

SENATE BILL REPORT

SB 5909

As Reported By Senate Committee On:
Environment, Energy & Water, February 27, 2001
Ways & Means, March 8, 2001

Title: An act relating to financial responsibility requirements for vessels and facilities.

Brief Description: Revising financial responsibility requirements for vessels.

Sponsors: Senators Fraser, Regala, Spanel and Thibaudeau.

Brief History:

Committee Activity: Environment, Energy & Water: 2/20/01, 2/27/01 [DPS-WM].
Ways & Means: 3/8/01 [DP2S].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5909 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Jacobsen, McDonald, Morton and Patterson.

Staff: Richard Rodger (786-7461)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5909 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fairley, Vice Chair; Fraser, Kline, Kohl-Welles, Rasmussen, Regala, B. Sheldon, Snyder, Spanel and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Sheahan.

Staff: Richard Ramsey (786-7412)

Background: Financial responsibility requirements are used to ensure that vessels that transport petroleum products, as cargo or fuel, have the ability to pay for any damages that may result from a spill. The requirements are also used to pay for damages resulting from onshore or offshore facilities. The financial responsibility imposed on vessels may be used to pay for the removal of oil, natural resource damages, and for "necessary expenses."

The establishment of financial responsibility requirements for onshore and offshore facilities was required by the Legislature in 1991. The department evaluated the costs of imposing

these requirements and determined, at that time, the costs would be burdensome on smaller facilities.

The North Puget Sound Oil Spill Risk Management Panel was formed through an agreement with the U.S. Coast Guard and the Department of Ecology. The panel focused their attention on risk reduction measures for the North Puget Sound region. One recommendation of the panel states, that in light of the Supreme Court's decision in the *U.S. v. Locke* (decided March 6, 2000 and commonly referred to as Intertanko), the state should review the current standards for imposition of liability or other spill response requirements related to discharge or substantial threat of discharge of oil.

Summary of Second Substitute Bill: The definitions of "hazardous substances" and "oil" are updated, and the definition of an "inland barge" is deleted.

The financial responsibility requirement of barges transporting hazardous substances is increased from \$1 million or \$150 per gross ton, to the federal CERCLA standard of \$5 million or \$300 per gross ton. Financial responsibility for tank vessels is raised from \$500 million to \$750 million on January 1, 2002, and to \$1 billion on January 1, 2004. Financial responsibility for cargo or passenger vessels is raised from \$600 per gross ton or \$500,000, to \$300 million. A stepped-schedule is provided for smaller cargo and passenger vessels. Passenger vessels are exempt if their fuel capacity is less than 6,000 gallons.

The Department of Ecology may lower the financial responsibility requirement based on the quantity of cargo the vessel can carry, the vessel's safety performance, or other standards established by the department. The requirement is waived for tank vessels, cargo vessels, and passenger vessels who prove their membership in an international protection and indemnity mutual organization.

In addition to its present uses, the financial responsibility for vessels may also be used to pay for: the removal of hazardous substances; penalties and fines; removal of shipwrecks and debris; and for necessary expenses related to a spill, or a substantial threat of a spill, involving oil or a hazardous substance.

The financial responsibility requirement for onshore and offshore facilities, originally passed in 1991, is required to be set in rule. The financial responsibility requirement is extended to include penalties and fines. The department must contract to obtain an independent economic analysis of the adequate level of responsibility for facilities. The department must consider the availability and affordability for both large and small facilities.

It is unlawful for vessels who do not meet the financial responsibilities to enter Washington waters except when there is a risk of injury to the crew or passengers.

Second Substitute Bill Compared to Substitute Bill: The appropriation is removed.

Substitute Bill Compared to Original Bill: Specific authority is granted to reduce the amount of financial responsibility required for barges carrying hazardous substances. A staged system of financial responsibility is created for cargo and passenger vessels and a waiver is provided. DOE will review the limits and provide a report every five years. The requirements for facilities is narrowed and a date is established for adoption of rules. In

reviewing the requirements for facilities, special attention is given to smaller facilities. Current law regarding the entry to Washington waters is revised. A provision concerning the States/B.C. Task Force is removed. An appropriation is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Environment, Energy & Water): This bill brings Washington State in line with the financial responsibility requirements as adopted in California. The higher responsibility requirements are necessary to protect the state from the high costs of oil spills. The New Carrisa cost \$40 million to respond to and clean up, while the Exxon Valdez caused \$40 billion in damages and clean up. This will not result in a disincentive for large vessels to come to Washington ports. We appreciate the discretion given to the department to lower these standards.

Testimony Against (Environment, Energy & Water): The department should be able to contract directly with an expert to obtain the required economic analysis for facility financial responsibility. Owners of smaller facilities, cargo vessels and passenger vessels may have concerns about the new higher requirements. A stepped-standard, as used in California, should be adopted for smaller cargo and passenger vessels.

Testified (Environment, Energy & Water): Stan Norman, DOE; Eric Johnson, Washington Public Ports Association (pro/concerns); Rick Wickman, Columbia River Steamship Operators (concerns); Randy Ray, Puget Sound Steamship Operators (pro/concerns); Bruce Wishart, People for Puget Sound (pro); Greg Hanon, Western States Petroleum Association (comments); Cliff Webster, Maritime Environmental Coalition.

Testimony For (Ways & Means): The bill updates an outdated statute and is in line with clean-up costs. This is consistent with standards in other states and at the federal level.

Testimony Against (Ways & Means): This would pose an unwarranted burden on the Puget Sound-based fishing fleet which uses nonpersistent diesel. The fiscal effects are unreasonably high and should not be funded from the Model Toxics Control Act funds. If Ecology projects such high costs for the program, the Legislature should consider contracting out.

Testified (Ways & Means): Randy Ray, Puget Sound Steamship Operators Assn. and Pacific Seafood Processors Assn. (pro w/concerns); Rick Wickman, Columbia River Steamship Operators Assn. (with concerns); Bruce Wishart, People for Puget Sound (pro); Greg Hanon, Western States Petroleum Assn. (pro w/fiscal concerns).