

HOUSE BILL REPORT

HB 1403

As Reported by House Committee On:
General Government Appropriations & Oversight

Title: An act relating to establishing an oil transfer fee to fund oil spill prevention, preparedness, response, and restoration programs.

Brief Description: Establishing an oil transfer fee to fund oil spill prevention, preparedness, response, and restoration programs.

Sponsors: Representatives Upthegrove, Hudgins, Rolfes, Kenney, Fitzgibbon, Pedersen, Roberts, Dickerson, Appleton, Reykdal and Frockt.

Brief History:

Committee Activity:

General Government Appropriations & Oversight: 1/27/11, 2/8/11 [DPS].

Brief Summary of Substitute Bill

- Establishes an oil spill transfer fee to be collected by the Department of Ecology upon the transfer of oil from land to a vessel or from one vessel to another.
- Directs the money collected to be used for oil spill prevention, preparedness, response, and restoration activities.
- Creates the Oil Transfer Account.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; Fitzgibbon, Ladenburg, Moscoso, Pedersen and Van De Wege.

Minority Report: Do not pass. Signed by 5 members: Representatives McCune, Ranking Minority Member; Ahern, Blake, Taylor and Wilcox.

Staff: Jason Callahan (786-7117) and Owen Rowe (786-7391).

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.

Background:

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 and covered vessels. 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 covered vessel is a tank vessel, cargo vessel weighing over 30 gross tons, or passenger vessel weighing over 300 gross tons. A tank vessel is a ship that is constructed to carry bulk oil as cargo.

Many of the oil spill-related duties of the Department are funded through two taxes on the receipt of crude oil at a marine terminal. The oil spill response tax (response tax) is levied at the rate of 1 cent per barrel, and the oil spill administration tax (administration tax) is levied at the rate of 4 cents per barrel. There is a credit available against these taxes for petroleum products that are subsequently exported from the state once they are received.

The response tax and the administration tax are deposited in separate accounts, which both fund various activities by the Department. The 4 cents per barrel administration tax is deposited into the Oil Spill Prevention Account (Prevention Account). Money in the Prevention Account may be used by the Department for activities related to the prevention of oil spills, including vessel plan reviews and public outreach.

The 1 cent per barrel response tax is deposited into the Oil Spill Response Account (Response Account). Money in the Response Account is used to pay for the costs associated with responding to spills of crude oil. If at any time the Response Account has a balance greater than \$9 million, the Department of Revenue suspends the collection of the response tax.

Summary of Substitute Bill:

A risk-based oil spill transfer fee (fee) is imposed starting October 1, 2011, when oil is transferred: (1) to a non-recreational vessel from a facility or from a tank vessel; and (2) when oil is transferred to a facility from a tank vessel. The one exception to the fee is for single transfers of oil less than 100 gallons in volume that occur within a 24-hour period. The transferor of the oil is responsible for paying the fee. The Department is responsible for collecting the fee.

The fee is set at \$0.0003 per gallon of oil transferred; however, the Department collects the fee on a per gallon or per barrel basis. Money collected through the fee must be deposited into a new, appropriated account and be used only for oil spill prevention, preparedness, response, and restoration activities. These activities include the administration of the fee.

Beginning on July 1, 2013, the Department may biennially increase the fee by the fiscal growth factor. The Department must provide both the public and the fee payers with notice of the fee increase 90 days before the increase takes effect. The fee may only be increased if the Department determines that an increase is necessary due to inflation.

Fees must be submitted to the Department on a schedule and on forms to be developed by the Department. Late payments are assessed a \$500 late charge and 1 percent interest for each month the fee remains unpaid.

Records of fee payment must be retained by the fee payer for three years. The Department is authorized to audit the records to verify the date and quantity of oil transferred.

Substitute Bill Compared to Original Bill:

The substitute bill provides a formal title for the oil transfer fee, specifies that the fee applies only for oil transfers near or over state waters, clarifies that the oil transferor is responsible for paying the transfer fee, allows the Department to collect the transfer fee either on a per gallon or per barrel basis, limits the ability of the Department to increase the transfer fee to instances when an increase is necessary to maintain the economic value of the fee, removes specificity as to how often a fee payer is required to submit payment of the transfer fee, provides audit authority to the Department to investigate proper transfer fee collections, and creates the Oil Transfer Account to deposit funds collected by the transfer fee.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on October 1, 2011.

Staff Summary of Public Testimony:

(In support) The prevention of, and response to, oil spills is critical for the protection of the state's economy, environment, and public health. It is a core government service that should be adequately funded. The Department is the first line of defense against oil spills and their consequences.

Currently, the state's oil spill program is underfunded. This means that the Legislature can either direct the program to scale back its protection efforts, increase the existing barrel tax, or impose this fee which is based on risk and equity. The current barrel tax applies to very few of the individuals or companies that create the risk of spills and is a volatile revenue stream. A transfer fee assigns contributions to the state's protections according to risk created.

The transfer fee is efficient because many of these oil transfers are already reported to the Department and the money is designated to a state program that runs effectively and

efficiently. It is more effective to invest money to prevent spills than to suffer the economic consequences after a spill.

A transfer fee has been included in the reports of multiple groups that have looked into oil spill prevention funding issues. These reports have also shown that Washington is not ready to respond to a major oil spill and that a lack of funding is the most significant reason why.

(Commented) This proposal does not appear in the Governor's budget.

(Opposed) Most of the Department's oil spill program is already paid for by the petroleum industry. When the program started, it was focused on bulk oil transport. But, since that time, the program has shifted and bulk oil is only a part of what it does. The funding sources have not been altered to match the current scope of the program.

The bill calls the new revenue source a fee, but it is actually a tax. Most of the usual oil spillers are exempted from paying, but the services provided apply to everyone. The oil subject to the payment is treated differently depending on who is doing the transfers.

Not only is the revenue a tax, but it is a gas tax. As such, the revenue has to fund transportation projects and not the Department.

Persons Testifying: (In support) Representative Upthegrove, prime sponsor; Naki Stevens, Department of Natural Resources; Bruce Wishart, People for Puget Sound; and Neil Beaver, Washington Audubon Society.

(Commented) Dale Jensen, Department of Ecology.

(Opposed) Greg Hanon, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.