
SENATE BILL 5907

State of Washington

58th Legislature

2003 Regular Session

By Senators Horn, Reardon, Doumit and Morton

Read first time 02/19/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to the establishment of the Washington maritime
2 safety and improvement act; adding new sections to chapter 88.46 RCW;
3 creating a new section; providing an effective date; and declaring an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes the merits of a
7 1998 United States secretary of transportation determination that the
8 many existing elements of the region's marine transportation system
9 comprise a safe system. The legislature finds that systemwide risk
10 reductions are the most cost-effective means to improve this already
11 excellent system. Although this region enjoys the lowest commercial
12 vessel oil spill rate in the country, there are risks due to weather
13 and other conditions that can be further mitigated in a cost-effective
14 manner. Furthermore, an undue and cost-prohibitive regulatory burden
15 on a key jobs-producing sector of the state economy is not the desire
16 of the legislature. The legislature therefore finds reason to augment
17 significant improvements brought about by the international maritime
18 organization, the oil pollution act of 1990, and United States coast
19 guard and industry safety initiatives to further protect Washington

1 waters through the establishment of a targeted systemwide tug safety
2 net plan. The legislature finds cost-effective protection for all
3 state waters to be superior to a single tug, single location approach.
4 The plan should include the following principles:

5 (1) The plan should be systemwide and targeted to augment the
6 existing safety net during high risk events throughout all of
7 Washington's shorelines where commercial vessels transit including the
8 Columbia river and Strait of Juan de Fuca and approaches, Port Angeles,
9 San Juan Islands, Anacortes, Admiralty Inlet, Seattle, Tacoma, and all
10 of Puget Sound;

11 (2) The major benefit of tug use in this plan would be to mitigate
12 pollution threats caused by drift groundings of disabled vessels or
13 vessels at anchor. The legislature recognizes that tugs do little to
14 mitigate collision or power grounding risks caused by navigational
15 errors;

16 (3) A systemwide approach best leverages limited public funds to
17 mitigate substantial threats of an oil spill due to disabled commercial
18 vessels thereby providing benefit to all Washington waters used by
19 commercial vessels;

20 (4) The plan should require collaboration with the maritime
21 community and United States coast guard to facilitate cost-effective
22 use of our resources to further mitigate substantial threats of an oil
23 spill thereby increasing protection of waters and quality of life while
24 ensuring a strong maritime and state economy;

25 (5) The plan should be based on risk reduction principles that
26 fully consider and document such information as the lessons learned
27 from all past incidents of disabled commercial vessels in Washington
28 waters that led to the release of oil;

29 (6) The plan should include provisions to fully leverage the oil
30 pollution act of 1990 funding opportunities to mitigate substantial
31 threats of an oil spill due to disabled vessels' concerns;

32 (7) The plan should include a provision to use, other than the oil
33 pollution act of 1990, federal funding if it becomes available for
34 state use; and

35 (8) The plan should leverage federal government maritime safety net
36 activities and move to eliminate wasteful duplication activities
37 between state and federal agencies.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 88.46 RCW
2 to read as follows:

3 (1) Establishment of a systemwide tug safety net plan shall be
4 based on development of a tug presence matrix. A third party
5 professional engineering company or equivalent shall be used to design
6 the tug presence matrix with input from industry and government
7 officials with expertise in the construction, movement, and vital
8 system operations of targeted vessels and tug operations. Recognized
9 maritime industry organizations such as the Puget Sound steamship
10 operators association, Columbia steamship operators association,
11 American waterway operators, North Pacific fishing vessel owners'
12 association, western states petroleum association, BC chamber of
13 shipping, council of marine carriers, and pilot groups from Puget
14 Sound, the Columbia river, and British Columbia shall be used to
15 provide such expertise. Development of this matrix shall be based on
16 the following:

17 (a) Past drift grounding oil spill incident data by vessel category
18 for state waters;

19 (b) Drift rates of laden and unladen tank vessels, container
20 vessels, bulk vessels, car carriers, cruise ships, and tank barges
21 under a combination of tidal current, wind, swell, or wave conditions
22 in areas where tug presence is less than average;

23 (c) Anchor dragging incident data where vessel crew actions and
24 implementation of standards of care are not sufficient to mitigate the
25 grounding threat;

26 (d) International tug of opportunity tug distribution data and tug
27 response times from common tug locations;

28 (e) Tug capabilities;

29 (f) Risk mitigation maneuvering, anchoring, or other crew actions
30 during a single mode failure of either propulsion or steering;

31 (g) Vessel propulsion and design including thruster use and
32 effectiveness;

33 (h) Grounding energy needed to cause significant outflow of cargo
34 or fuel oil taking into account vessel design, cargo and fuel tank
35 locations, and bottom and shoreline type;

36 (i) Achieving the grounding mitigation success factor of ninety-
37 five percent incorporated into the time-proven San Francisco tug escort
38 scheme; and

1 (j) Mitigating substantial threats of pollution from disabled drift
2 groundings or anchor dragging groundings of commercial vessels over
3 three hundred gross tons.

4 (2) The matrix shall be developed within twelve months of the
5 effective date of this section. Once established the matrix shall be
6 implemented as provided for in this section.

7 (a) The department of ecology shall establish contracts with tug
8 companies similar to the basic ordering agreements of the federal
9 government. Contracts shall include provisions for the state and the
10 tug company to share in salvage claim awards. Any such awards to the
11 state shall be used to fund the provisions of this section and section
12 3 of this act.

13 (b) The department of ecology shall develop protocols to implement
14 the matrix based on coast guard captain of the port communications
15 indicating a need in one or more areas during high-risk events.

16 (c) The matrix shall be used only when oil pollution act of 1990
17 funding authority is not applicable to mitigate the substantial threat
18 and shall not duplicate natural distribution of tugs best determined by
19 an international tug of opportunity or other means.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.46 RCW
21 to read as follows:

22 (1) The department of ecology shall prepare the following reports
23 by October 1, 2003.

24 (a) A summary of all drift groundings within Washington waters of
25 commercial vessels over three hundred gross tons that have resulted in
26 oil releases and that addresses the potential mitigation of tug use
27 during each of the oil spill incidents. The report shall include the
28 geographic area involved, the vessel drift rate, and time involved and
29 nearest locations of normal tug presence.

30 (b) A review of all current state prevention activities that lists
31 in order of priority where tug mitigation funding ranks and whether
32 current resources need to be reprogrammed to fund such activities. The
33 listing shall be based on risk reduction measurements tied directly to
34 the activity. The listing shall identify areas of state duplication
35 with the federal government as candidate activities for reprogramming.
36 A no reprogramming recommendation from the department means that all

1 current activities are higher priority than tug use and there is no
2 duplication with the federal government.

3 (c) The department shall work with the office of the attorney
4 general and the United States coast guard to list all potential uses of
5 oil pollution act of 1990 funding for the mitigation benefits of
6 targeted tug use.

7 (d) The department shall work with the office of the attorney
8 general to list all past uses of the state-funded Neah Bay tug that
9 were candidates for salvage claim awards. The list should include best
10 estimates of potential awards. The department shall provide a
11 comparison of department risk reduction assessments of tug use with the
12 elements necessary to pursue salvage claim awards.

13 (2) The department of ecology shall establish a reporting protocol
14 to capture the implementation and outcome facts every time the matrix
15 is used. The department shall consult with the captain of the port to
16 ensure all facts are accurately captured and the report shall be made
17 public.

18 (3) The department of ecology shall not develop rules separate from
19 those under this section and section 2 of this act to require tug
20 presence directly or indirectly through credits or other means.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.46 RCW
22 to read as follows:

23 The maritime safety and improvement account is created in the
24 custody of the state treasurer. All receipts from federal sources for
25 tug use and maritime safety and mitigation purposes shall be deposited
26 into this account. In addition, any appropriations by the legislature
27 for purposes of maritime safety and improvement shall be deposited into
28 this account. The account is subject to allotment procedures under
29 chapter 43.88 RCW, and all funds in the account are subject to
30 appropriation. Expenditures from the account may be used only for the
31 purposes stated in sections 2 and 3 of this act. Funding shall be
32 reprogrammed from sources that have provided for the current rescue tug
33 or redirected from current state expenditures on marine safety. No new
34 funding or fee schemes are created in sections 2 and 3 of this act.
35 Should federal funding, activities, or regulations address any similar
36 tug safety net plan at any time as provided in sections 2 and 3 of this
37 act, then the department shall make all reports required by sections 2

1 and 3 of this act and provide input to the federal government in its
2 plan development and implementation efforts. Under such circumstances,
3 the state tug safety net plan terminates.

4 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 July 1, 2003.

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