

2SSB 5057 - S AMD TO S AMD (S-2278.4/15) 201
By Senator Ranker

NOT ADOPTED 3/9/2015

1 On page 6, after line 17 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 7.** A new section is added to chapter 90.56
3 RCW to read as follows:

4 (1)(a) The department must be provided prior notice before a
5 crude oil transfer, that is regulated under this chapter and that may
6 impact waters of the state, occurs between:

7 (i) A railroad, as referred to under RCW 90.56.010(11)(b), and
8 another facility; or

9 (ii) A railroad, as referred to under RCW 88.40.011(7)(b), and a
10 covered vessel.

11 (b) The notice required in (a) of this subsection must rely on
12 the "advanced notice of transfer" system used by the department for
13 transfers to or from a vessel adopted under RCW 88.46.165. The notice
14 must include the time, location, volume, and type of oil transfer.

15 (c) The department must require facilities to provide
16 information, once a week, regarding the scheduled arrivals of crude
17 oil by rail for transfer at the facility in the succeeding seven-day
18 period. A facility may not be required to provide notice when there
19 is no activity scheduled for a seven-day period. The information must
20 include the volume and type of crude oil scheduled for arrival and
21 the route taken to the facility within the state, if known. The
22 department may provide this information to the state's emergency
23 management division and to any tribal, city, county, port, or other
24 local government emergency response agency that requests this
25 information. This information may be used for aggregation of shipment
26 information under subsection (3) of this section but may not
27 otherwise be disclosed by the department, the emergency management
28 division, or by any local government or tribal emergency response
29 agency.

30 (2) Twice per year, pipelines must report to the department the
31 type and volume of oil transported through the state. Reporting must
32 occur each year by July 31st for the period January 1st through June

1 30th and by January 31st for the period July 1st through December
2 31st.

3 (3) The department shall publish data collected under subsections
4 (1) and (2) of this section on a quarterly basis on the department's
5 web site. Data reported with respect to oil transportation must be
6 aggregated on a statewide basis, volume transferred, type of oil
7 transferred, place of origin, mode of transportation, route taken to
8 the point of transfer, number of rail cars transferring oil, and
9 volume and number of oil spills en route to or during transfer that
10 are reported to the department.

11 (4) Facilities providing information under this section are not
12 responsible for meeting notice time frame requirements under
13 subsection (1)(c) of this section when there are changes to the
14 scheduled arrivals of crude oil within the seven-day period.

15 (5) The department shall adopt rules to implement this section."

16 Renumber the remaining sections consecutively and correct any
17 internal references accordingly.

18 Beginning on page 6, line 33 of the amendment, strike all of
19 section 8 and insert the following:

20 "Sec. 8. RCW 88.40.011 and 2007 c 347 s 4 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Barge" means a vessel that is not self-propelled.

25 (2) "Cargo vessel" means a self-propelled ship in commerce, other
26 than a tank vessel, fishing vessel, or a passenger vessel, of three
27 hundred or more gross tons.

28 (3) "Bulk" means material that is stored or transported in a
29 loose, unpackaged liquid, powder, or granular form capable of being
30 conveyed by a pipe, bucket, chute, or belt system.

31 (4) "Covered vessel" means a tank vessel, cargo vessel, or
32 passenger vessel.

33 (5) "Department" means the department of ecology.

34 (6) "Director" means the director of the department of ecology.

35 (7)(a) "Facility" means any structure, group of structures,
36 equipment, pipeline, or device, other than a vessel, located on or
37 near the navigable waters of the state that transfers oil in bulk to

1 or from any vessel with an oil carrying capacity over two hundred
2 fifty barrels or pipeline, that is used for producing, storing,
3 handling, transferring, processing, or transporting oil in bulk.

4 (b) For the purposes of advanced notice of oil transfers in
5 section 7 of this act, facility also means a railroad that transports
6 oil as bulk cargo.

7 (c) A facility does not include any: (i) (~~(Railroad-car,)~~) Motor
8 vehicle(~~(, or other rolling stock)~~) while transporting oil over the
9 highways (~~(or rail lines)~~) of this state; (ii) retail motor vehicle
10 motor fuel outlet; (iii) facility that is operated as part of an
11 exempt agricultural activity as provided in RCW 82.04.330; (iv)
12 underground storage tank regulated by the department or a local
13 government under chapter 90.76 RCW; or (v) marine fuel outlet that
14 does not dispense more than three thousand gallons of fuel to a ship
15 that is not a covered vessel, in a single transaction.

16 (8) "Fishing vessel" means a self-propelled commercial vessel of
17 three hundred or more gross tons that is used for catching or
18 processing fish.

19 (9) "Gross tons" means tonnage as determined by the United States
20 coast guard under 33 C.F.R. section 138.30.

21 (10) "Hazardous substances" means any substance listed as of
22 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
23 section (~~(101(14))~~) 102(a) of the federal comprehensive environmental
24 response, compensation, and liability act of 1980, as amended by P.L.
25 99-499. The following are not hazardous substances for purposes of
26 this chapter:

27 (a) Wastes listed as F001 through F028 in Table 302.4; and

28 (b) Wastes listed as K001 through K136 in Table 302.4.

29 (11) "Navigable waters of the state" means those waters of the
30 state, and their adjoining shorelines, that are subject to the ebb
31 and flow of the tide and/or are presently used, have been used in the
32 past, or may be susceptible for use to transport intrastate,
33 interstate, or foreign commerce.

34 (12) "Oil" or "oils" means oil of any kind that is liquid at
35 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
36 atmosphere of pressure and any fractionation thereof, including, but
37 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
38 well condensate, petroleum, gasoline, fuel oil, diesel oil,
39 biological oils and blends, oil sludge, oil refuse, and oil mixed
40 with wastes other than dredged spoil. Oil does not include any

1 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.
2 Part 302 adopted under section (~~(101(14))~~) 102(a) of the federal
3 comprehensive environmental response, compensation, and liability act
4 of 1980, as amended by P.L. 99-499.

5 (13) "Offshore facility" means any facility located in, on, or
6 under any of the navigable waters of the state, but does not include
7 a facility any part of which is located in, on, or under any land of
8 the state, other than submerged land.

9 (14) "Onshore facility" means any facility any part of which is
10 located in, on, or under any land of the state, other than submerged
11 land, that because of its location, could reasonably be expected to
12 cause substantial harm to the environment by discharging oil into or
13 on the navigable waters of the state or the adjoining shorelines.

14 (15)(a) "Owner or operator" means (i) in the case of a vessel,
15 any person owning, operating, or chartering by demise, the vessel;
16 (ii) in the case of an onshore or offshore facility, any person
17 owning or operating the facility; and (iii) in the case of an
18 abandoned vessel or onshore or offshore facility, the person who
19 owned or operated the vessel or facility immediately before its
20 abandonment.

21 (b) "Operator" does not include any person who owns the land
22 underlying a facility if the person is not involved in the operations
23 of the facility.

24 (16) "Passenger vessel" means a ship of three hundred or more
25 gross tons with a fuel capacity of at least six thousand gallons
26 carrying passengers for compensation.

27 (17) "Ship" means any boat, ship, vessel, barge, or other
28 floating craft of any kind.

29 (18) "Spill" means an unauthorized discharge of oil into the
30 waters of the state.

31 (19) "Tank vessel" means a ship that is constructed or adapted to
32 carry, or that carries, oil in bulk as cargo or cargo residue, and
33 that:

34 (a) Operates on the waters of the state; or

35 (b) Transfers oil in a port or place subject to the jurisdiction
36 of this state.

37 (20) "Waters of the state" includes lakes, rivers, ponds,
38 streams, inland waters, underground water, salt waters, estuaries,
39 tidal flats, beaches and lands adjoining the seacoast of the state,

1 sewers, and all other surface waters and watercourses within the
2 jurisdiction of the state of Washington."

3 Beginning on page 13, line 6 of the amendment, strike all of
4 section 10 and insert the following:

5 "Sec. 10. RCW 90.56.010 and 2007 c 347 s 6 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Best achievable protection" means the highest level of
10 protection that can be achieved through the use of the best
11 achievable technology and those staffing levels, training procedures,
12 and operational methods that provide the greatest degree of
13 protection achievable. The director's determination of best
14 achievable protection shall be guided by the critical need to protect
15 the state's natural resources and waters, while considering (a) the
16 additional protection provided by the measures; (b) the technological
17 achievability of the measures; and (c) the cost of the measures.

18 (2) "Best achievable technology" means the technology that
19 provides the greatest degree of protection taking into consideration
20 (a) processes that are being developed, or could feasibly be
21 developed, given overall reasonable expenditures on research and
22 development, and (b) processes that are currently in use. In
23 determining what is best achievable technology, the director shall
24 consider the effectiveness, engineering feasibility, and commercial
25 availability of the technology.

26 (3) "Board" means the pollution control hearings board.

27 (4) "Cargo vessel" means a self-propelled ship in commerce, other
28 than a tank vessel or a passenger vessel, three hundred or more gross
29 tons, including but not limited to, commercial fish processing
30 vessels and freighters.

31 (5) "Bulk" means material that is stored or transported in a
32 loose, unpackaged liquid, powder, or granular form capable of being
33 conveyed by a pipe, bucket, chute, or belt system.

34 (6) "Committee" means the preassessment screening committee
35 established under RCW 90.48.368.

36 (7) "Covered vessel" means a tank vessel, cargo vessel, or
37 passenger vessel.

38 (8) "Department" means the department of ecology.

1 (9) "Director" means the director of the department of ecology.

2 (10) "Discharge" means any spilling, leaking, pumping, pouring,
3 emitting, emptying, or dumping.

4 (11)(a) "Facility" means any structure, group of structures,
5 equipment, pipeline, or device, other than a vessel, located on or
6 near the navigable waters of the state that transfers oil in bulk to
7 or from a tank vessel or pipeline, that is used for producing,
8 storing, handling, transferring, processing, or transporting oil in
9 bulk.

10 (b) For the purposes of advanced notice of oil transfers in
11 section 7 of this act, facility also means a railroad.

12 (c) A facility does not include any: (i) (~~Railroad-car,~~) Motor
13 vehicle(~~, or other rolling stock~~) while transporting oil over the
14 highways (~~or rail lines~~) of this state; (ii) underground storage
15 tank regulated by the department or a local government under chapter
16 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that
17 is operated as part of an exempt agricultural activity as provided in
18 RCW 82.04.330; or (v) marine fuel outlet that does not dispense more
19 than three thousand gallons of fuel to a ship that is not a covered
20 vessel, in a single transaction.

21 (12) "Fund" means the state coastal protection fund as provided
22 in RCW 90.48.390 and 90.48.400.

23 (13) "Having control over oil" shall include but not be limited
24 to any person using, storing, or transporting oil immediately prior
25 to entry of such oil into the waters of the state, and shall
26 specifically include carriers and bailees of such oil.

27 (14) "Marine facility" means any facility used for tank vessel
28 wharfage or anchorage, including any equipment used for the purpose
29 of handling or transferring oil in bulk to or from a tank vessel.

30 (15) "Navigable waters of the state" means those waters of the
31 state, and their adjoining shorelines, that are subject to the ebb
32 and flow of the tide and/or are presently used, have been used in the
33 past, or may be susceptible for use to transport intrastate,
34 interstate, or foreign commerce.

35 (16) "Necessary expenses" means the expenses incurred by the
36 department and assisting state agencies for (a) investigating the
37 source of the discharge; (b) investigating the extent of the
38 environmental damage caused by the discharge; (c) conducting actions
39 necessary to clean up the discharge; (d) conducting predamage and

1 damage assessment studies; and (e) enforcing the provisions of this
2 chapter and collecting for damages caused by a discharge.

3 (17) "Oil" or "oils" means oil of any kind that is liquid at
4 (~~atmospheric temperature~~) twenty-five degrees Celsius and one
5 atmosphere of pressure and any fractionation thereof, including, but
6 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
7 well condensate, petroleum, gasoline, fuel oil, diesel oil,
8 biological oils and blends, oil sludge, oil refuse, and oil mixed
9 with wastes other than dredged spoil. Oil does not include any
10 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August
11 14, 1989, under section (~~101(14)~~) 102(a) of the federal
12 comprehensive environmental response, compensation, and liability act
13 of 1980, as amended by P.L. 99-499.

14 (18) "Offshore facility" means any facility located in, on, or
15 under any of the navigable waters of the state, but does not include
16 a facility any part of which is located in, on, or under any land of
17 the state, other than submerged land.

18 (19) "Onshore facility" means any facility any part of which is
19 located in, on, or under any land of the state, other than submerged
20 land, that because of its location, could reasonably be expected to
21 cause substantial harm to the environment by discharging oil into or
22 on the navigable waters of the state or the adjoining shorelines.

23 (20)(a) "Owner or operator" means (i) in the case of a vessel,
24 any person owning, operating, or chartering by demise, the vessel;
25 (ii) in the case of an onshore or offshore facility, any person
26 owning or operating the facility; and (iii) in the case of an
27 abandoned vessel or onshore or offshore facility, the person who
28 owned or operated the vessel or facility immediately before its
29 abandonment.

30 (b) "Operator" does not include any person who owns the land
31 underlying a facility if the person is not involved in the operations
32 of the facility.

33 (21) "Passenger vessel" means a ship of three hundred or more
34 gross tons with a fuel capacity of at least six thousand gallons
35 carrying passengers for compensation.

36 (22) "Person" means any political subdivision, government agency,
37 municipality, industry, public or private corporation, copartnership,
38 association, firm, individual, or any other entity whatsoever.

39 (23) "Ship" means any boat, ship, vessel, barge, or other
40 floating craft of any kind.

1 (24) "Spill" means an unauthorized discharge of oil or hazardous
2 substances into the waters of the state.

3 (25) "Tank vessel" means a ship that is constructed or adapted to
4 carry, or that carries, oil in bulk as cargo or cargo residue, and
5 that:

6 (a) Operates on the waters of the state; or

7 (b) Transfers oil in a port or place subject to the jurisdiction
8 of this state.

9 (26) "Waters of the state" includes lakes, rivers, ponds,
10 streams, inland waters, underground water, salt waters, estuaries,
11 tidal flats, beaches and lands adjoining the seacoast of the state,
12 sewers, and all other surface waters and watercourses within the
13 jurisdiction of the state of Washington.

14 (27) "Worst case spill" means: (a) In the case of a vessel, a
15 spill of the entire cargo and fuel of the vessel complicated by
16 adverse weather conditions; and (b) in the case of an onshore or
17 offshore facility, the largest foreseeable spill in adverse weather
18 conditions.

19 (28) "Crude oil" means any naturally occurring hydrocarbons
20 coming from the earth that are liquid at twenty-five degrees Celsius
21 and one atmosphere of pressure including, but not limited to, crude
22 oil, bitumen and diluted bitumen, synthetic crude oil, and natural
23 gas well condensate."

24 On page 24, after line 22 of the amendment, insert the following:

25 "**Sec. 20.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
26 2014 c 144 s 6 are each reenacted and amended to read as follows:

27 The following financial, commercial, and proprietary information
28 is exempt from disclosure under this chapter:

29 (1) Valuable formulae, designs, drawings, computer source code or
30 object code, and research data obtained by any agency within five
31 years of the request for disclosure when disclosure would produce
32 private gain and public loss;

33 (2) Financial information supplied by or on behalf of a person,
34 firm, or corporation for the purpose of qualifying to submit a bid or
35 proposal for (a) a ferry system construction or repair contract as
36 required by RCW 47.60.680 through 47.60.750 or (b) highway
37 construction or improvement as required by RCW 47.28.070;

1 (3) Financial and commercial information and records supplied by
2 private persons pertaining to export services provided under chapters
3 43.163 and 53.31 RCW, and by persons pertaining to export projects
4 under RCW 43.23.035;

5 (4) Financial and commercial information and records supplied by
6 businesses or individuals during application for loans or program
7 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
8 43.168 RCW, or during application for economic development loans or
9 program services provided by any local agency;

10 (5) Financial information, business plans, examination reports,
11 and any information produced or obtained in evaluating or examining a
12 business and industrial development corporation organized or seeking
13 certification under chapter 31.24 RCW;

14 (6) Financial and commercial information supplied to the state
15 investment board by any person when the information relates to the
16 investment of public trust or retirement funds and when disclosure
17 would result in loss to such funds or in private loss to the
18 providers of this information;

19 (7) Financial and valuable trade information under RCW 51.36.120;

20 (8) Financial, commercial, operations, and technical and research
21 information and data submitted to or obtained by the clean Washington
22 center in applications for, or delivery of, program services under
23 chapter 70.95H RCW;

24 (9) Financial and commercial information requested by the public
25 stadium authority from any person or organization that leases or uses
26 the stadium and exhibition center as defined in RCW 36.102.010;

27 (10)(a) Financial information, including but not limited to
28 account numbers and values, and other identification numbers supplied
29 by or on behalf of a person, firm, corporation, limited liability
30 company, partnership, or other entity related to an application for a
31 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
32 marijuana producer, processor, or retailer license, liquor license,
33 gambling license, or lottery retail license;

34 (b) Internal control documents, independent auditors' reports and
35 financial statements, and supporting documents: (i) Of house-banked
36 social card game licensees required by the gambling commission
37 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
38 by tribes with an approved tribal/state compact for class III gaming;

39 (11) Proprietary data, trade secrets, or other information that
40 relates to: (a) A vendor's unique methods of conducting business; (b)

1 data unique to the product or services of the vendor; or (c)
2 determining prices or rates to be charged for services, submitted by
3 any vendor to the department of social and health services for
4 purposes of the development, acquisition, or implementation of state
5 purchased health care as defined in RCW 41.05.011;

6 (12)(a) When supplied to and in the records of the department of
7 commerce:

8 (i) Financial and proprietary information collected from any
9 person and provided to the department of commerce pursuant to RCW
10 43.330.050(8); and

11 (ii) Financial or proprietary information collected from any
12 person and provided to the department of commerce or the office of
13 the governor in connection with the siting, recruitment, expansion,
14 retention, or relocation of that person's business and until a siting
15 decision is made, identifying information of any person supplying
16 information under this subsection and the locations being considered
17 for siting, relocation, or expansion of a business;

18 (b) When developed by the department of commerce based on
19 information as described in (a)(i) of this subsection, any work
20 product is not exempt from disclosure;

21 (c) For the purposes of this subsection, "siting decision" means
22 the decision to acquire or not to acquire a site;

23 (d) If there is no written contact for a period of sixty days to
24 the department of commerce from a person connected with siting,
25 recruitment, expansion, retention, or relocation of that person's
26 business, information described in (a)(ii) of this subsection will be
27 available to the public under this chapter;

28 (13) Financial and proprietary information submitted to or
29 obtained by the department of ecology or the authority created under
30 chapter 70.95N RCW to implement chapter 70.95N RCW;

31 (14) Financial, commercial, operations, and technical and
32 research information and data submitted to or obtained by the life
33 sciences discovery fund authority in applications for, or delivery
34 of, grants under chapter 43.350 RCW, to the extent that such
35 information, if revealed, would reasonably be expected to result in
36 private loss to the providers of this information;

37 (15) Financial and commercial information provided as evidence to
38 the department of licensing as required by RCW 19.112.110 or
39 19.112.120, except information disclosed in aggregate form that does

1 not permit the identification of information related to individual
2 fuel licensees;

3 (16) Any production records, mineral assessments, and trade
4 secrets submitted by a permit holder, mine operator, or landowner to
5 the department of natural resources under RCW 78.44.085;

6 (17)(a) Farm plans developed by conservation districts, unless
7 permission to release the farm plan is granted by the landowner or
8 operator who requested the plan, or the farm plan is used for the
9 application or issuance of a permit;

10 (b) Farm plans developed under chapter 90.48 RCW and not under
11 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
12 to RCW 42.56.610 and 90.64.190;

13 (18) Financial, commercial, operations, and technical and
14 research information and data submitted to or obtained by a health
15 sciences and services authority in applications for, or delivery of,
16 grants under RCW 35.104.010 through 35.104.060, to the extent that
17 such information, if revealed, would reasonably be expected to result
18 in private loss to providers of this information;

19 (19) Information gathered under chapter 19.85 RCW or RCW
20 34.05.328 that can be identified to a particular business;

21 (20) Financial and commercial information submitted to or
22 obtained by the University of Washington, other than information the
23 university is required to disclose under RCW 28B.20.150, when the
24 information relates to investments in private funds, to the extent
25 that such information, if revealed, would reasonably be expected to
26 result in loss to the University of Washington consolidated endowment
27 fund or to result in private loss to the providers of this
28 information; (~~and~~))

29 (21) Market share data submitted by a manufacturer under RCW
30 70.95N.190(4); (~~and~~))

31 (22) Financial information supplied to the department of
32 financial institutions or to a portal under RCW 21.20.883, when filed
33 by or on behalf of an issuer of securities for the purpose of
34 obtaining the exemption from state securities registration for small
35 securities offerings provided under RCW 21.20.880 or when filed by or
36 on behalf of an investor for the purpose of purchasing such
37 securities; and

38 (23) Notices of a transfer of crude oil submitted to the
39 department of ecology pursuant to section 7(1)(a) of this act and
40 that is in the possession of the department of ecology or any entity

1 with which the department of ecology has shared the notice pursuant
2 to section 7(1)(c) of this act."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

2SSB 5057 - S AMD TO S AMD (S-2278.4/15) **201**
By Senator Ranker

NOT ADOPTED 3/9/2015

5 On page 25, line 1 of the title amendment, after "88.46.010"
6 strike all material through "section" and insert ", 38.52.040, and
7 42.56.270; adding new sections"

EFFECT: Requires railroads to provide notice of transfer of oil;
Requires pipelines to provide information about type and volume
of oil transported through the state;
Provides an exemption to the public records act for notice
information provided to the department of ecology.

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