and Health Services (DSHS), Archaeology and Historic Preservation, and the Emergency Management Division and Parks and Recreation Commission.

**Summary of Bill:** Oil spill penalty limits are increased to up to \$100,000 per day for a negligent discharge and up to \$500,000 per day for an intentional or reckless discharge. DOE must consider the size of the violator's business when assessing penalties, in addition to other currently specified factors.

The compensation limit in the oil spill compensation schedule is raised from \$50 to \$100 per gallon of oil spilled.

Membership of the resource damage assessment committee is revised to delete the Emergency Management Division representative and change the DSHS representative to a Department of Health representative.

Agency names are updated and outdated rulemaking language is deleted.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Penalties and maximum damage compensation for oil spills – unchanged for many years – should be increased to adjust for inflation, adequately compensate for damage, and deter oil spills, which can have a ruinous impact. The size of a business should be taken into account when penalties are imposed; otherwise, some large offenders may simply view small penalties as a cost of doing business. Amendments should be considered that require damage assessment consideration of a spill's effect on significant cultural and historic resources, with input from affected tribal governments, and that authorize criminal penalties to be imposed on offenders.

OTHER: The Department of Ecology needs funding for administrative rulemaking to implement this bill.

**Persons Testifying:** PRO: Fred Felleman, citizen; Steve Robinson, Northwest Indian Fisheries Commission; Bruce Wishart, People for Puget Sound.

OTHER: Dale Jensen, Department of Ecology.

**House Amendment(s):** The amendment: (1) changes the definition of "oil" in oil spill and cleanup provisions to include biological oils and blends; and (2) clarifies state authority to

conduct natural resources damage assessments regarding oil spills occurring in non-navigable waters of the state.