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HOUSE BILL 1100

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Upthegrove, Rolfes, Nelson, White, and Simpson

Read first time 01/13/09. Referred to Committee on Ecology & Parks.

1            AN ACT Relating to protecting the natural marine ecosystem from the  
2 potential risks of petroleum extraction; and amending RCW 43.143.005,  
3 43.143.010, and 90.58.550.

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

5            **Sec. 1.** RCW 43.143.005 and 1997 c 152 s 1 are each amended to read  
6 as follows:

7            (1) Washington's coastal waters, seabed, and shorelines are among  
8 the most valuable and fragile of its natural resources.

9            (2) Ocean and marine-based industries and activities, such as  
10 fishing, aquaculture, tourism, and marine transportation have played a  
11 major role in the history of the state and will continue to be  
12 important in the future.

13            (3) Washington's coastal waters, seabed, and shorelines are faced  
14 with conflicting use demands. Some uses may pose unacceptable  
15 environmental or social risks at certain times.

16            (4)(a) The state of Washington has primary jurisdiction over the  
17 management of coastal and ocean natural resources within three miles of  
18 its coastline. From three miles seaward to the boundary of the two  
19 hundred mile exclusive economic zone, the United States federal

1 government has primary jurisdiction. Since protection, conservation,  
2 and development of the natural resources in the exclusive economic zone  
3 directly affect Washington's economy and environment, the state has an  
4 inherent interest in how these resources are managed.

5 (b) It is the policy of the state of Washington that there be no  
6 leasing of Washington's tidal or submerged lands within three miles of  
7 its coastline, or within three miles seaward to the boundary of the two  
8 hundred mile exclusive economic zone, for purposes of oil or gas  
9 exploration, development, or production.

10 **Sec. 2.** RCW 43.143.010 and 1997 c 152 s 2 are each amended to read  
11 as follows:

12 (1) The purpose of this chapter is to articulate policies and  
13 establish guidelines for the exercise of state and local management  
14 authority over Washington's coastal waters, seabed, and shorelines.

15 (2) There shall be no leasing of Washington's tidal or submerged  
16 lands extending from mean high tide seaward (~~((three))~~) two hundred miles  
17 along the Washington coast from Cape Flattery south to Cape  
18 Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia  
19 river downstream from the Longview bridge, for purposes of oil or gas  
20 exploration, development, or production.

21 (3) When conflicts arise among uses and activities, priority shall  
22 be given to resource uses and activities that will not adversely impact  
23 renewable resources over uses which are likely to have an adverse  
24 impact on renewable resources.

25 (4) It is the policy of the state of Washington to actively  
26 encourage the conservation of liquid fossil fuels, and to explore  
27 available methods of encouraging such conservation.

28 (5) It is not currently the intent of the legislature to include  
29 recreational uses or currently existing commercial uses involving  
30 fishing or other renewable marine or ocean resources within the uses  
31 and activities which must meet the planning and review criteria set  
32 forth in RCW 43.143.030. It is not the intent of the legislature,  
33 however, to permanently exclude these uses from the requirements of RCW  
34 43.143.030. If information becomes available which indicates that such  
35 uses should reasonably be covered by the requirements of RCW  
36 43.143.030, the permitting government or agency may require compliance

1 with those requirements, and appeals of that decision shall be handled  
2 through the established appeals procedure for that permit or approval.

3 (6) The state shall participate in federal ocean and marine  
4 resource decisions to the fullest extent possible to ensure that the  
5 decisions are consistent with the state's policy concerning the use of  
6 those resources.

7 **Sec. 3.** RCW 90.58.550 and 1983 c 138 s 1 are each amended to read  
8 as follows:

9 (1) Within this section the following definitions apply:

10 (a) "Exploration activity" means reconnaissance or survey work  
11 related to gathering information about geologic features and formations  
12 underlying or adjacent to marine waters;

13 (b) "Marine waters" include the waters of Puget Sound north to the  
14 Canadian border, the waters of the Strait of Juan de Fuca, the waters  
15 between the western boundary of the state and the ordinary high water  
16 mark, and related bays and estuaries;

17 (c) "Vessel" includes ships, boats, barges, or any other floating  
18 craft.

19 (2) A person desiring to perform oil or natural gas exploration  
20 activities by vessel located on or within marine waters of the state  
21 shall first obtain a permit from the department (~~(of ecology)~~). The  
22 department may approve an application for a permit only if it  
23 determines that the proposed activity will not:

24 (a) Interfere materially with the normal public uses of the marine  
25 waters of the state;

26 (b) Interfere with activities authorized by a permit issued under  
27 RCW 90.58.140(2);

28 (c) Injure the marine biota, beds, or tidelands of the waters;

29 (d) Violate water quality standards established by the department;

30 (~~(e)~~)

31 (e) Create a public nuisance; or

32 (f) Violate the provisions of RCW 43.143.010.

33 (3) Decisions on an application under subsection (2) of this  
34 section are subject to review only by the pollution control hearings  
35 board under chapter 43.21B RCW.

36 (4) This section does not apply to activities conducted by an  
37 agency of the United States or the state of Washington.

1 (5) This section does not lessen, reduce, or modify RCW 90.58.160.

2 (6) The department may adopt rules necessary to implement this  
3 section.

4 (7) The attorney general shall enforce this section.

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