

FINAL BILL REPORT

E2SHB 1186

C 122 L 11
Synopsis as Enacted

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

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Rolfes, Hudgins, Upthegrove, Appleton, Roberts, Pedersen, Carlyle, Goodman, Liias, Van De Wege, Dickerson, Cody, Fitzgibbon, Dunshee, McCoy, Finn, Jacks, Reykdal, Tharinger, Frockt, Billig, Hunt, Kenney, Stanford, Ryu and Seaquist).

House Committee on Environment

House Committee on General Government Appropriations & Oversight

Senate Committee on Natural Resources & Marine Waters

Senate Committee on Ways & Means

Background:

Oil Spill 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 spilled 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 facilities located on the land and to vessels that dock at the facilities. A facility is, with a few exceptions: a structure, a pipeline, a device, or equipment located on or near state waters that transfers oil to or from a vessel or pipeline. A 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 faces 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, or without 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:

Oil Spill Contingency Plan Requirements.

The Department is required to evaluate and update planning standards for oil spill response equipment that is required under contingency plans in order to ensure in-state access to the best achievable technology that allows for a continuous response to a worst case spill. These equipment standard evaluations must include aerial surveillance availability and be updated every five years. An initial evaluation for tank vessels must occur by the end of 2012. By the same date, the Department must adopt rules to improve the effectiveness of an existing system that utilizes private fishing boats as part of an oil spill response.

The Department is authorized to require joint, large-scale multiple plan equipment deployment drills to determine the compliance with contingency plan requirements. At a minimum, one such drill must be ordered every three years. These extra drills must be focused on the operational readiness of the spill response both during the first six hours of a

spill and in the following operational periods. When practicable, the Department must coordinate the drills with Oregon and British Columbia.

Volunteer Coordination System.

The Department is required to establish a volunteer coordination system as part of the state's overall spill response strategy. In doing, the Department may organize the system with local emergency management centers and coordinate with analogous federal efforts. Civil immunity is created for volunteers and the state for any acts or omissions by volunteers participating in the volunteer coordination system.

Emergency Communication.

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

Contingency Plan Approval.

The Department is required to notify a person who submits a contingency plan within 65 days as to whether or not the plan is approved, disapproved, or conditionally approved. For conditional approvals, the Department must describe the conditions and specify a timeline for the submittal of an amended plan.

Umbrella Plans.

For contingency plans providing umbrella coverage to both tank vessels and non-tank vessels, the plan holder must specify the maximum worst case discharge from both types of vessels to be covered by the plan. The vessels covered by the plan must have agreements that provide for access to additional oil spill response equipment beyond that provided in the umbrella contingency plan.

Federal Assistance.

The Director of the Department is required to formally request, from the federal government, a contribution to the establishment of regional oil equipment caches to ensure adequate response capabilities.

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 for any vessels discharging 1,000 or more gallons of oil. Any persistent oil recovered from the surface of the water within the first 48 hours following a spill is to be deducted from the calculation of total gallons discharged.

The civil damages a vessel that spills oil may be found strictly liable for are specified to include the loss of income and revenue to the damaged party. Actions to which liability attaches include those conducted in response to a spill.

Votes on Final Passage:

House	62	35	
Senate	47	2	(Senate amended)
House	62	34	(House concurred)

Effective: July 22, 2011