

SENATE BILL REPORT

SB 6269

As Reported by Senate Committee On:
Energy, Environment & Technology, January 31, 2018

Title: An act relating to strengthening oil transportation safety.

Brief Description: Strengthening oil transportation safety.

Sponsors: Senators Ranker, Rolfes, Carlyle, Darneille, Hasegawa, Pedersen, Conway, Keiser, Hunt, Frockt, Kuderer, Chase, Lias and Saldaña; by request of Department of Ecology.

Brief History:

Committee Activity: Energy, Environment & Technology: 1/25/18, 1/31/18 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Applies the barrel tax to crude oil received by pipeline.
- Requires the Department of Ecology (Ecology) to review, assess, and provide a report on vessel traffic safety in northern Puget Sound.
- Requires Ecology to establish the Salish Sea Shared Waters forum.
- Requires Ecology to update contingency plan rules to address situations where oils may sink or submerge in water.
- Authorizes Ecology to require at least one joint large-scale, multiple plan equipment deployment drill of onshore and offshore facilities and covered vessels, every three years.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6269 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Brown, Hawkins, Hobbs, McCoy, Ranker, Sheldon and Wellman.

Minority Report: Do not pass.

Signed by Senator Ericksen, Ranking Member.

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.

Staff: Jan Odano (786-7486)

Background: Oil Spill and Response. The Legislature enacted oil spill prevention and response measures in 1990, to promote the safety of marine transportation and protect state waters from oil spills. The director of Ecology (Ecology) has the primary authority to oversee prevention, abatement, response, containment, and clean-up efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Oil Spill Prevention Plans and Oil Spill Contingency Plans. Ecology administers an oil spill preparedness, prevention, and response program. Among other statutes administered by Ecology's Oil Spills Program, state law directs facilities including railroads, oil refineries, terminals, pipelines, and vessel operators involved in the bulk transfer of oil to put in place oil spill contingency plans that outline containment and remediation responses to potential oil spills from the vessel. Contingency plans approved by Ecology must identify personnel, materials, and equipment capable of promptly and properly removing oil with minimal environmental damage. In addition to, or as part of, state spill contingency plans, onshore facilities must submit oil spill prevention plans to Ecology. Ecology may only approve these plans if they incorporate measures providing for the best achievable protection of public health and the environment, which is the highest level of protection through the best achievable technology and the most protective staffing levels, training procedures, and operational methods.

Oil Spill Response Tax and Oil Spill Administration Tax. The oil spill administration tax and an oil spill response tax are imposed when marine terminals in Washington receive crude oil or petroleum products from waterborne vessels or barges operating in the state's waters. The taxes are also imposed on facilities receiving crude oil by rail. The oil spill administration tax is \$0.04 tax on each 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, which 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 the oil spill response and oil spill administration taxes for any crude oil or petroleum products received at a marine or bulk oil terminal and then exported or sold for export from the state.

When adopting its rules for crude oil by rail and pipeline, Ecology expressed concerns regarding diluted bitumen because, under some conditions, it may become submerged below the water surface or sink to the bottom when spilled into water. An incident involving these crude oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil.

Geographic Response Plans (GRPs). GRPs are pre-identified strategies for early actions in the event of an oil spill. The strategies are developed for specific areas at risk for oil spills and must include plans to minimize impacts to sensitive environmental, cultural, and economic resources. The GRPs are developed in collaboration with states, local and federal

agencies, and tribes and are maintained by Ecology and Environmental Protection Agency. The Northwest Area Contingency Plan (NWACP) is mandated by the National Contingency Plan. The NWACP is a comprehensive plan that coordinates federal state, tribal, local, and international responses to oil and hazardous substance incidents. The NWACP includes GRPs.

Summary of Bill (First Substitute): Oil Spill Response Tax and Oil Spill Administration Tax. The oil spill response tax and the oil spill administration tax are imposed on pipelines.

Ecology must update contingency plan rules to address situations where oils may sink or submerge in water, by December 31, 2019. The plans must include the qualities of the oil, environmental factors, method of discharge, and weathering. Contingency plan equipment deployment drills must address situations where oils may sink or submerge. Ecology must also conduct specialized reviews of operations that transfer oils that may sink or submerge. Ecology must prioritize adding capacity for these inspections.

Ecology's rules for persons contracting to cleanup or contain spills is revised to include spill management, which means managing some or all aspects of a response, containment, and cleanup of a spill, as well as utilizing a specified command structure, or wildlife rehabilitation and recovery services for a spill response.

Every three years, Ecology must require at least one joint large-scale, multiple plan equipment deployment drill, of onshore and offshore facilities and covered vessels to determine adequacy of owners' and operators' compliance with contingency plan requirements. The drills, at a minimum, must focus on the functional ability for multiple contingency plans to deploy equipment and personnel when simultaneously activated, and operational readiness during the first six hours of a spill, and over multiple operational periods of response.

Ecology is required to establish the Salish Sea Shared Waters forum (forum), which must meet at least annually. Ecology must coordinate with Canadian agencies when establishing the forum and seek participation from state, provincial, and federal governmental entities, as well as from regulated entities, environmental organizations, tribes, and first nations. The forum must address common issues in the shared waterways of Washington and British Columbia such as reducing oil spill risk, navigational safety, and data sharing. In addition, the forum must consider gaps and conflicts between policies; requiring tug escorts for oil tankers, articulated tug barges, and other vessels, enhancing oil spill prevention, preparedness, and response capacity; and if an emergency response system in northern Puget Sound will decrease oil spill risk.

Ecology, in consultation with the Puget Sound Partnership and the Pilotage Commission, must report on vessel traffic and safety within the Strait of Juan de Fuca, Puget Sound area including the San Juan archipelago and connected waterways, Haro Strait, Boundary Pass, and the waters south of Admiralty Inlet. Ecology must use existing current vessel traffic risk assessments and other available studies, and consult with tribes, the U.S. Coast Guard, other appropriate maritime experts, and the forum.

The report must include assessment and evaluation of:

- worldwide incident and spill data for articulated tug barges (ATBs) and other towed waterborne vessels;
- transport of bitumen and diluted bitumen;
- tug escorts for oil tankers, ATBs, and other towed waterborne vessels, including California requirements;
- requirements for tug escorts, including manning and pilotage needs;
- an emergency response system for Haro Strait, Boundary Pass, and Rosario Strait; and
- the economic impact of tug escort proposals.

Ecology must include recommendations in its report for:

- vessel traffic management and safety;
- the viability of tug escorts for ATBs and other towed waterborne vessels in reducing oil spill risk;
- specific requirements and capabilities for tug escorts if the use of escorts will reduce oil spill risk; and
- emergency response system for Haro Strait, Boundary Pass, and Rosario Strait.

Ecology must submit a preliminary report to the Legislature by November 1, 2018, and a final report by June 30, 2019.

By July 1, 2020, Ecology must provide a report to the Legislature on:

- oil spill program activities that are and are not expected to continue after fiscal year 2019;
- recommendations on potential new sources of funding and allocation of funding to various state agencies; and
- forecast of oil spill program funding needs after fiscal year 2019.

GRPs and contingency plans must include in their description of important features of the surrounding environment habitat, water column species, and subsurface resources. The descriptions must be based on information available in GRPs and area contingency plans. Updates to GRPs must include addressing oils that may sink or submerge.

Every year, \$200,000 is allocated to the National Guard for oil spill training and cleanup.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TECHNOLOGY COMMITTEE (First Substitute):

- Removes the increase in the oil spill administration tax.
- Adds a report requirement for Ecology.
- Allocates from the oil spill administration account, \$200,000 per year to the National Guard.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This addresses critical gaps in funding for the oil spill response program. Oil spill prevention and response is a top priority. There have been dramatic changes in the method of transport, but the barrel tax has not been updated. This provides an essential opportunity to safeguard Puget Sound. It secures balanced and predictable funding. The tax barely impacts people at the pump. If there is an oil spill in the Salish Sea, the economy and ecosystem will shut down. These are unacceptable risks. Healthy marine and fresh waters are paramount to Washington State.

CON: The program has reduced overall risk. There needs to be an evaluation of the utility and efforts of using Neah Bay Tug as well as a new tug. The highest risk is from fixed facilities and the Pollution Liability Insurance Agency addresses these issues. Rosario Strait is the only location at risk from pipelines and the increase in funds from this bill is not necessary to study this one location.

OTHER: We have worked with Ecology to make sure changes happen in the most effective way. There needs to be development of data including a cost-benefit analysis and cost of implementation. There should also be a review of how non-oil vessels contribute. The information for new types of oil releases should be developed under the GRPs and northwest area committees. The efficiency of the program should be reviewed to eliminate duplicative inspections with the U.S. Coast Guard.

Persons Testifying: PRO: Senator Kevin Ranker, Prime Sponsor; Eric Von Brandenfels, President, Puget Sound Pilots; Jamie Stephens, Councilmember, San Juan County; Stephanie Buffum, Friends of the San Juans; Todd Hass, Puget Sound Partnership; Cyrilla Cook, Washington Department of Natural Resources; Liz Lovelett, Anacortes City Council; Dale Jensen, Program Manager, Spills Program, Department of Ecology; Michael Lilliquist, President, Bellingham City Council; Jerry Joyce, Seattle Audubon; Bruce Wishart, Puget Soundkeeper Alliance, Sierra Club; Darcy Nonemacher, Washington Environmental Council; Chad Bowechop, Makah Tribe Office of Marine Affairs; Raelene Gold, League of Women Voters of Washington; Arthur West, Washington Retail Association.

CON: Charles Costanzo, The American Waterways Operators; Mary Catherine McAleer, Association of Washington Business.

OTHER: Greg Hanon, Western States Petroleum Association; Johan Hellman, BNSF Railway Company; Amber Carter, Columbia River Steamship Operators Association, Maritime Fire and Safety Association.

Persons Signed In To Testify But Not Testifying: No one.