
HOUSE BILL 2545

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Basich, Wilson, Spanel, R. King, Haugen, G. Cole, Heavey, Jacobsen, Valle, Jones and Kremen

Read first time 01/20/92. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to Pacific Ocean Resources Compact; and adding a
2 new chapter to Title 90 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The legislature hereby ratifies the
5 Pacific Ocean Resources Compact as set forth in section 2 of this act.
6 This compact shall take effect after two or more of the states of
7 Alaska, California, Hawaii, or Oregon ratify the compact and consent is
8 granted by Congress as required by section 10, Article I of the
9 Constitution of the United States.

10 (2) In addition to the states of Alaska, California, Hawaii, and
11 Oregon, the Province of British Columbia may become an associate party
12 to the compact, without voting power. Upon request of the Province of
13 British Columbia and approval of Congress, the Province of British

1 Columbia may become a full party to this compact with the same rights
2 and powers as the party states.

3 NEW SECTION. **Sec. 2.** The provisions of the Pacific Ocean
4 Resources Compact are as follows:

5 ARTICLE I

6 FINDINGS AND PURPOSE

7 A. The parties recognize:

8 (1) The states of Alaska, California, Hawaii, Oregon, and
9 Washington and the Province of British Columbia have a common interest
10 in the protection of marine and coastal resources. This common
11 interest results from:

12 (a) The fluid, dynamic ocean currents and atmospheric winds that
13 carry pollutants beyond one party's coastal area to another;

14 (b) The migratory nature of many important living marine resources
15 that depend upon the marine habitat of various parties for different
16 parts of their lifecycle;

17 (c) The economic reliance of each party upon renewable resources of
18 the ocean;

19 (d) The use of the ocean for transport of oil and other hazardous
20 substances between ports in the various parties and other nations;

21 (e) A regional interest in providing a stable environment for those
22 communities dependent upon ocean resources and ocean trade for a
23 livelihood.

24 (2) Some marine resource activities, such as fisheries, are
25 currently highly managed with regard for their regional or
26 transboundary nature through existing state programs, regional
27 fisheries councils, interstate compacts, and international treaties.

1 Because there are existing formal mechanisms for interstate cooperation
2 and coordination for these marine resource activities, this compact is
3 not intended to encompass these activities or to grant to the Pacific
4 Ocean Resources Compact authority to regulate resource allocation or
5 management as it may pertain to the use and consumption of marine
6 resources.

7 (3) A formal interstate agreement does not exist to address and
8 resolve issues of mutual concern or to coordinate individual programs
9 of the parties that affect regional interests in the areas of:

- 10 (a) Prevention of oil and hazardous substance spills;
- 11 (b) Transportation of oil and other hazardous substances;
- 12 (c) Oil and hazardous substance spill response planning;
- 13 (d) Environmental monitoring and research; and
- 14 (e) Ocean resource management.

15 (4) Each party has jurisdiction over the submerged and submersible
16 lands within its territorial sea and responsibility for management of
17 many marine resources and ocean uses. Each party has unique natural
18 resource, social, economic, and political conditions for which local
19 management by the individual party is the most appropriate.

20 (5) Parties now do not have an effective means to address mutual
21 concerns related to transport of oil and hazardous substances in waters
22 within and beyond the party's jurisdiction that may jeopardize ocean
23 resources and uses important to one or more coastal parties.

24 (6) The 1983 Presidential Proclamation of the two hundred-mile
25 United States Exclusive Economic Zone has created the opportunity for
26 all coastal states to more fully exercise and assert their
27 responsibilities pertaining to the protection, conservation, and
28 development of ocean resources under United States jurisdiction.

1 (7) Citizens of the Pacific states and the Province of British
2 Columbia are increasingly concerned with the environmental integrity of
3 the ocean and protection of all ocean resources.

4 (8) Recent studies conducted in the wake of major accidental
5 releases of oil and other hazardous substances have concluded that the
6 existing system of response to spills could be improved in the
7 following ways to provide better protection of ocean resources:

8 (a) Enhanced personnel training and qualifications;

9 (b) Improved vessel design and integrity;

10 (c) Better mechanisms for cost recovery by the states or the
11 province;

12 (d) Improved coordination in regulatory oversight;

13 (e) Enhanced traffic management; and

14 (f) An improved information base dealing with marine and coastal
15 environments.

16 (9) A spill or discharge of oil or hazardous substance from an
17 ocean-going vessel has the potential of causing major regional impacts.

18 B. Therefore the purpose(s) of this compact shall be:

19 (1) To assist in the promotion of interstate commerce by
20 encouraging uniform regulation of the transportation of oil or
21 hazardous substance within the compact zone;

22 (2) To provide a legal mechanism to regulate certain ocean
23 activities within the United States Exclusive Economic Zone;

24 (3) To enhance regional coordination over issues of critical
25 importance;

26 (4) To work with federal agencies to advance the best interest of
27 the region;

28 (5) To foster regional cooperation and pooling of resources to
29 reduce costs and increase effective use of scarce resources;

30 (6) To monitor activities of concern to the parties;

1 (7) To address issues of mutual concern to the Pacific states and
2 the Province of British Columbia and enhance the parties' influence
3 over activities of concern that are not now addressed through existing
4 compacts, including:

5 (a) Spill prevention;

6 (b) Transportation of oil and other hazardous substances;

7 (c) Spill response planning;

8 (d) Environmental monitoring and research; and

9 (e) Ocean resource management;

10 (8) To foster cooperation and coordination among the parties in
11 order to increase the effectiveness of the individual party's ocean
12 laws and programs;

13 (9) To provide technical assistance to parties for ocean activities
14 covered by this compact;

15 (10) To provide for formal participation by the Province of British
16 Columbia with the compact to more fully address issues of regional
17 concern;

18 (11) To ensure that the citizens of the region have opportunities
19 to participate in discussions and deliberations of regional ocean
20 resources issues;

21 (12) To establish an innovative system under which the parties can
22 represent their shared interests within the compact zone, including:

23 (a) The maintenance and protection of common ocean resources; and

24 (b) The vessel transportation of oil and other hazardous
25 substances;

26 (13) To recommend uniform safety standards for routes, crews, and
27 equipment for vessels transporting oil and hazardous substances within
28 the compact zone and monitor the implementation of these standards and
29 regulations by federal agencies, states, or provinces and private
30 industry;

1 (14) To promote more coordinated management of ocean resources that
2 are of mutual concern;

3 (15) To provide a forum for the regional coordination of the
4 individual parties' plans for the management and protection of those
5 areas of the Pacific Ocean and adjacent waters over which the
6 compacting parties jointly or separately now have or may acquire
7 jurisdiction.

8 ARTICLE II

9 DEFINITIONS

10 As used in this compact:

11 (1) "Compact" means the representative body created by Article IV
12 of this compact.

13 (2) "Compact zone" means the portion of the oceans bordering the
14 parties within the two hundred-mile exclusive economic zone.

15 (3) "Hazardous substance" or "hazardous substances" means any
16 element or compound that, when it enters in or upon the water, presents
17 an imminent and substantial danger to the public health or welfare or
18 the environment, including but not limited to fish, animals,
19 vegetation, or any part of the natural habitat in which they are found.
20 "Hazardous substance" includes but is not limited to a substance
21 designated under 33 U.S.C. Sec. 1321(b)(2)(A), any element, compound,
22 mixture, solution or substance designated under 42 U.S.C. Sec. 9602,
23 any hazardous waste having characteristics identified under or listed
24 under 42 U.S.C. Sec. 6921, any toxic pollutant listed under 33 U.S.C.
25 Sec. 1317(a), and any imminently hazardous chemical substance or
26 mixture with respect to which the Administrator of the United States
27 Environmental Protection Agency has taken action under 15 U.S.C. Sec.
28 2606.

1 (4) "Navigable waters" means the waters of the United States,
2 including the territorial sea.

3 (5) "Oil" means crude petroleum oil and any other hydrocarbons
4 regardless of gravity, which are produced at the well in liquid form by
5 ordinary production methods, and any petroleum products or
6 petrochemicals of any kind and in any form whether crude, refined, or
7 a petroleum by-product, including petroleum, fuel oil, gasoline,
8 lubricating oils, oily sludge, oily refuse, or mixed with other wastes,
9 liquefied natural gas, or propane.

10 (6) "Party" means a state or province that ratifies this compact as
11 provided in Article III of this compact.

12 (7) "Representative" means an individual appointed as provided in
13 Article IV of this compact to represent a party to the compact.

14 (8) "Vessel" means a watercraft or other artificial contrivance
15 that is constructed or adapted to carry, or that carries oil or
16 hazardous substance in bulk as cargo or cargo residue, and that:

17 (a) Operates on the navigable waters of the compact zone; or

18 (b) Transfers oil or hazardous substance in a place subject to the
19 jurisdiction of the United States.

20 ARTICLE III

21 OPERATIVE DATES

22 (1) Except as provided in paragraph (2) of this Article, this
23 compact shall become effective when two or more of the states of
24 Alaska, California, Hawaii, or Oregon ratify the compact and the
25 consent of Congress is or has been granted as required by section 10,
26 Article I of the Constitution of the United States.

1 (2) This agreement shall become operative as to the Province of
2 British Columbia as a full party upon request of the Province of
3 British Columbia and the approval of the Congress.

4 ARTICLE IV

5 PACIFIC OCEAN RESOURCES COMPACT

6 (1) The Pacific Ocean Resources Compact is created and shall have
7 its offices within the territorial limits of one of the parties, shall
8 carry out its duties and functions in accordance with this compact,
9 shall continue in force and effect in accordance with this compact,
10 and, except as specifically provided in this compact, shall not be
11 considered an agency or instrumentality of the United States for the
12 purpose of any federal law. Each party participating in this compact
13 shall appoint two persons, subject to the applicable laws of the
14 appointing party, to undertake the functions and duties of
15 representatives of the compact. This compact shall be invested with
16 the powers and duties set forth in this compact.

17 (2) The term of each representative shall be four years. A
18 representative shall hold office until a successor is appointed and
19 qualified but the successor's term shall expire four years from legal
20 date of expiration of the term of the predecessor. Vacancies occurring
21 in the office of a representative for any reason or cause shall be
22 filled for the unexpired term by the party represented by the vacancy.
23 Any party may remove the representative for that party in accordance
24 with the statutes of the party concerned. Each representative may
25 delegate to a deputy the power to be present and participate, including
26 voting as the representative or substitute, at any meeting of or
27 hearing by or other proceeding of the compact.

1 (3) The compact shall invite the Secretary of Transportation, the
2 Administrator of the United States Environmental Protection Agency, and
3 the Administrator of the National Oceanic and Atmospheric
4 Administration or their designees to participate as nonvoting members
5 of the compact.

6 ARTICLE V

7 PACIFIC OCEAN RESOURCES COMPACT AUTHORITY

8 (1) The Pacific Ocean Resources Compact is authorized to:

9 (a) Facilitate the prevention of oil and hazardous substance spills
10 by:

11 (i) Serving as a West Coast Spill Prevention Advisory Committee to
12 the United States Coast Guard. As such, the compact shall advise the
13 United States Coast Guard on matters pertaining to spill prevention
14 within the compact zone and also shall advise the United States Coast
15 Guard on other matters within the compact's authority as set forth in
16 this compact;

17 (ii) Participating as an interested person in any rule-making
18 proceeding by the United States Coast Guard related to the
19 establishment of safety standards for routes, crews and equipment for
20 vessels transporting oil and hazardous substances. The United States
21 Coast Guard shall adopt the recommendations of the compact, unless the
22 United States Coast Guard makes a finding, as part of the rule-making
23 process, that the adoption of such recommendations would not further
24 the prevention of oil and hazardous substance spills;

25 (iii) As an interested person, requesting the United States Coast
26 Guard to initiate rule making for the establishment or amendment of
27 safety standards for routes, crews and equipment for vessels
28 transporting oil and hazardous substances. The United States Coast

1 Guard shall initiate rule making as requested by the compact, unless
2 the United States Coast Guard makes a finding that the initiation of
3 such rule making would not further the prevention of oil and hazardous
4 substance spills;

5 (iv) Making recommendations to other appropriate state, federal,
6 and regional entities regarding uniform safety standards for routes,
7 crews, and equipment for vessels transporting oil and hazardous
8 substances in the compact zone;

9 (b) Insure a coordinated network of oil and hazardous substance
10 spill response plans and programs of the parties, federal agencies, and
11 private organizations;

12 (c) By regulation, establish the requirements for submission of and
13 approval by the compact of a contingency plan by any vessel
14 transporting oil or hazardous substances in the compact zone. Such
15 requirements shall be consistent with the requirements for response
16 plans under section 4202 of the Oil Pollution Act of 1990 (P.L. 101-
17 380). A plan developed in accordance with the regulations adopted by
18 the compact and approved by the compact shall satisfy the requirements
19 of section 4202 of the Oil Pollution Act and shall supersede any
20 requirements of an individual party for submitting a vessel contingency
21 or spill response plan. However, all plans approved by parties to this
22 compact before the operative date of the compact shall remain in full
23 force and effect until a contingency plan is approved by the compact
24 pursuant to this paragraph. In establishing regulations under this
25 paragraph, the compact shall work closely with officials of the parties
26 to assure that the vessel contingency plans required under this compact
27 include all subject areas included by the member parties, in the
28 standards for vessel contingency plans of the parties, in aggregate,
29 before the adoption of the compact;

1 (d) Establish and maintain an informational clearinghouse related
2 to spill response, including a directory of personnel, equipment,
3 technical expertise, organizations, and other resources available to
4 assist as part of a regional oil or hazardous substance spill response;

5 (e) Provide a forum for discussion and recommendation to resolve
6 conflicts among member parties or the federal government regarding
7 various ocean resources programs that have been or may be established
8 by each party;

9 (f) Provide opportunities for public participation in compact
10 activities by holding meetings of the compact in various locations
11 within the territorial limits of the parties, providing opportunities
12 for public comment at meetings, and developing a public outreach
13 program;

14 (g) Designate state or provincial agency officials to act on behalf
15 of the compact as liaisons with federal agencies;

16 (h) Identify the regional data needs related to ocean resources and
17 recommend a method for compiling the data in a format that can be
18 shared by all parties;

19 (i) Consult with and advise any pertinent party or federal agency
20 with regard to problems connected with ocean resources management and
21 recommend the adoption of any rules or regulations the compact
22 considers advisable that are within the jurisdiction of the agency;

23 (j) Establish sanctions and a schedule of civil penalties for
24 violations of the rules or regulations of the compact and impose such
25 sanctions or civil penalties in accordance with 5 U.S.C. Secs. 551 to
26 559 and 701 to 706;

27 (k) Request the United States Coast Guard to enforce or assist in
28 the enforcement of any regulations adopted by the compact including but
29 not limited to regulations related to the submission of a contingency
30 plan or financial assurance requirements in the compact zone; and

1 (1) Establish a schedule of reasonable fees to be assessed for the
2 review of a contingency plan submitted under paragraph (c) of this
3 subsection. The fees shall be sufficient to recover the costs of
4 reviewing the plans and conducting any related inspections. The fees
5 may be assessed in increments up to the maximum amount.

6 (2) In addition to the authority granted under paragraph (1) of
7 this Article, the compact may:

8 (a) Accept grants and gifts;

9 (b) Enter into contracts for whose performance the compact shall be
10 solely responsible in order to support its operations;

11 (c) Conduct and prepare, independently or in cooperation with
12 others, studies, investigations, research, and programs relating to the
13 purposes of this compact;

14 (d) Conduct public hearings on matters pertaining to the purposes
15 of this compact;

16 (e) Establish a standardized cost recovery formula for damages to
17 other resources based on the amount of oil or hazardous substance
18 spilled;

19 (f) Enter into an agreement with the United States Coast Guard
20 under which the compact will administer compliance with the
21 requirements for demonstrating financial responsibility under section
22 1016 of the Oil Pollution Act of 1990 in an amount established by the
23 compact. Such proof of financial responsibility, if established by the
24 compact, shall satisfy and supersede the requirement of any individual
25 party for demonstrating financial responsibility. However, all
26 financial responsibility requirements established by the parties to
27 this compact before the compact establishes an amount under this
28 paragraph shall remain in full force and effect until the compact
29 establishes a requirement and enters into an agreement with the United
30 States Coast Guard under this paragraph. In establishing the amount of

1 financial responsibility under this paragraph, the compact shall work
2 with officials of each party to assure that such requirements are
3 sufficient to satisfy the requirements of the parties, in aggregate;

4 (g) In accordance with the provisions of 5 U.S.C. Secs. 551 to 559
5 and 701 to 706, enforce the rules and regulations adopted by the
6 compact to carry out the authority of the compact as set forth in this
7 Article;

8 (h) Appoint technical and advisory committees for the purpose of
9 advising the compact on regional ocean resources issues, data needs and
10 format and other purposes related to the compact's activities. A
11 technical or advisory committee appointed by the compact shall not be
12 subject to the provisions of the Federal Advisory Committee Act (P.L.
13 92-463, as amended);

14 (i) Allow a variance from the provisions of this compact or rules
15 or regulations adopted by the compact pursuant to this Article. A
16 variance shall be based on a showing by the person or entity seeking
17 the variance that the activity allowed under the variance will have no
18 regional impact and that the variance is economically necessary. Under
19 no circumstances may a variance result in the regulation of the
20 transportation of oil or hazardous substance according to standards
21 less stringent than standards imposed under federal law.

22 (3) The compact shall adopt all regulations necessary to carry out
23 its duties and exercise its authority under this Article. The compact
24 shall adopt such regulations in accordance with the provisions of 5
25 U.S.C. Secs. 500 to 559.

26 ARTICLE VI

27 PACIFIC OCEAN RESOURCES COMPACT ORGANIZATION

1 The compact shall select a chairperson and a vice-chairperson.
2 After the initial chairperson and vice-chairperson are selected, the
3 compact shall establish a rotation for the selection of the chairperson
4 and vice-chairperson so the office rotates through the parties to the
5 compact. The compact shall appoint and at its pleasure remove or
6 discharge such officers and employees as may be required to carry the
7 provisions of this compact into effect and shall fix and determine
8 their duties, qualifications, and compensation. The compact shall
9 adopt rules and regulations for the conduct of its business. It may
10 establish and maintain one or more offices for the transaction of its
11 business and may meet at any time or place within the territorial
12 limits of the signatory parties but must meet at least once a year.

13 ARTICLE VII

14 VOTING AND QUORUM

15 (1) A majority of the representatives shall constitute a quorum.

16 (2) Each representative shall be entitled to one vote. No action
17 or decision of the compact shall be approved unless the action or
18 decision receives a majority of the votes of the representatives,
19 including at least one affirmative vote from each party.

20 ARTICLE VIII

21 SUPPORT AGENCIES

22 The compact may contract for the staff support necessary to carry
23 out the purposes of this compact or request appropriate agencies of the
24 signatory parties to act as the research agencies of the compact.

25 ARTICLE IX

1 PARTIES' POWERS UNDER COMPACT

2 Except as specifically provided in Article V of this compact,
3 nothing in this compact shall be construed to limit the powers of any
4 party or to repeal or prevent the enactment of any legislation or the
5 enforcement of any requirement imposing additional conditions and
6 restrictions to conserve ocean resources.

7 ARTICLE X

8 ABSENCE

9 Continued absence of representation or of any compact
10 representative from any party shall be brought to the attention of the
11 appointing authority of the party not represented.

12 ARTICLE XI

13 FUNDING

14 (1) Each party shall contribute to the support of the compact.

15 (2) The annual contribution of each party shall be figured to the
16 nearest one hundred dollars.

17 (3) The compact shall prepare an annual budget which shall be
18 approved by vote of the compact. After approval, the proposed budget
19 shall be presented to the chief executive and legislative body of the
20 signatory parties.

21 (4) Each party shall be responsible for the expenses of its own
22 representatives.

23 ARTICLE XII

24 WITHDRAWAL FROM COMPACT

1 This compact shall continue in force and remain binding upon each
2 party until renounced by it. Renunciation of this compact must be
3 preceded by sending six months' notice in writing of intention to
4 withdraw from the compact to the other parties to the compact.

5 NEW SECTION. **Sec. 3.** One member of the Senate appointed by
6 the President of the Senate and one member of the House of
7 Representatives appointed by the Speaker of the House of
8 Representatives shall act as the representatives of the State of
9 Washington on the Pacific Ocean Resources Compact in accordance with
10 the powers and duties set forth in the compact.

11 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act shall
12 constitute a new chapter in Title 90 RCW.