

# HOUSE BILL REPORT

## SB 5361

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### As Passed House-Amended:

April 9, 1997

**Title:** An act relating to the charter use of Washington state ferries for transporting hazardous materials.

**Brief Description:** Regulating charter use of Washington state ferries.

**Sponsors:** Senators Wood, Haugen, Prince, Goings, Horn, Patterson, Benton and Winsley.

### Brief History:

#### Committee Activity:

Transportation Policy & Budget: 4/1/97, 4/2/97 [DPA].

#### Floor Activity:

Passed House-Amended: 4/9/97, 96-2.

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### HOUSE COMMITTEE ON TRANSPORTATION POLICY & BUDGET

**Majority Report:** Do pass as amended. Signed by 26 members: Representatives K. Schmidt, Chairman; Hankins, Vice Chairman; Mielke, Vice Chairman; Mitchell, Vice Chairman; Fisher, Ranking Minority Member; Blalock, Assistant Ranking Minority Member; Cooper, Assistant Ranking Minority Member; Backlund; Buck; Cairnes; Chandler; DeBolt; Gardner; Hatfield; Johnson; Murray; O'Brien; Ogden; Radcliff; Robertson; Romero; Scott; Skinner; Sterk; Wood and Zellinsky.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Constantine.

**Staff:** Jennifer Joly (786-7305).

**Background:** In 1987 the Transportation Commission adopted Washington Administrative Code (WAC) 468-300-210, which authorizes the use of Washington State Ferries (WSF) for the purpose of hauling hazardous materials (e.g., fully loaded gasoline trucks). The WSF transport of hazardous materials, which is prohibited on regularly scheduled, passenger-carrying voyages, is permitted when a vessel and crew can be made available, considering passenger service and vessel maintenance requirements.

Historically, WSF has provided hazardous materials transportation service to two island service areas, the San Juan Islands and Vashon Island.

At the time the WAC was adopted, the fare for transport of hazardous materials was set at "the round-trip cost, adjusted quarterly, of fuel, deck, and engine labor (including overtime and minimum crew call-outs, where applicable), supplies, and maintenance."

The application of the WAC was called into question when WSF failed to update the costs on a quarterly basis, thereby understating the actual costs, and when a new vessel deployment pattern was implemented.

Typically, at the completion of the regular service sailing schedule, there are two vessels tied up in the ferry slips at Friday Harbor without any crew. However, during the summer, a crew is assigned to one of the vessels on Friday night to sail from Friday Harbor to Anacortes for refueling and supplies. WSF contends that the use of the vessel and crew assigned to the Friday night refueling run should logically be used to conduct gasoline truck transfers. Such an arrangement has the least effect on deck crew schedules, passenger service schedules, and vessel maintenance schedules. It is, however, possible to do gasoline truck transfers at other times without affecting the passenger service schedules.

During the spring and summer of 1995, increased interest in using the ferries to haul gasoline trucks was shown by several competing gasoline transport and delivery companies serving the San Juan Islands. Due to the aforementioned perceived operational advantages for WSF, and the ability to grant the most advantageous cost to the gasoline haulers, the scheduling of gasoline transports on Friday nights was instituted. During the summer, a gasoline supplier can arrange to have a ferry transport its gasoline truck to Friday Harbor, wait there while the truck makes deliveries, and then bring the truck back to Anacortes. The vessel then refuels and returns to Friday Harbor for the next day's service. Pursuant to WAC 468-300-210, the supplier is charged the "round-trip cost" that would not otherwise be incurred by WSF, i.e., the trip to Friday Harbor and back.

During the non-summer sailing seasons, when it is not cost effective for a vessel to return to Anacortes for refueling, the transport of gasoline trucks essentially involves two round trips: to Anacortes to pick up the truck, back to Friday Harbor to allow the truck to make deliveries, back to Anacortes to return the truck, and back to Friday Harbor. Nonetheless, WSF had been reading the WAC language, "the round-trip cost," literally such that it only charged the cost of one round trip, even though it was necessary to make two round trips to provide the service.

The Transportation Commission amended the WAC to recover the actual costs incurred. If two round trips are necessary to provide the service, the supplier is charged for both round trips.

On San Juan Island privately-operated barge service is also available for the transport of hazardous materials.

**Summary of Bill:** WSF may be used for the transportation of hazardous materials when established route operations and normal user requirements are not disrupted.

The rate to charter a WSF for purposes of hazardous materials transport is increased to actual operating costs, plus 50 percent. Actual operating costs include, but are not limited to, all labor, fuel and vessel maintenance costs incurred due to the charter agreement, including deadheading and standby. Hazardous materials transporters shall pay for all legs necessary to complete a charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of WSF.

All hazardous materials charters are subject to a written charter agreement.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Private transporters who use tugs and barges cannot compete with the unreasonably low fees charged by WSF for the transport of petroleum. This bill will eliminate the imbalance. SB 5361 treats hazardous materials runs like other ferry charters by charging a rate of actual operating costs, plus 50 percent.

**Testimony Against:** A 50 percent surcharge on an essential commodity like gasoline is ridiculous. Groceries and diesel fuel are not subject to similar treatment. Adding an additional 50 percent to the cost of providing the service will drive people out of business and diminish competition.

**Testified:** Senator Jeannette Wood, prime sponsor; Michael Myers, Sea Coast Towing (pro); Captain Dan Crookes, Island Transport Ferry Service, Inc. (pro); Tom Rose, Northern Energy (pro); Dave Ross, Aeronautical Services (con); Jim Henggeler, Delta Western/Skagit Petroleum (con); Virginia Hawker, InterIsland Petroleum (con); Bill LaPorte, mayor of Friday Harbor (con); Teresa Tangney Kennedy, San Juan Fuel (pro); and Charlie Meyer, Island Petroleum Services (pro).