

# HOUSE BILL REPORT

## ESB 5938

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**As Reported by House Committee On:**  
Fisheries, Ecology & Parks

**Title:** An act relating to financial responsibility requirements for vessels.

**Brief Description:** Updating financial responsibility laws for vessels.

**Sponsors:** Senators Finkbeiner and Esser.

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 3/27/03, 3/28/03 [DP].

**Brief Summary of Engrossed Bill**

- Establishes vessel financial responsibility requirements for fishing vessels and increases requirements for tank vessels and cargo vessels.
- Makes entry or operation of certain vessels on Washington waters without meeting financial responsibility requirements unlawful.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** Do pass. Signed by 9 members: Representatives Cooper, Chair; Berkey, Vice Chair; Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Buck, Hatfield, O'Brien, Pearson and Upthegrove.

**Staff:** Jeff Olsen (786-7157).

**Background:**

Washington statutes include financial responsibility requirements for vessels transporting petroleum products as either cargo or fuel across state waters and for facilities storing, handling, or transferring oil or hazardous substances in bulk on or near navigable waters. The Department of Ecology (DOE) has rule making authority for vessel financial responsibility standards. The documentation of financial responsibility must demonstrate the ability to meet state and federal financial liability requirements for actual costs of oil spill removal, natural resource damages, and necessary expenses.

Barges, tank vessels, cargo or passenger vessels, and onshore and offshore facilities must

establish evidence of financial responsibility in various amounts. Appropriate documentation for evidencing financial responsibility is specified in statute. In addition, the DOE is authorized to establish lesser financial responsibility standards consistent with federal law under certain circumstances. Further, the DOE establishes the financial responsibility requirements for onshore and offshore facilities, considering factors such as the amount of oil that could be spilled, clean up costs, frequency of facility operations, damages resulting from a spill, and commercial availability and affordability of financial responsibility.

The DOE is required to deny entry to state waters to any vessel that does not meet the statutory financial responsibility requirements. The DOE also is required to report to the United States Coast Guard any vessel owner or operator that does not meet these statutory requirements or the Federal Oil Pollution Act of 1990.

A tank vessel owner or operator who is a member of an international protection and indemnity mutual organization covering oil pollution risks in required amounts is not required to provide the required documentation of financial responsibility. The DOE may require these tank vessel owners or operators to prove membership in one of these organizations.

The financial responsibility requirements for the different types of vessels are as follows:

- (1) Barges transporting hazardous substances: the greater of \$1 million or \$150/gross ton. The DOE may lower the financial responsibility requirement for smaller barges based on the quantity of cargo the barge can carry;
- (2) Tank vessels carrying oil: \$500 million. The DOE may lower the financial responsibility requirement for tank vessels meeting certain standards; and
- (3) Certain cargo, fishing, and passenger vessels: the greater of \$500,000 or \$600/gross ton.

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### **Summary of Bill:**

The definitions of "hazardous substances" and "oil" are updated to current federal standards and the definition of an "inland barge" is removed and replaced with a definition of "barge." The definition of "facility" is expanded to include structures that transfer oil in bulk to or from any vessels with an oil carrying capacity over 250 barrels. The term "gross tons" means tonnage as determined by the United States Coast Guard.

Fishing vessels are defined, and financial responsibility requirements for these vessels are created as follows: (1) for vessels carrying predominately nonpersistent product, the greater of \$133.40 per incident, for each barrel of oil storage capacity, or \$1,334,000; and (2) for vessels carrying predominately persistent product, the greater of \$400.20 per incident, for each barrel of oil storage capacity, or \$6,670,000.

The financial responsibility requirements for other vessels are revised as follows:

- (1) Barges transporting hazardous substances: the greater of \$5 million or \$300/gross ton. The DOE may not lower financial responsibility requirements for barges transporting hazardous substances;
- (2) Tank vessels carrying oil: \$1 billion, after January 1, 2004. The DOE may lower the financial responsibility requirements for smaller tank vessels based on the quantity of the cargo the vessel can carry, but no longer can set a lesser amount based on standards for construction, equipment and personnel; and
- (3) Certain cargo or passenger vessels: \$300 million.

Owners or operators of cargo or passenger vessels that are members of an international protection and indemnity mutual organization with coverage up to the amounts required by statute are not required to demonstrate financial responsibility. The Director of the DOE may require any cargo or passenger vessel owner or operator to prove membership in such an organization.

Entering or operating in state waters without meeting the statutory financial responsibility requirements is unlawful, except when necessary to avoid injury to the vessel's crew or passengers.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Financial responsibility is a complicated issue and legislators and stakeholders have been working on this issue for some time. This bill updates Washington's financial responsibility requirements to ensure that the costs for cleanup of oil spills will be covered by those responsible for the spill. The requirements for fishing vessels under the bill are very similar to Alaska's requirements and do not place an onerous burden on smaller vessels.

**Testimony Against:** None.

**Testified:** (In support) Dale Jensen, Department of Ecology; Randy Ray, Pacific Seafood Processors Association and Puget Sound Steamship Operators; and Ed Owens, Coalition of Coastal Fisheries.