
Environment Committee

HB 1186

Brief Description: Concerning requirements under the state's oil spill program.

Sponsors: Representatives Rolfes, Hudgins, Upthegrove, Appleton, Roberts, Pedersen, Carlyle, Goodman, Lias, Van De Wege, Dickerson, Cody, Fitzgibbon, Dunshee, McCoy, Finn, Jacks, Reykdal, Tharinger, Frockt, Billig, Hunt, Kenney, Stanford, Ryu and Seaquist.

Brief Summary of Bill

- Requires additional contingency planning requirements for tank vessels, including enhanced standards and the formation of both a "volunteer coordination system" and a "vessels of opportunity system".
- Increases the penalties for vessels violating the state's oil spill laws.
- Provides for state notification of vessel emergencies resulting in the discharge of oil or the threat of oil discharge.

Hearing Date: 2/1/11

Staff: Jason Callahan (786-7117).

Background:

Tank Vessel Contingency Plan Requirements

All covered vessels and facilities are required to have an oil spill contingency plan on file with the Department of Ecology (Department). The contingency plan must meet standards identified by the Department and provide for the containment and cleanup of oil spills into the waters of the state. The contingency plan is a legally binding agreement on the party submitting the plan.

The contingency plan requirements apply to both facilities located on the land and on the vessels that dock at the facilities. A facility is, with a few exceptions, a structure, pipeline, device, or equipment located on or near state waters that transfers oil to or from a vessel or pipeline. A

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covered vessel is: a tank vessel that is designed to carry oil in bulk as cargo; a cargo vessel weighing over 30 gross tons; or a passenger vessel weighing over 300 gross tons.

Contingency plans must meet the requirements developed in rules by the Department. These rules, which must be periodically updated, establish the standards that contingency plans must meet. Examples of the standards include: details for the method of response to spills of various sizes; lists of personnel and equipment used to remove oil and/or to minimize damage in a worst case spill; and procedures for early detection and timely notification of spills. Rules adopted by the Department also require the use of random, unannounced drills of contingency plan holders as a means for testing the adequacy of the contingency plans.

Emergency Communication

A covered vessel located within 12 miles of the state's coastline is required to notify the United States Coast Guard (USCG) within one hour of becoming disabled, colliding with another vessel, or experiencing a near miss collision with another vessel. The Department, the Washington State Military Department, and the USCG are expected to negotiate an agreement that allows state notification of incidents reported to the USCG. From these notifications, the Department must create summaries of reported incidents.

Compensation Schedule

The owner or operator of a covered vessel that experiences a spill in Washington waters or fails to satisfy the contingency planning requirements can face three different financial liabilities; civil penalties, natural resource damage assessments, and third party tort liability.

Civil penalties are assessed by the Department on covered vessels that enter the waters of the state without an approved contingency plan, spill prevention plan, or having met financial responsibility requirements in compliance with state and federal standards. In these cases, the Department may assess a civil penalty of up to \$100,000 for each day the vessel is in violation of compliance with the standards.

Natural Resource Damage Assessments are issued by the Department in consultation with other natural resources agencies based on a compensation schedule for unlawful oil discharges. The amount of compensation must be at least \$1 per gallon and no more than \$100 per gallon spilled. The compensation schedule must reflect compensation for impacts including those to the environment, recreation, and aesthetics.

A person whose private property is damaged by an unlawful oil discharge may bring an action against the owner or operator of the vessel. Generally, the vessel owner or operator faces strict liability for damages resulting from a spill.

Summary of Bill:

Tank Vessel Contingency Plan Requirements

All tank vessels must submit updated contingency plans to the Department that provides for the establishment and funding of a "vessels of opportunity system", a "volunteer coordination

system", new standards relating to equipment access and operating abilities. These requirements only apply to tank vessels and not other vessels that are required to submit a contingency plan.

The "vessels of opportunity system" is an oil spill response system that utilizes at least six commercial vessels, such as commercial fishing vessels, to assist with spill response. The response vessels must be under active contract with the tank vessel before a spill occurs and must be adequately equipped and trained for spill response. Tank vessel owners may achieve compliance with the vessels of opportunity system by participating in umbrella coverage provided by a private organization. Any umbrella coverage plan must provide for at least six groups of vessels of opportunity located strategically statewide.

The "volunteer coordination system" is an oil spill response system that utilizes local emergency management centers to implement a system to ensure that volunteers wishing to help in a spill response are trained appropriately and used efficiently. Like the vessels of opportunity system, the "volunteer coordination system" can also be provided through umbrella coverage offered by a private organization.

The additional contingency planning requirements for tank vessels also include heightened standards relating to the ability to provide for rapid access to response equipment that reflect the best available protection and the ability to conduct a continuous spill response operation. The Department must review tank vessel contingency plans to ensure that these standards are capable of being met. In reviewing, the Department must confirm that the plans allow for response activities that occur in areas that experience strong currents and response activities that are required during the night. The Department must also review the capacity for large volumes of recovered oil to be stored and properly disposed.

The Department is authorized to order tank vessel contingency plan drills to determine the ability of the multiple plans to simultaneously meet the necessary standards. These extra drills must be focus on the operational readiness of the spill response both during the first six hours of a spill and into the days and weeks following a spill.

The new contingency planning requirements for tank vessels must be in place by July 1, 2012.

Emergency Communication

The owner or operator of a vessel experiencing an emergency at sea must notify the Department if there has been a discharge, or a substantial threat of discharge, caused by the emergency. This notification is in addition to similar notification required to be given to the United States Coast Guard.

Compensation Schedule

The range of compensation to be assessed by the Department for the unlawful discharge of oil is raised from between \$1 and \$100 per gallon of oil discharged to between \$3 and \$300.

Appropriation: None.

Fiscal Note: Available.

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