

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1407

54th Legislature
1995 Regular Session

Passed by the House March 1, 1995
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 10, 1995
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1407** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1407

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives K. Schmidt, R. Fisher, Horn, Chandler and Elliot; by request of Washington State Maritime Commission

Read first time 01/24/95. Referred to Committee on Transportation.

1 AN ACT Relating to the maritime commission; amending RCW 88.46.060;
2 creating new sections; repealing RCW 88.44.155 and 88.44.215; providing
3 an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that there is a
6 need to continue to provide oil spill response and contingency plan
7 coverage for vessels that do not have their own contingency plans that
8 transit the waters of this state. A nonprofit corporation shall be
9 established for the sole purpose of providing oil spill response and
10 contingency plan coverage in compliance with RCW 88.46.060.

11 (2) The maritime commission may conduct activities and make
12 expenditures necessary for the transition of services presently
13 provided by the commission and its contractors to the nonprofit
14 corporation established pursuant to this section.

15 (3) Once the nonprofit corporation is established and the transfers
16 under section 2 of this act are completed, the maritime commission may
17 cease operation.

1 NEW SECTION. **Sec. 2.** All reports, documents, surveys, books,
2 records, files, papers, written materials, tangible property, and
3 assets, including contracts and assessment moneys held by the maritime
4 commission shall be transferred to the nonprofit corporation created
5 under section 1 of this act. Funds transferred under this section
6 shall be used for the sole purpose of providing oil spill response and
7 contingency plan coverage and related activities in compliance with RCW
8 88.46.060. No funds may be transferred under this section until all
9 liabilities of the maritime commission have been provided for or
10 satisfied. All liabilities not provided for or satisfied by the
11 maritime commission before cessation of its operations shall be
12 transferred to the nonprofit corporation at the time the maritime
13 commission's assets are transferred to the corporation.

14 **Sec. 3.** RCW 88.46.060 and 1992 c 73 s 20 are each amended to read
15 as follows:

16 (1) Each covered vessel shall have a contingency plan for the
17 containment and cleanup of oil spills from the covered vessel into the
18 waters of the state and for the protection of fisheries and wildlife,
19 natural resources, and public and private property from such spills.
20 The office shall by rule adopt and periodically revise standards for
21 the preparation of contingency plans. The office shall require
22 contingency plans, at a minimum, to meet the following standards:

23 (a) Include full details of the method of response to spills of
24 various sizes from any vessel which is covered by the plan;

25 (b) Be designed to be capable in terms of personnel, materials, and
26 equipment, of promptly and properly, to the maximum extent practicable,
27 as defined by the office, removing oil and minimizing any damage to the
28 environment resulting from a worst case spill;

29 (c) Provide a clear, precise, and detailed description of how the
30 plan relates to and is integrated into relevant contingency plans which
31 have been prepared by cooperatives, ports, regional entities, the
32 state, and the federal government;

33 (d) Provide procedures for early detection of spills and timely
34 notification of such spills to appropriate federal, state, and local
35 authorities under applicable state and federal law;

36 (e) State the number, training preparedness, and fitness of all
37 dedicated, prepositioned personnel assigned to direct and implement the
38 plan;

1 (f) Incorporate periodic training and drill programs to evaluate
2 whether personnel and equipment provided under the plan are in a state
3 of operational readiness at all times;

4 (g) Describe important features of the surrounding environment,
5 including fish and wildlife habitat, environmentally and
6 archaeologically sensitive areas, and public facilities. The
7 departments of ecology, (~~(fisheries,)~~) fish and wildlife, and natural
8 resources, and the office of archaeology and historic preservation,
9 upon request, shall provide information that they have available to
10 assist in preparing this description. If the office has adopted rules
11 for contingency plans prior to July 1, 1992, the description of
12 archaeologically sensitive areas shall only be required when the office
13 revises the rules for contingency plans after July 1, 1992. The
14 description of archaeologically sensitive areas shall not be required
15 to be included in a contingency plan until it is reviewed and updated
16 pursuant to subsection (9) of this section;

17 (h) State the means of protecting and mitigating effects on the
18 environment, including fish, marine mammals, and other wildlife, and
19 ensure that implementation of the plan does not pose unacceptable risks
20 to the public or the environment;

21 (i) Establish guidelines for the use of equipment by the crew of a
22 vessel to minimize vessel damage, stop or reduce any spilling from the
23 vessel, and, only when appropriate and only when vessel safety is
24 assured, contain and clean up the spilled oil;

25 (j) Provide arrangements for the repositioning of spill
26 containment and cleanup equipment and trained personnel at strategic
27 locations from which they can be deployed to the spill site to promptly
28 and properly remove the spilled oil;

29 (k) Provide arrangements for enlisting the use of qualified and
30 trained cleanup personnel to implement the plan;

31 (l) Provide for disposal of recovered spilled oil in accordance
32 with local, state, and federal laws;

33 (m) Until a spill prevention plan has been submitted pursuant to
34 RCW 88.46.040, state the measures that have been taken to reduce the
35 likelihood that a spill will occur, including but not limited to,
36 design and operation of a vessel, training of personnel, number of
37 personnel, and backup systems designed to prevent a spill;

1 (n) State the amount and type of equipment available to respond to
2 a spill, where the equipment is located, and the extent to which other
3 contingency plans rely on the same equipment; and

4 (o) If the department of ecology has adopted rules permitting the
5 use of dispersants, the circumstances, if any, and the manner for the
6 application of the dispersants in conformance with the department's
7 rules.

8 (2)(a) The owner or operator of a tank vessel of three thousand
9 gross tons or more shall submit a contingency plan to the office within
10 six months after the office adopts rules establishing standards for
11 contingency plans under subsection (1) of this section.

12 (b) Contingency plans for all other covered vessels shall be
13 submitted to the office within eighteen months after the office has
14 adopted rules under subsection (1) of this section. The office may
15 adopt a schedule for submission of plans within the eighteen-month
16 period.

17 (3)(a) The owner or operator of a tank vessel or of the facilities
18 at which the vessel will be unloading its cargo, or (~~the Washington~~
19 ~~state maritime commission under RCW 88.44.020~~) a Washington state
20 nonprofit corporation established for the purpose of oil spill response
21 and contingency plan coverage and of which the owner or operator is a
22 member, shall submit the contingency plan for the tank vessel. Subject
23 to conditions imposed by the office, the owner or operator of a
24 facility may submit a single contingency plan for tank vessels of a
25 particular class that will be unloading cargo at the facility.

26 (b) The contingency plan for a cargo vessel or passenger vessel may
27 be submitted by the owner or operator of the cargo vessel or passenger
28 vessel, by the agent for the vessel resident in this state, or by (~~the~~
29 ~~Washington state maritime commission pursuant to RCW 88.44.020~~) a
30 Washington state nonprofit corporation established for the purpose of
31 oil spill response and contingency plan coverage and of which the owner
32 or operator is a member. Subject to conditions imposed by the office,
33 the owner, operator, or agent may submit a single contingency plan for
34 cargo vessels or passenger vessels of a particular class.

35 (c) A person who has contracted with a covered vessel to provide
36 containment and cleanup services and who meets the standards
37 established pursuant to RCW 90.56.240, may submit the plan for any
38 covered vessel for which the person is contractually obligated to

1 provide services. Subject to conditions imposed by the office, the
2 person may submit a single plan for more than one covered vessel.

3 (4) A contingency plan prepared for an agency of the federal
4 government or another state that satisfies the requirements of this
5 section and rules adopted by the office may be accepted by the office
6 as a contingency plan under this section. The office shall assure that
7 to the greatest extent possible, requirements for contingency plans
8 under this section are consistent with the requirements for contingency
9 plans under federal law.

10 (5) In reviewing the contingency plans required by this section,
11 the office shall consider at least the following factors:

12 (a) The adequacy of containment and cleanup equipment, personnel,
13 communications equipment, notification procedures and call down lists,
14 response time, and logistical arrangements for coordination and
15 implementation of response efforts to remove oil spills promptly and
16 properly and to protect the environment;

17 (b) The nature and amount of vessel traffic within the area covered
18 by the plan;

19 (c) The volume and type of oil being transported within the area
20 covered by the plan;

21 (d) The existence of navigational hazards within the area covered
22 by the plan;

23 (e) The history and circumstances surrounding prior spills of oil
24 within the area covered by the plan;

25 (f) The sensitivity of fisheries and wildlife and other natural
26 resources within the area covered by the plan;

27 (g) Relevant information on previous spills contained in on-scene
28 coordinator reports prepared by the director; and

29 (h) The extent to which reasonable, cost-effective measures to
30 prevent a likelihood that a spill will occur have been incorporated
31 into the plan.

32 (6) The office shall approve a contingency plan only if it
33 determines that the plan meets the requirements of this section and
34 that, if implemented, the plan is capable, in terms of personnel,
35 materials, and equipment, of removing oil promptly and properly and
36 minimizing any damage to the environment.

37 (7) The approval of the contingency plan shall be valid for five
38 years. Upon approval of a contingency plan, the office shall provide
39 to the person submitting the plan a statement indicating that the plan

1 has been approved, the vessels covered by the plan, and other
2 information the office determines should be included.

3 (8) An owner or operator of a covered vessel shall notify the
4 office in writing immediately of any significant change of which it is
5 aware affecting its contingency plan, including changes in any factor
6 set forth in this section or in rules adopted by the office. The
7 office may require the owner or operator to update a contingency plan
8 as a result of these changes.

9 (9) The office by rule shall require contingency plans to be
10 reviewed, updated, if necessary, and resubmitted to the office at least
11 once every five years.

12 (10) Approval of a contingency plan by the office does not
13 constitute an express assurance regarding the adequacy of the plan nor
14 constitute a defense to liability imposed under this chapter or other
15 state law.

16 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
17 repealed:

18 (1) RCW 88.44.155 and 1994 c 52 s 4; and

19 (2) RCW 88.44.215 and 1994 c 52 s 3.

20 NEW SECTION. **Sec. 5.** Section 4 of this act is necessary for the
21 immediate preservation of the public peace, health, or safety, or
22 support of the state government and its existing public institutions,
23 and shall take effect July 1, 1995.

24 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act are
25 necessary for the immediate preservation of the public peace, health,
26 or safety, or support of the state government and its existing public
27 institutions, and shall take effect immediately.

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