
SUBSTITUTE SENATE BILL 5344

State of Washington

61st Legislature

2009 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Ranker, Swecker, Rockefeller, Marr, Hargrove, Pridemore, Fraser, Shin, McDermott, and Kilmer)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to providing emergency response towing vessels;
2 amending RCW 88.46.068 and 88.46.130; adding new sections to chapter
3 88.46 RCW; creating new sections; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the northern
6 coast of the Olympic Peninsula and Washington's west coast from Cape
7 Flattery south to Cape Disappointment:

8 (a) Possess uniquely rich and highly vulnerable biological, marine,
9 and cultural resources supporting some of the nation's most valuable
10 commercial, sport, and tribal fisheries;

11 (b) Sustain endangered species and numerous species of vulnerable
12 marine mammals; and

13 (c) Are internationally recognized through extraordinary
14 designations including a world heritage site, a national park, a
15 national marine sanctuary, national wildlife refuges, a maritime area
16 off-limits to shipping, and tribal lands and fishing areas of federally
17 recognized coastal Indian tribes.

18 (2) The legislature further finds that these coasts are
19 periodically beset by severe storms with dangerously high seas and by

1 strong currents, obscuring fog, and other conditions that imperil
2 vessels and crews. When vessels suffer damage or founder, the coasts
3 are likewise imperiled, particularly if oil is spilled into coastal
4 waters. Oil spills pose great potential risks to treasured resources.

5 (3) The legislature further finds that Washington has maintained an
6 emergency response tug at Neah Bay since 1999 to protect state waters
7 from maritime casualties and resulting oil spills. The tug is
8 necessary because of peculiarities of local waters that call for
9 special precautionary measures. The tug has demonstrated its necessity
10 and capability by responding to forty-one vessels in need of
11 assistance. State funding for the tug is scheduled to end on June 30,
12 2009.

13 (4) The legislature intends that the maritime industry should
14 provide and fully fund at least one year-round emergency response tug
15 at Neah Bay, with necessary logistical and operational support, and
16 that any tug provided by the maritime industry pursuant to this act
17 should meet or exceed technical performance requirements specified in
18 the state's fiscal year 2009 contract for the Neah Bay emergency
19 response tug.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 88.46 RCW
21 to read as follows:

22 (1) Covered vessels that are subject to requirements specified in
23 RCW 88.46.130 must provide at least one emergency response towing
24 vessel that must be:

25 (a) Stationed at Neah Bay; and

26 (b) Continuously available and capable of responding to any vessel
27 emergency, including but not limited to:

28 (i) Loss or serious degradation of propulsion, steering, means of
29 navigation, primary electrical generating capability, or seakeeping
30 capability;

31 (ii) Uncontrolled fire;

32 (iii) Hull breach; or

33 (iv) Oil spill.

34 (2) An emergency response towing vessel must be capable of:

35 (a) Deploying at any hour of any day to provide emergency
36 assistance;

1 (b) Being underway within twenty minutes of a decision to deploy,
2 with adequate crew to safely remain underway for at least forty-eight
3 hours;

4 (c) Effectively employing a ship anchor chain recovery hook and
5 line throwing gun;

6 (d) A bollard pull of at least seventy short tons; and

7 (e) Effectively operating in severe weather conditions with
8 sustained winds measured at forty knots and wave heights of twelve to
9 eighteen feet, including:

10 (i) Holding position within one hundred feet of another vessel; and

11 (ii) Making up to, stopping, holding, and towing a drifting or
12 disabled vessel of one hundred eighty thousand metric dead weight tons.

13 (3) An emergency response towing vessel must be equipped with:

14 (a) A ship anchor chain recovery hook;

15 (b) A line throwing gun; and

16 (c) Appropriate equipment for:

17 (i) Damage control patching;

18 (ii) Vessel dewatering;

19 (iii) Air safety monitoring; and

20 (iv) Digital photography.

21 (4) The requirements of this section may be fulfilled by a private
22 organization or nonprofit cooperative providing umbrella coverage under
23 contract to a single or multiple covered vessels. If a nonprofit
24 cooperative is formed or used to meet the requirements of this section,
25 it shall equitably apportion costs to each participating covered vessel
26 based on risk associated with particular classes of covered vessels,
27 navigational and structural characteristics of covered vessels, and the
28 number of covered vessel transits in state waters in the Strait of Juan
29 de Fuca, as defined in RCW 88.46.130(6).

30 (5) The department is authorized to contract with an emergency
31 response towing vessel provided under this section. Any use by the
32 department must be paid by the department.

33 (6) Covered vessels that are required to provide an emergency
34 response towing vessel may not restrict the emergency response towing
35 vessel from responding to noncovered vessels in distress.

36 (7) Nothing in this section prohibits a covered vessel, private
37 organization, or nonprofit cooperative from contracting with an

1 emergency response towing vessel with capabilities exceeding
2 requirements specified in this section.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.46 RCW
4 to read as follows:

5 As soon as practicable following return of an emergency response
6 towing vessel after an incident necessitating a response, the covered
7 vessel owner or operator or the contracting organization shall submit
8 a report to the department. The report must provide a detailed
9 description of the incident necessitating a response and actions taken
10 to render assistance, and include high quality photographic
11 documentation.

12 **Sec. 4.** RCW 88.46.068 and 2006 c 316 s 4 are each amended to read
13 as follows:

14 (1) The department shall ((by rule)) adopt by rule procedures to
15 determine the adequacy of contingency plans approved under RCW
16 88.46.060. The rules shall require random practice drills without
17 prior notice that will test the adequacy of the responding entities.
18 The rules may provide for unannounced practice drills of individual
19 contingency plans.

20 (2) The department shall also determine the adequacy of emergency
21 response towing vessels provided under the emergency response system
22 required by RCW 88.46.130. Adequacy may be determined through practice
23 drills, which may be conducted without prior notice. Successful
24 responses to vessel emergencies may satisfy this requirement. Drills
25 must test emergency response towing vessels' ability to respond to
26 worst case scenarios.

27 (3) The department shall review and publish a report on the drills,
28 including an assessment of response time and available equipment and
29 personnel compared to those listed in the contingency plans relying on
30 the responding entities, and requirements, if any, for changes in the
31 plans or their implementation.

32 (4) The department may require additional drills and changes in
33 arrangements for implementing approved plans which are necessary to
34 ensure their effective implementation.

1 **Sec. 5.** RCW 88.46.130 and 1991 c 200 s 426 are each amended to
2 read as follows:

3 (1) By July 1, 2010, covered vessels operating in state waters in
4 the Strait of Juan de Fuca shall establish and fund an emergency
5 response system ((for the Strait of Juan de Fuca shall be established
6 by July 1, 1992. In establishing the emergency response system, the
7 administrator shall consider the recommendations of the regional marine
8 safety committees. The administrator shall also consult with the
9 province of British Columbia regarding its participation in the
10 emergency response system)) providing at least one emergency response
11 towing vessel stationed at Neah Bay.

12 (2) Any emergency response towing vessel provided under this
13 section must:

14 (a) Be available to serve vessels in distress in the Strait of Juan
15 de Fuca and off of the western coast of the state from Cape Flattery
16 light south to Cape Disappointment light; and

17 (b) Meet the requirements specified in section 2 of this act.

18 (3) In addition to meeting requirements specified in RCW 88.46.060,
19 contingency plans for covered vessels operating in the Strait of Juan
20 de Fuca must provide for the emergency response system required by this
21 section. Documents demonstrating compliance with this section must be
22 submitted to the department by January 1, 2010. An initial contingency
23 plan submitted to the department after January 1, 2010, must be
24 accompanied by documents demonstrating compliance with this section.

25 (4) The requirements of this section are met if:

26 (a) Covered vessels provide at least one emergency response towing
27 vessel that complies with subsection (2) of this section; or

28 (b) The United States government implements a system of protective
29 measures that the department determines to be substantially equivalent.

30 (5) The director may suspend the requirement for an emergency
31 response system created in this section if the director determines that
32 an emergency response towing vessel meeting the requirements specified
33 in section 2 of this act is unavailable.

34 (6) As used in this section, "Strait of Juan de Fuca" means waters
35 off of the northern coast of the Olympic Peninsula, from Cape Flattery
36 light east to New Dungeness light, terminating at a line drawn from New
37 Dungeness light to Discovery Island.

1 NEW SECTION. **Sec. 6.** (1) The director of the department of
2 ecology, or the director's designee, shall initiate discussions with
3 the director's counterpart in the government for the Canadian province
4 of British Columbia to explore options for Washington and British
5 Columbia to share the marine emergency response assets required under
6 this act.

7 (2) The department of ecology must report any progress or outcomes
8 from discussions initiated under this section to appropriate committees
9 of the legislature by January 1, 2011.

10 (3) This section expires July 31, 2011.

11 NEW SECTION. **Sec. 7.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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