SENATE BILL REPORT
SB 6418

As of January 26, 2016

Title: An act relating to oil transportation safety.

Brief Description: Concerning oil transportation safety.

Sponsors: Senators Ranker, Rolfes, Nelson, Hargrove, Liias, Carlyle, Billig, Pedersen, Darneille, Keiser, Frockt, McCoy, Habib, Chase, Hasegawa and Conway.

Brief History:
Committee Activity: Energy, Environment & Telecommunications: 1/26/16.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: Oil Spill Response Tax and Oil Spill Administration Tax. Current law provides for an oil spill administration tax and an oil spill response tax. These taxes are imposed when facilities in Washington receive crude oil or petroleum products from waterborne vessels and rail tank cars. The oil spill administration tax is $0.04 per 42-gallon barrel with the receipts funding oil spill prevention, response, and restoration programs as well as administrative costs and collection costs. The oil spill response tax is $0.01 per barrel tax and funds the state response to oil spills involving clean-up costs in excess of $50,000. The oil spill response tax is deposited into the oil spill prevention account and the tax is suspended when that account's balance reaches $9 million. A credit is allowed against taxes imposed on oil that is initially received in Washington, but subsequently exported from the state.

Financial Assurance Requirements. Facilities such as oil refineries and terminals must demonstrate the financial ability to compensate the state and local governments for damages arising from a worst-case spill. Likewise, barges and tank vessels that use state waters or ports must also document their financial ability to pay for oil spill removal costs, natural-resource damages, and related expenses. Financial responsibility must be demonstrated to the Department of Ecology (Ecology) in one of several ways, including providing evidence of insurance or surety bonding. Railroads transporting oil as bulk cargo must provide information to the Utilities and Transportation Commission (UTC) regarding their ability to pay for a reasonable worst-case spill of oil, an amount which is to be calculated by multiplying the reasonable anticipated per-barrel cleanup costs by the reasonable worst case

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spill volume. This information is to be provided to the UTC as part of railroad's annual report.

Other Maritime Safety Provisions: Oil Tanker Tug Escorts and the Emergency Response Towing Vessel. Oil tankers of greater than 40,000 deadweight tons entering Puget Sound are required to have one tug escort with a minimum horsepower equivalent to 5 percent of the deadweight tonnage of the vessel the tug is escorting. The Pilotage Commission has adopted rules regarding the scope of vessels subject to oil tanker tug escort requirements. Violation of oil tanker escort requirements is a gross misdemeanor and may also trigger civil penalties of up to $10,000 per day. Civil penalties may be sought by a county prosecutor or the Washington Attorney General upon the request of the Pilotage Commission.

Natural Resource Damage Assessments. 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. Responsible parties are liable for loss of income, net revenue, the means of producing income or revenue, or an economic benefit as the result of loss of real or personal property or natural resources. The state's natural resource damage fee schedule prescribes damage assessments of between $3 and $300 per gallon of oil spilled for spills over 1000 gallons in volume. For spills less than 1000 gallons in volume, natural resource damages are assessed at between $1 and $100 per gallon of oil spilled.

Export of Crude Oil Ban. The 1975 Energy Policy and Conservation Act (EPCA) created the Strategic Petroleum Reserve, established vehicle fuel economy standards, and prohibited the export of U.S. crude oil, with a few limited exceptions. The ban on the export of crude oil was lifted December 18, 2015.

Summary of Bill: Financial Assurance Requirements. Ecology, by rule, must determine the amount necessary to establish financial responsibility by multiplying the reasonable anticipated per-barrel clean-up cost by the reasonable worst-case spill volume. Additional methods to demonstrate financial responsibility include a letter of credit, certificates of deposit, or protection and indemnity club membership. Documentation of financial responsibility must be in the form of an Ecology-issued certificate of financial responsibility with a term of one year or less. Owners or operators of multiple vessels or facilities may be covered by a single certificate.

Ecology must reevaluate the validity of a certificate after a spill or potential liability that jeopardizes the certificate-holder's ability to meet the financial responsibility requirements necessary to originally obtain the certificate. If a vessel or facility spill incurs potential liability exceeding 5 percent of financial resources indicated in the certificate, the certificate becomes inapplicable to other previously covered vessels or facilities. The owner or operator must demonstrate an ability to pay all damages in addition to meeting financial responsibility requirements. A railroad that transports oil as bulk cargo is defined as a facility for the purposes of financial assurance requirements.

Oil-Bearing Vessel Tug Escorts. Oil tankers greater than 40,000 deadweight tons must have a tug escort in Puget Sound. Additionally, oil tankers, all articulated tug houses, and other towed waterborne vessels must be escorted by tugs that have an aggregate shaft horsepower of at least 5 percent. The Pilotage Commission must adopt rules to require tug escorts in state waters for oil tankers of greater than 40,000 deadweight tons, other towed vessels capable of transporting over 10,000 gallons of bulk petroleum, and articulated tug-barges of all sizes. In addition, the Pilotage Commission must adopt rules designed to achieve a best-achievable protection standard by June 30, 2017, for the narrow channels of the San Juan Island Archipelago. These rules may include tug escort requirements or other safety measures for oil tankers, articulated tug-barges, and towed vessels. The Pilotage Commission may also adopt best-achievable protection rules pertaining to the capabilities of the tugs used to escort oil-bearing vessels. The Pilotage Commission rules must be written in consultation with Ecology and must rely on the results of vessel traffic risk assessments. Prior to rulemaking, the Pilotage Commission must also consult with maritime professionals and public agencies. Vessels not bearing bulk oil are not subject to tug escort requirements. Single-hulled oil tankers are subject to federal tug escort requirements in Puget Sound.

<u>Oil Spill Prevention Plans and Oil Spill Contingency Plans.</u> Oil refinery facilities proposing to handle crude oil for export must revise their oil spill contingency and prevention plans to specifically address all types of crude oil planned or anticipated to be handled at the facility. Ecology must adopt rules by December 31, 2018, to require that the plans demonstrate best-achievable protection for damages caused by the discharge of oil. No oil refinery facility may handle crude oil for export without approved oil spill contingency and prevention plans.

The oil spill prevention planning standard of best achievable protection is applied to oil spill contingency planning, which must include access to in-state equipment to respond to a worst-case spill. Ecology must place the earliest priority on updating standards that address increased volume of different types of crude oil and a worst case spill from articulated tug barges and other towed waterborne vessels or barges. A railroad that transports oil as bulk cargo is defined as a facility for the purposes of contingency planning.

<u>Oil Refinery Assistance Account.</u> The oil refinery worker assistance account is created. Funds in the account may be used to assist oil refinery workers where refineries have had to reduce or eliminate jobs due in part to the export of crude oil that would have otherwise been refined at the facility. Assistance may include training programs and related support services such as financial aid, counseling, job develop, workforce development, dislocated training opportunities, and support service for dislocated workers who are not receiving unemployment insurance benefits.

Crude oil and petroleum products that are transported by vessel, rail tank car, or pipeline are subject to a tax of $1 per barrel when received at a marine or bulk oil terminal, or storage tanks at the terminal. A credit of the tax is allowed for any crude oil subsequently refined within the state. The tax is divided with 50 percent of the tax credited to the oil refinery worker assistance account, and the other 50 percent credited to the oil spill response account.

<u>Natural Resource Damage Assessments.</u> Parties responsible for oil unlawfully entering the waters of the state are liable for:

- damages that include loss of means of producing income or revenue directly or indirectly attributable to oil entering the waters of the state, and lost real property when it is demonstrated to be a direct result of an oil spill; and

- actions taken, such as collecting, investigating, removing, containing, and treating oil discharged into the water.

Appropriation: None.

Fiscal Note: Requested on January 19, 2106.

Committee/Commission/Task Force Created: No.

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