

SENATE BILL REPORT

ESSB 5344

As Amended by House, March 18, 2009

Title: An act relating to providing emergency response towing vessels.

Brief Description: Concerning emergency response towing vessels.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by 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].

Passed Senate: 3/05/09, 44-4.

Passed House: 3/18/09, 74-23.

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 Engrossed Substitute Bill: By July 1, 2010, owners or operators of covered vessels transiting to or from a Washington port through 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

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.

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 capable of quickly responding to vessel emergencies, 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 to or from a Washington port through the Strait of Juan de Fuca.

DOE must monitor the maritime industry's progress in establishing and funding the rescue tug requirement, and provide interim progress reports to the Legislature by October 1, 2009, and December 1, 2009. Reports must describe industry processes for ensuring that a rescue tug is established and funded by July 1, 2010, and provide available information regarding anticipated annual cost of providing the tug, methodology for determining anticipated average annual cost for each class of covered vessel, and any impediment to equitable apportionment of costs. The provision expires June 30, 2010.

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.

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

House Amendment(s):

- Replaces the requirement that any umbrella organization equitably apportion costs with language encouraging the maritime industry to form a single umbrella organization that allows all affected covered vessels to equitably share costs.
- Provides for a process for a covered vessel operator who believes that an umbrella organization is not equitably sharing costs to contact DOE and provide notice regarding its concerns. DOE will collect notices and report summaries to the Legislature upon request.
- Directs representatives of owners and operators of covered vessels, rather than DOE, to report to the Legislature in October and December 2009 regarding negotiations concerning equitable apportionment of costs. If representatives fail to achieve goals or choose not to report outcomes to the Legislature, DOE will deliver summaries by December 1, 2009, of any reports regarding operator concerns with respect to inequitable cost apportionment.
- Specifies definitions for certain terms, including "severe weather conditions" and "vessel emergency."
- Authorizes oil spill response account funding for costs associated with DOE's use of the tug, upon appropriation.