

SENATE BILL REPORT

SB 5439

As Reported by Senate Committee On:
Natural Resources & Marine Waters, February 17, 2011

Title: An act relating to oil spills.

Brief Description: Concerning oil spills.

Sponsors: Senators Ranker, Rockefeller, Nelson, Regala, Hargrove, Hobbs, Fraser, White, Conway and Kline.

Brief History:

Committee Activity: Natural Resources & Marine Waters: 1/26/11, 2/17/11 [DPS, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 5439 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove and Swecker.

Minority Report: That it be referred without recommendation.

Signed by Senator Stevens.

Staff: Curt Gavigan (786-7437)

Background: Liability for Spills Under State Law. Civil Penalties. A tank vessel, cargo vessel, or passenger vessel may not 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. The Director of DOE may assess a civil penalty of up to \$100,000 each day for such violations.

Natural Resource Damage Assessments. DOE, in consultation with other natural resources agencies, is responsible for setting a compensation schedule for 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.

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.

Strict Liability for Certain Damages to Persons or Property. In general, a person owning or having control over oil spilled into state waters is strictly liable for damages to persons or property.

Summary of Bill (Recommended Substitute): In addition to existing law providing strict liability for damages to persons or property from an oil spill, specifics that a responsible party is liable for:

- loss of income, revenue, the means of producing income or revenue, or an economic benefit resulting from an injury to or loss of property or natural resources; and
- damages to persons or property or specified economic damages resulting from any action conducted in response to the spill including collection, removal, and oil dispersal.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute): The proposed substitute bill removes all language in the original bill except the language relating to strict liability for certain damages resulting from an oil spill.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The state can never assume that a large scale oil spill will not happen here. There are significant gaps in the system, and we are not currently prepared. This is an environmental, fish, and wildlife issue but also a significant economic and jobs issue. Tourism and shellfish, for example, depend on the Puget Sound. The requirements of this bill help to improve the state's oil spill preparedness, but by no means mandate gold plated planning. Taking the time and effort to prepare is the only way to successfully respond to a major spill.

CON: Washington already has one of the strongest spills programs in the nation. The industry is already going above and beyond state requirements. The bill calls for a vessels of opportunity system, which industry is already implementing. According to federal recommendations, the coordination of volunteers should be handled by incident command and not industry. Industry has concerns about the potential tripling of civil penalties and additional liability for damages in the bill.

OTHER: The bill could have impacts on entities besides tank vessels, and the Legislature should consider potential impacts to ports and cargo vessels. DOE and the Puget Sound Partnership (PSP) support the policy protections in the bill, but cannot support the associated fiscal impacts.

Persons Testifying: PRO: Gerald Joyce, Seattle Audubon; Kathy Fletcher, People for Puget Sound; Lisa Bishop, Pacific Coast Shellfish Growers Assn.; Bridget Moran, Department of

Natural Resources; Bill Wright, Pacific Whale Watch Assn.; Fred Felleman, Wave Consulting; Mike Cooper, Mayor of Edmonds; Mike Doherty, Clallum County Commissioner.

CON: Dan Nutt, Washington State Maritime Cooperative; Rick Wickman, Columbia River Steamship Operators Assn.; Frank Holmes, Western States Petroleum Assn.

OTHER: Scott Hazelgrove, Pacific Merchant Shipping Assn.; Johan Hellman, WA Public Ports Assn.; Dale Jensen, DOE; Todd Hass, PSP.