

# HOUSE BILL REPORT

## ESSB 6461

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As Passed House

**Title:** An act relating to oil spill incident commander's liability.

**Brief Description:** Concerning claims for oil spill liability damages.

**Sponsors:** Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser and Bluechel).

**Brief History:**

Reported by House Committee on:

Environmental Affairs, February 24, 1994, DP;

Passed House, March 2, 1994, 95-0.

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### HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

**Majority Report:** Do pass. Signed by 14 members: Representatives Rust, Chair; Flemming, Vice Chair; Horn, Ranking Minority Member; Van Luven, Assistant Ranking Minority Member; Bray; Edmondson; Foreman; Hansen; Holm; L. Johnson; J. Kohl; Linville; Roland and Sheahan.

**Staff:** Rick Anderson (786-7114).

**Background:** The incident commander is the person in charge of response activities during an oil spill. Rules developed by the Department of Ecology specify the chain of command and the responsibilities for persons involved in an oil spill.

Commercial vessels over 300 gross tons carrying oil as fuel or cargo are required to have an oil spill response system. The Washington State Maritime Commission was created in 1990 to establish an oil spill "first response" system for the first 24 hours of response following an oil spill. Many of the vessels that are not oil tankers have contracted with the Maritime Commission to provide first response services.

The individual members and employees of the Maritime Commission are protected from liability, but the commission is liable for any claims made against it.

Vessels designated as greater than 40,000 dead weight tons are required to have a tug escort when entering Puget Sound.

Vessels may change their weight designation based on the amount of cargo they carry.

**Summary of Bill:** The protection of individuals from claims asserted against the commission is amended to include incident commanders.

The commission is authorized to include an indemnification provision in its contracts regarding losses arising from performance of the contractor or resulting from the fault of the commission. The indemnification is limited to the assets of the commission.

The attorney general shall serve as the legal adviser to the commission.

The tonnage of an oil tanker for purposes of applying state standards for transiting in Puget Sound is determined by the tanker's assigned tonnage at the time of construction or reconstruction as reported in Lloyd's Register of Ships.

**Fiscal Note:** Available.

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

**Testimony For:** Liability protection is needed to protect incident commanders and companies that provide cleanup services for the Maritime Commission. The loophole allowing vessels to change their weight designation based on the amount of cargo they carry should be closed.

**Testimony Against:** None.

**Witnesses:** Armand L. Tiberio, Washington State Board of Pilots (pro); Captain Michael Gavin, Washington State Pilot Commissions, (pro); Linda Hull, Clean Sound Cooperative (pro); and Randy Ray, WSMC.