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HOUSE BILL 1459

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State of Washington

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By Representatives B. Sullivan, Dickerson, Jarrett, Upthegrove, Kessler, Appleton, Dunshee, Moeller, Simpson, McCoy, Kenney, P. Sullivan, McDermott, Cody, Santos, Conway, Kilmer and Chase

Read first time 01/25/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to the oil spill monitoring and oversight council;  
2 amending RCW 90.56.005; and adding new sections to chapter 90.56 RCW.

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

4 **Sec. 1.** RCW 90.56.005 and 2004 c 226 s 2 are each amended to read  
5 as follows:

6 (1) The legislature declares that (~~the increasing reliance on~~)  
7 water borne transportation as a source of supply for oil and hazardous  
8 substances poses special concern for the state of Washington. Each  
9 year billions of gallons of crude oil and refined petroleum products  
10 are transported as cargo and fuel by vessel on the navigable waters of  
11 the state. These shipments are expected to increase in the coming  
12 years. Vessels transporting oil into Washington travel on some of the  
13 most (~~unique~~) valuable and special marine environments in the United  
14 States. These marine environments are a source of natural beauty,  
15 recreation, and economic livelihood for many residents of this state.  
16 As a result, the state has an obligation to ensure the citizens of the  
17 state that the waters of the state will be protected from oil spills.

18 (2) The legislature finds that prevention is the best method to  
19 protect the (~~unique~~) valuable and special marine environments in this

1 state. The technology for containing and cleaning up a spill of oil or  
2 hazardous substances is (~~in the early stages of development~~) at best  
3 only partially effective. Preventing spills is more protective of the  
4 environment and more cost-effective when all the response and damage  
5 costs associated with responding to a spill are considered. Therefore,  
6 the legislature finds that the primary objective of the state is to  
7 (~~adopt~~) achieve a zero spills strategy to prevent any oil or  
8 hazardous substances from entering waters of the state.

9 (3) The legislature also finds that:

10 (a) Recent accidents in Washington, Alaska, southern California,  
11 Texas, Pennsylvania, and other parts of the nation have shown that the  
12 transportation, transfer, and storage of oil have caused significant  
13 damage to the marine environment;

14 (b) Even with the best efforts, it is nearly impossible to remove  
15 all oil that is spilled into the water, and average removal rates are  
16 only fourteen percent;

17 (c) Washington's navigable waters are treasured environmental and  
18 economic resources that the state cannot afford to place at undue risk  
19 from an oil spill; (~~and~~)

20 (d) The state has a fundamental responsibility, as the trustee of  
21 the state's natural resources and the protector of public health and  
22 the environment to prevent the spill of oil; and

23 (e) In section 5002 of the federal oil pollution act of 1990, the  
24 United States congress found that complacency on the part of industry  
25 and government was one of the contributing factors to the Exxon Valdez  
26 spill and, further, that one method to combat this complacency is to  
27 involve local citizens in the monitoring and oversight of oil spill  
28 plans. Moreover, congress concluded that, in addition to Alaska, a  
29 program of citizen monitoring and oversight should be established in  
30 other major crude oil terminals in the United States because recent oil  
31 spills indicate that the safe transportation of oil is a national  
32 problem.

33 (4) In order to establish a comprehensive prevention and response  
34 program to protect Washington's waters and natural resources from  
35 spills of oil, it is the purpose of this chapter:

36 (a) To establish state agency expertise in marine safety and to  
37 centralize state activities in spill prevention and response  
38 activities;

1 (b) To prevent spills of oil and to promote programs that reduce  
2 the risk of both catastrophic and small chronic spills;

3 (c) To ensure that responsible parties are liable, and have the  
4 resources and ability, to respond to spills and provide compensation  
5 for all costs and damages;

6 (d) To provide for state spill response and wildlife rescue  
7 planning and implementation;

8 (e) To support and complement the federal oil pollution act of 1990  
9 and other federal law, especially those provisions relating to the  
10 national contingency plan for cleanup of oil spills and discharges,  
11 including provisions relating to the responsibilities of state agencies  
12 designated as natural resource trustees. The legislature intends this  
13 chapter to be interpreted and implemented in a manner consistent with  
14 federal law;

15 (f) To provide broad powers of regulation to the department of  
16 ecology relating to spill prevention and response;

17 (g) To provide for an independent monitoring and oversight  
18 ~~((board))~~ council, consistent with federal law, to review on an ongoing  
19 basis the adequacy of spill prevention and response activities in this  
20 state; and

21 (h) To provide an adequate funding source for state response and  
22 prevention programs.

23 NEW SECTION. Sec. 2. A new section is added to chapter 90.56 RCW  
24 to read as follows:

25 (1) There is established in the office of the governor the oil  
26 spill monitoring and oversight council. The primary purpose of the  
27 council is to maintain the state's vigilance in the prevention of oil  
28 spills, while recognizing the importance of also improving preparedness  
29 and response.

30 (2) The council is composed of eleven members appointed by the  
31 governor as provided in this subsection:

32 (a) The governor shall select one member each to represent the  
33 interests of the following associations, based upon a list of  
34 candidates if submitted by the association:

35 (i) Washington state association of counties;

36 (ii) Association of Washington cities;

37 (iii) Washington public ports association; and

1 (iv) Pacific shellfish growers association.

2 (b) The governor shall invite the Northwest Indian fisheries  
3 commission to select a representative of Indian tribes to participate  
4 as a member of the council.

5 (c) The governor shall select one representative to serve on the  
6 council from each of the following interests:

7 (i) A representative of commercial fishing interests;

8 (ii) A representative of recreational fishing interests;

9 (iii) A representative of the tourism industry;

10 (iv) A representative of environmental organizations;

11 (v) A nongovernmental member of the Puget Sound council; and

12 (vi) A nongovernmental member of the biodiversity council, created  
13 under executive order 04-02.

14 (3) Appointments to the council shall reflect a geographical  
15 balance and the diversity of populations within the areas potentially  
16 affected by oil spills to state waters.

17 (4) Members shall serve four-year terms, except that of the initial  
18 members appointed to the council, three shall serve two-year terms,  
19 three shall serve three-year terms, and five members shall serve four-  
20 year terms. Vacancies shall be filled by appointment in the same  
21 manner as the original appointment for the remainder of the unexpired  
22 term of the position vacated.

23 (5) The council shall elect a chair from among its members in odd-  
24 numbered years to serve for two years as chair. The chair shall  
25 convene the council at least four times per year. At least one meeting  
26 per year shall be held in a Columbia river community, an ocean coastal  
27 community, and a Puget Sound community.

28 (6) Members shall not be compensated, but shall be reimbursed for  
29 travel expenses as provided in RCW 43.03.050 and 43.03.060.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW  
31 to read as follows:

32 (1) The duties of the council include:

33 (a) Selection and hiring of professional staff and expert  
34 consultants to support the work of the council;

35 (b) Consultation with government decision makers in relation to the  
36 state's oil spill prevention, preparedness, and response programs,  
37 analyses, rule making, and related oil spill activities;

1 (c) Providing independent advice, expertise, research, monitoring,  
2 assessment, and oversight for review of and necessary improvements to  
3 the state's oil spill prevention, preparedness, and response programs,  
4 analyses, rule making, and other decisions, including those of the  
5 Northwest area committee, as well as the adequacy of funding for these  
6 programs;

7 (d) Monitoring and providing information to the public as well as  
8 state and federal agencies regarding state of the art prevention,  
9 preparedness, and response programs;

10 (e) Actively seeking public comments on and proposals for specific  
11 measures to improve the state's oil spill prevention, preparedness, and  
12 response program, including measures to improve the effectiveness of  
13 the Northwest area committee;

14 (f) Creating additional committees of the council as necessary to  
15 carry out the functions in this subsection (1), including scientific  
16 and technical committees;

17 (g) Promoting opportunities for the public to become involved in  
18 spill response activities and provide assistance to community groups  
19 with an interest in oil spill prevention and response;

20 (h) Preparing reports to embody the council's analyses and  
21 recommendations; and

22 (i) Any other activities necessary to maintain the state's  
23 vigilance in preventing oil spills.

24 (2) By December 1st of each year, the council shall make  
25 recommendations for the continuing improvement of the state's oil spill  
26 prevention, preparedness, and response through a report to the governor  
27 and the appropriate committees of the senate and house of  
28 representatives.

29 (3) The director shall prepare a response to the annual report  
30 within ninety days of its submittal to the governor and the  
31 legislature, including a description of recommended improvements the  
32 department will adopt and the reasons established for rejecting the  
33 adoption of or for significantly modifying any recommended improvement.

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