

SENATE BILL REPORT

SB 5344

As Reported by Senate Committee On:
Environment, Water & Energy, February 20, 2009

Title: An act relating to providing an emergency response system for the Strait of Juan de Fuca.

Brief Description: Providing an emergency response system for the Strait of Juan de Fuca.

Sponsors: Senators Ranker, Swecker, Rockefeller, Marr, Hargrove, Pridemore, Fraser, Shin, McDermott and Kilmer.

Brief History:

Committee Activity: Environment, Water & Energy: 2/11/09, 2/20/09 [DPS, DNP].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 5344 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Hatfield, Marr, Ranker and Sheldon.

Minority Report: Do not pass.

Signed by Senators Delvin, Holmquist and Morton.

Staff: Sam Thompson (786-7413)

Background: The state has funded an emergency response tug at Neah Bay since 1999 to protect the Strait of Juan de Fuca and Washington's outer coast from oil spills. The tug renders aid to vessels in distress.

Certain "covered" vessels – tankers and large cargo and passenger vessels – must file contingency plans with the Department of Ecology (DOE) describing how they will contain and remediate potential oil spills. Covered vessels may be penalized if they operate without an approved contingency plan or violate a plan's provisions.

Summary of Bill (Recommended Substitute): By July 1, 2010, covered vessels operating in state waters in the Strait of Juan de Fuca must establish and fund at least one rescue tug at Neah Bay to respond to vessels in distress in the Strait of Juan de Fuca and off of the state's west coast from Cape Flattery light south to Cape Disappointment light. The tug must be

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capable of quickly responding to vessel emergencies and able to operate in severe weather, and be equipped with certain rescue and other equipment.

A private organization or nonprofit cooperative can be formed by covered vessels to meet the rescue tug requirement. If a nonprofit cooperative is formed to do so, it must equitably apportion costs to each participating covered vessel based on risk associated with particular classes of covered vessels, navigational and structural characteristics of covered vessels, and the number of covered vessel transits in state waters in the Strait of Juan de Fuca.

DOE may conduct drills to test a rescue tug's ability to respond to worst case scenarios.

The rescue tug requirement is met if the federal government implements a substantially equivalent protective system. The requirement is suspended if DOE determines that a tug meeting capability and equipment requirements is unavailable.

DOE must initiate discussions with British Columbia to explore options for Washington and British Columbia to share the required marine emergency response assets. DOE must report progress or outcomes to the Legislature by January 1, 2011. This provision expires July 31, 2011.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute): The title is expanded to accommodate new language requiring the rescue tug to serve vessels in distress off of the state's west coast from Cape Flattery light south to Cape Disappointment light, in addition to vessels in distress in the Strait of Juan de Fuca.

A findings and intent section is added providing that the Legislature intends that the maritime industry should provide and fully fund at least one year-round rescue tug at Neah Bay, and that any tug provided by the industry should meet or exceed technical performance requirements in the state's 2009 contract for the Neah Bay emergency response tug.

Sections are reordered and revised to enhance clarity.

Language is deleted requiring that a rescue tug be capable of fire fighting, oil spill response, and salvage functions.

Language is deleted providing that financial support for payees to an organization or cooperative formed to satisfy the response tug requirements should be based on the maximum total worst case spill potential of the payee's vessel or vessels. Instead, if a nonprofit cooperative is formed or used to meet rescue tug requirements, it must equitably apportion costs to each participating covered vessel based on risk associated with particular classes of covered vessels, navigational and structural characteristics of covered vessels, and the number of covered vessel transits in state waters in the Strait of Juan de Fuca.

DOE may contract with a required rescue tug; any DOE use must be paid by DOE.

Covered vessels required to provide a rescue tug may not restrict the tug from responding to noncovered vessels in distress.

An incident response report must be submitted to DOE describing an incident and actions taken to render assistance.

Rescue tug drilling requirements are revised. DOE may determine rescue tug adequacy through practice drills, which may be conducted without prior notice. Successful responses to vessel emergencies may satisfy the requirement. Drills must test rescue tugs' ability to respond to worst case scenarios.

The rescue tug requirement is met if the federal government implements a substantially equivalent protective system. The rescue tug requirement is suspended if DOE determines that a rescue tug meeting capability and equipment requirements is unavailable.

Language is deleted providing that DOE must consider recommendations of regional safety committees and consult with British Columbia regarding participation in an emergency response system. Instead, DOE must initiate discussions with British Columbia to explore options for Washington and British Columbia to share the marine emergency response assets required under the act. DOE must report progress or outcomes to the Legislature by January 1, 2011. This section expires July 31, 2011.

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: This legislation, providing for industry funding, will result in considerable savings for the state. The proposed substitute bill addresses several concerns raised by stakeholders. Damage caused by foundering vessels come not just from oil tankers, as evidenced by the wreck of the freighter New Carissa on the Oregon Coast. This legislation appropriately requires those who need rescue tug service to establish and fund a tug, eliminating the need to provide funding from state sources. The tug is necessary; effects of an oil spill can be calamitous to valuable economic, environmental, and cultural resources. All 39 Washington counties support this measure. This legislation is the minimum requirement necessary to protect state waters.

CON: Of the 41 incidents in the last ten years in which the Neah Bay rescue tug has responded to vessels in distress, 20 were responses to non-covered vessels. Costs of the rescue tug should not be borne by industry alone. Language should be included in the bill providing that apportionment of cost among covered vessels should be based on risk assessment.

OTHER: A risk assessment approach in a report issued by the Joint Legislation Audit & Review Committee should be incorporated in this bill with respect to apportionment of cost among covered vessels.

Persons Testifying: PRO: Rich Doenges, Department of Natural Resources; Jeff Davis, International Longshore & Warehouse Union; Stuart Downer, Inland Boatmen's Union, International Longshore & Warehouse Union; Kathy Fletcher, People for Puget Sound; Brett Bishop, Pacific Coast Shellfish Growers Association; Bill Dewey, Taylor Shellfish Company; Bill Black, citizen; Joe Daniels, Holland America Line; Dale Jensen, Department of Ecology; Steve Robinson, Northwest Indian Fisheries Commission; Michael Grayum, Puget Sound Partnership; Paul Pearce, Al Carter, Washington State Association of Counties.

CON: Rich Berkowitz, Transportation Institute; Mike Moore, Pacific Merchant Shipping Association.

OTHER: Johan Hellman, Washington Public Ports Association; Greg Hanon, Western States Petroleum Association.