

# SENATE BILL REPORT

## ESSB 6244

---

As Passed Senate, February 11, 2006

**Title:** An act relating to oil spill prevention, preparedness, and response.

**Brief Description:** Changing provisions relating to oil spill prevention, preparedness, and response.

**Sponsors:** Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rockefeller, Morton, Poulsen, Fairley, Kline, Shin, Kohl-Welles and Spanel; by request of Department of Ecology).

**Brief History:**

**Committee Activity:** Water, Energy & Environment: 1/19/06, 1/26/06 [DPS].

Passed Senate: 2/11/06, 40-0.

---

### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** That Substitute Senate Bill No. 6244 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Delvin, Fraser, Honeyford, Mulliken, Pridemore and Regala.

**Staff:** Richard Rodger (786-7461)

**Background:** The primary objective of the Department of Ecology's (DOE) Oil Spill Program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances from entering marine waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, are required to have containment and recovery equipment readily available according to standards adopted by DOE. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel must have containment and recovery equipment readily available. DOE must adopt rules for directing when a boom should be deployed during oil transfers by June 30, 2006.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. DOE may issue orders or directives to any person who violates provisions of the oil spill prevention and response statutes.

DOE's explicit authority to issue regulatory orders to vessel operators for violations of rules was omitted in the 1991 legislative rewrite of the oil pollution prevention statutes.

**Summary of Bill:** DOE is given additional direction in regards to its current rulemaking covering transfers of oil. The department must scale its rules to the risk posed to people and

the environment, and categorize the rules by type of transfer, volume of oil, frequency of transfer, and other risk factors it identifies.

Prior notice of an oil transfer is not generally required for a marine fuel outlet transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel when scheduled less than four hours in advance. DOE requires prior notice on a case-by-case basis when elevated risks have been documented. DOE may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

DOE's authority over ship refueling and bunkering, or lightering of petroleum products, is expanded to include motor vehicles which are conducting those same activities.

DOE's standards for deployment of containment equipment during oil transfers may require, in addition to alternative measures, additional measures as deemed necessary to enhance safety. These additional measures must be scaled to the risk posed by the oil transfer. DOE may also require a person or facility to provide notice of the time, location, and volume of future intended oil transfers in situations where the department defines as posing a higher risk.

DOE is authorized to conduct inspections of covering regulated transfers of oil over state waters. DOE may require vessel contingency plan holders to conduct drills, as they currently require for regulated facilities. DOE's explicit authority to issue regulatory orders to vessel operators for violations of rules is restored.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Testimony For:** DOE is currently writing an oil transfer rule as directed by the Legislature. This bill provides additional clarifications and authorities needed to ensure clarity in the rulemaking. The department is also seeking to ensure its other authorities relating to oil spill prevention, preparedness, and response are clear in relating to conducting inspections, requiring drills, seeking prior notice of transfers, and authority to issue orders for violation of administrative rules. It is important that transfers of oil over water from mobile sources, such as tanker trucks, have oversight by DOE.

**Testimony Other:** The bill should be clarified in regards to which duties apply to each individual group covered by the legislation. The responsibilities should also be scaled to the risk posed by the activities. The notice provisions should have clearer direction to ensure notice is not required for the transfer of one gallon of fuel. The rules should include small marinas. The funding of the program should be reviewed to ensure all regulated parties contribute equally. The language changing "tank vessels" to "ships" is a huge expansion. The rulemaking should be extended because this bill brings new stakeholders into the process after it has been underway since 2004. The new authorities provided in the bill are troublesome, the state should let the U.S. Coast Guard and federal authorities provide uniform standards for the west coast.

**Who Testified:** PRO: Senator Phil Rockefeller, prime sponsor; Dale Jensen, Program Manager, DOE; Jim Davis, Olympic Coastal Alliance; Mike Doherty, Clallam County Commissioner; Greg Hanon, Western State Petroleum Association; Bruce Wishart, People for Puget Sound; Jim Jesernig, Pacific Coast Shellfish Grower.

OTHER: Eric Johnson, Washington Ports Association; Rick Wickman, CRSOA; Charlie Brown, Washington Oil Marketers Association; Warren Aakervik, Ballard Oil; Randy Ray, Pacific Seafood Processors Association; Cliff Webster, Northwest Marine Trade Association, Maritime Environmental Coalition; Robert Dorn, Sirius Maritime.

**House Amendment(s):** The House amendment deletes the exception to the general rule that DOE must not require prior notice of oil transfers when marine fuel outlets are transferring less than 3,000 gallons of oil in a single transaction to a ship that is not a covered vessel, and the transfer is scheduled less than four hours in advance. The Senate bill allowed DOE to require notice of these oil transfers in situations defined as posing a higher risk.