

HOUSE BILL REPORT

SSB 5439

As Reported by House Committee On:
Judiciary

Title: An act relating to oil spills.

Brief Description: Regarding oil spills.

Sponsors: Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Rockefeller, Nelson, Regala, Hargrove, Hobbs, Fraser, White, Conway and Kline).

Brief History:

Committee Activity:

Judiciary: 3/17/11, 3/24/11 [DP].

Brief Summary of Substitute Bill

- Specifies the types of damages a person may be liable for in a civil action to recover damages for an unlawful oil spill.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Eddy, Frockt, Kirby, Klippert, Orwall, Rivers and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Chandler and Nealey.

Staff: Trudes Tango (786-7384).

Background:

The Department of Ecology (DOE) oversees the state's oil spill prevention and response efforts. When there is an oil spill, the DOE must take all necessary action to respond, including collecting, investigating, performing surveillance over, removing, containing, treating, or dispersing the oil.

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.

It is unlawful for oil to enter the waters of the state from any ship, any fixed or mobile facility, or any onshore or offshore installation, unless the discharge is expressly allowed for by the DOE. A person who unlawfully discharges, or permits the unlawful discharge of, oil into state waters is subject to monetary penalties and is responsible for paying the DOE expenses for responding to the oil spill.

In addition, any person owning oil or having control over oil that unlawfully enters the waters of the state is strictly liable, without regard to fault, for damages to persons or property caused by the oil spill. The person is relieved from this strict liability if the person can prove that the discharge was caused solely by an act of God, war, or sabotage, or by negligence on the part of the state or federal government.

Summary of Bill:

The damages under the strict liability provision of the oil spill statutes are specified. Damages for which a responsible party is liable under the strict liability provision include damages for loss of: (1) income; (2) revenue; (3) the means of producing income or revenue; or (4) an economic benefit resulting from an injury to, or loss of, real or personal property or natural resources.

Damages also include the damages resulting from any action conducted in response to an unlawful oil spill, including actions to: collect, investigate, perform surveillance over, remove, contain, treat, or disperse oil discharged into the waters of the state.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is in direct response to the Gulf oil spill. The Clean Water Act and other laws are clear that the person responsible for the oil spill is liable for the impacts of that spill. What is not clear is whether the person is liable for the cleanup of the spill. In the Gulf oil spill, over a million gallons of disbursements were used. The use of disbursements have an impact on fish and wildlife. Burning off the oil also has an impact. Using disbursements and burning off oil are good tools to respond to oil spills. However, it is unclear under current law if the spiller is responsible for those impacts. The language has been worked out with people in the industry. This bill is part of a larger oil spill package that is being worked on by stakeholders.

(Neutral) The original bill had other provisions that contained things the DOE can already do. Those provisions have been removed. Some people believe that the strict liability statute would not extend to the clean-up activities and this bill clarifies that issue.

(Opposed) None.

Persons Testifying: (In support) Senator Ranker, prime sponsor; Dale Jensen, Department of Ecology; Bruce Wishart, People for Puget Sound; and Neil Beaver, Washington Audubon Society.

(Neutral) Todd Hass, Puget Sound Partnership; and Greg Hanon, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.