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**SUBSTITUTE SENATE BILL 6524**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** Senate Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen, Sheldon, Benton, Baumgartner, Holmquist Newbry, Braun, Parlette, and Dammeier)

READ FIRST TIME 02/07/14.

1       AN ACT Relating to the safety of the transport of hazardous  
2 materials; amending RCW 90.56.250; adding new sections to chapter 90.56  
3 RCW; creating new sections; and making an appropriation.

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

5       NEW SECTION.   **Sec. 1.**   (1) The state of Washington has a long  
6 history of leading in efforts to protect our natural environment while  
7 encouraging economic opportunities. Public safety, protection of the  
8 natural environment, and economic opportunities are goals shared by all  
9 Washingtonians.

10       (2) Hazardous material spill prevention and response programs in  
11 Washington state, created through thoughtful cooperation and  
12 coordination between industry and the communities they serve, is a  
13 model to the rest of the nation and a model to the world. As modes of  
14 transport for various types of hazardous materials change and as the  
15 volume of hazardous materials transported through Washington changes,  
16 it is important that proactive steps are taken to ensure public safety  
17 and protection of natural resources.

18       (3) This act is intended to build upon strong and prudent plans

1 currently in effect, identify areas that need further protections, and  
2 invest taxpayer funds today to increase safety and prevent spills.

3 (4) Prevention of hazardous materials spills is a top priority of  
4 the legislature. Providing first responders, local communities, and  
5 impacted parties with the tools to respond when spills do occur is in  
6 the vital interest of the citizens of Washington state.

7 NEW SECTION. **Sec. 2.** (1) The department of ecology, in  
8 consultation with the utilities and transportation commission, the  
9 federal railroad administration, and industry representatives, shall  
10 conduct a study on the safety of transporting oil and hazardous  
11 materials in bulk by rail. For the purposes of this act, the term  
12 hazardous materials has the same meaning as hazardous substances as  
13 defined in RCW 88.40.011. The study must include:

14 (a) A review of:

15 (i) The federal, state, and local emergency response and prevention  
16 programs and activities for spills from railcars transporting oil and  
17 hazardous materials with a focus on high hazard areas where emergency  
18 response equipment can be strategically placed for use by federal,  
19 state, regional, or local governments or other emergency responders;

20 (ii) The capacity of local jurisdictions to prevent and respond to  
21 oil and hazardous materials spills;

22 (iii) The identification of weaknesses or gaps in federal, state,  
23 and local oil and hazardous materials spill prevention and response;  
24 and

25 (iv) Federal regulations governing oil and hazardous materials  
26 spill prevention and response for transport by rail;

27 (b) A survey of:

28 (i) Local government funding for emergency oil and hazardous  
29 materials spill prevention and response programs;

30 (ii) Sources of funding, entities assessed, or contributions  
31 required by participants of emergency oil and hazardous materials spill  
32 prevention and response programs; and

33 (iii) Regional or countywide cooperative agreements implementing  
34 oil and hazardous materials spill prevention and response programs;

35 (c) Recommendations for legislative consideration on at least the  
36 following:

1 (i) Levels of funding and sources of funding for emergency oil and  
2 hazardous materials spill prevention and response programs;

3 (ii) Participants that should be included in an emergency oil and  
4 hazardous materials spill prevention and response program and the  
5 amount these participants should be assessed;

6 (iii) Appropriate use of funds such as: Oil and hazardous  
7 materials spill response, equipment, training, or other benefits to  
8 those who are assessed;

9 (iv) Cooperative regional or countywide agreements to meet  
10 emergency oil and hazardous materials spill prevention and response  
11 program needs, while maintaining an individual organization's distinct  
12 purpose; and

13 (v) Methods to increase cooperation and coordination among  
14 organizations responding to oil and hazardous materials spills,  
15 including:

16 (A) Sharing resources or mutual aide between terrestrial and  
17 on-water oil and hazardous materials spill emergencies; and

18 (B) Communication to ensure a common understanding of the potential  
19 threat from oil or hazardous materials spills.

20 (2) The department of ecology must provide: (a) A preliminary  
21 evaluation on the status of the safety of transporting hazardous  
22 materials in the state, and include recommendations for near-term  
23 legislative action to address needs identified in the review as  
24 required under subsection (1)(a)(i) of this section, to the relevant  
25 policy and fiscal committees of the senate and house of representatives  
26 by December 31, 2014; and (b) using the study and reviews conducted  
27 under this section, a final report regarding the safety of the  
28 transport of hazardous materials, as well as recommendations for  
29 policy, budget needs, or legislation to the relevant policy and fiscal  
30 committees of the senate and house of representatives by December 31,  
31 2015.

32 NEW SECTION. **Sec. 3.** The department of ecology shall conduct an  
33 evaluation of the safety of transporting oil and hazardous materials in  
34 bulk on waters of the state. To the extent possible and practicable,  
35 the department may use or incorporate applicable studies and reports  
36 completed by international, federal, or state agencies or  
37 organizations.

1 (1) The evaluation must include:

2 (a) The status of federal, state, and local waterborne oil spill  
3 and hazardous materials spill prevention and preparedness including a  
4 review of:

5 (i) The capacity to address risks posed by increased waterborne  
6 traffic of oil and hazardous materials; and

7 (ii) Weaknesses or gaps in oil and hazardous materials spill  
8 prevention and response programs;

9 (b) Barge and tug operations within the state related to the  
10 movement of oil and petroleum products or hazardous materials;

11 (c) A description of:

12 (i) Risks and potential areas of concern where increased prevention  
13 and response activities are needed; and

14 (ii) Oil spill response organizations and related contractors  
15 currently available for oil and hazardous materials spill prevention  
16 and response activities and their level of readiness; and

17 (d) A report on those areas of the state where the oil and  
18 hazardous materials spill prevention and response plans and programs  
19 are needed but not completed or robust, including but not limited to  
20 Grays Harbor and the Columbia river.

21 (2) The department of ecology must: (a) Provide to the relevant  
22 policy and fiscal committees of the senate and house of representatives  
23 by December 31, 2014, an initial evaluation that includes examples of  
24 excellent oil and hazardous materials spill prevention and response  
25 programs and area or regional efforts; an overview of regional or state  
26 deficiencies or gaps in programs, plans, equipment, or resources; and  
27 recommendations for near-term legislative action; and (b) deliver the  
28 final report regarding the transporting of oil and hazardous materials  
29 on waters of the state, as well as recommendations for policy, budget  
30 needs, or legislation, to the relevant policy and fiscal committees of  
31 the senate and house of representatives by December 31, 2015.

32 **Sec. 4.** RCW 90.56.250 and 1991 c 200 s 205 are each amended to  
33 read as follows:

34 (1) The department shall annually publish an index of available,  
35 up-to-date descriptions of prevention plans and contingency plans for  
36 oil spills submitted and approved pursuant to RCW 90.56.200, 90.56.210,

1 88.46.040, and 88.46.060 and an inventory of equipment available for  
2 responding to such spills.

3 (2) The department shall make available on its web site: (a)  
4 Descriptions of prevention and contingency programs for oil or  
5 hazardous materials spills; (b) descriptions of how the department is  
6 responding to or has addressed public concerns regarding oil and  
7 hazardous materials spill prevention and response; and (c) in the event  
8 of an oil or hazardous materials spill, information and updates  
9 regarding all efforts taken to clean up the spill, in consultation with  
10 and in agreement with the unified command, if applicable. The  
11 department may not make available on its web site specific plan  
12 elements or confidential information.

13 NEW SECTION. Sec. 5. A new section is added to chapter 90.56 RCW  
14 to read as follows:

15 (1) The department must provide to the relevant policy and fiscal  
16 committees of the senate and house of representatives:

17 (a) A review of all state and federal geographic response plans as  
18 needed in contingency plans required under RCW 90.56.210 and 88.46.060  
19 by December 31, 2014; and

20 (b) Annual updates, beginning December 31, 2015, and ending  
21 December 31, 2021, as required under RCW 43.01.036, as to the progress  
22 made in completing state and federal geographic response plans as  
23 needed in contingency plans required under RCW 90.56.060, 90.56.210,  
24 and 88.46.060.

25 (2) The department must contract, if practicable, with eligible  
26 independent third parties to ensure completion by December 1, 2016, of  
27 at least fifty percent of the geographic response plans as needed in  
28 contingency plans required under RCW 90.56.210 and 88.46.060 for the  
29 state.

30 NEW SECTION. Sec. 6. A new section is added to chapter 90.56 RCW  
31 to read as follows:

32 (1) The owner or operator for each facility other than a  
33 transmission pipeline shall submit to the department data and  
34 information on the volume and type of crude oil that arrived at and  
35 departed from the facility each month, including the place of origin of

1 the crude oil, the mode of arrival and departure at the facility  
2 including, but not limited to, arrival by vessel, rail, or pipeline.

3 (2)(a) Any person required to present information to the department  
4 pursuant to subsection (1) of this section may request that specific  
5 information be held in confidence. Information requested to be held in  
6 confidence is presumed to be confidential.

7 (b) Information presented to the department pursuant to subsection  
8 (1) of this section must be held in confidence by the department or  
9 aggregated to the extent necessary to ensure confidentiality if public  
10 disclosure of the specific information or data would result in an  
11 unfair competitive disadvantage to the person supplying the  
12 information.

13 (c)(i) Whenever the department receives a request to publicly  
14 disclose unaggregated information or otherwise proposes to publicly  
15 disclose information submitted pursuant to subsection (1) of this  
16 section, notice of the request or proposal must be provided to the  
17 person submitting the information. The notice must indicate the form  
18 in which the information is to be released. Upon receipt of notice,  
19 the person submitting the information has ten working days in which to  
20 respond to the notice to justify the claim of confidentiality on each  
21 specific item of information covered by the notice on the basis that  
22 public disclosure of the specific information would result in an unfair  
23 competitive disadvantage to the person supplying the information.

24 (ii) The department shall consider the respondent's submittal in  
25 determining whether to publicly disclose the information submitted to  
26 it to which a claim of confidentiality is made. The department shall  
27 issue a written decision that sets forth its reasons for making the  
28 determination whether each item of information for which a claim of  
29 confidentiality is made remains confidential or must be publicly  
30 disclosed.

31 (iii) The department shall not publicly disclose information  
32 submitted to it pursuant to subsection (1) of this section within ten  
33 working days after the department has issued its written decision  
34 required in (c)(ii) of this subsection.

35 (iv) No information submitted to the department pursuant to  
36 subsection (1) of this section may be deemed confidential if the person  
37 submitting the information or data has made it public.

1 (v) With respect to information provided under subsection (1) of  
2 this section, neither the department nor any employee of the department  
3 may do any of the following:

4 (A) Use the information for any purpose other than the statistical  
5 purposes for which it is supplied;

6 (B) Make any publication whereby the information furnished by any  
7 particular establishment or individual can be identified; or

8 (C) Permit anyone other than department employees to examine the  
9 individual reports provided under subsection (1) of this section.

10 (d) Any confidential information pertinent to the responsibilities  
11 of the department that is obtained by another state agency must be  
12 available to the department and must be treated in a confidential  
13 manner.

14 NEW SECTION. **Sec. 7.** The department of ecology and the utilities  
15 and transportation commission shall jointly hold a symposium on  
16 emergency prevention and response activities for oil and hazardous  
17 materials transported in the Pacific Northwest region. The department  
18 of ecology and the utilities and transportation commission must invite  
19 state representatives from the Pacific Northwest economic region  
20 authorized under chapter 43.147 RCW and representatives from interested  
21 tribes and local governments. The symposium must include  
22 representatives from neighboring states, territories, and countries.  
23 The symposium must at a minimum address:

24 (1) Cooperative emergency prevention and response activities  
25 between the shared international and state borders;

26 (2) Expected risks posed by increased transport of Canadian crude  
27 oil or hazardous materials throughout the Pacific Northwest region  
28 within the next three to five years;

29 (3) Changes in methods for transporting oil and hazardous materials  
30 and associated risks;

31 (4) Identification of responsible agencies and corresponding  
32 activities that can be taken to address expected risks; and

33 (5) Consideration of new or emerging technologies to make transport  
34 safer.

35 NEW SECTION. **Sec. 8.** (1) The department of ecology shall provide

1 grants to emergency responders to assist with oil spill response and  
2 firefighting equipment and resources needed to meet the requirements of  
3 this act.

4 (2) The department of ecology, in consultation with emergency first  
5 responders, representatives from the oil and rail industries, and  
6 businesses that are recipients of bulk hazardous materials shall review  
7 grant applications.

8 (a) The application review must include evaluation of equipment and  
9 resource requests, funding requirements, and coordination with existing  
10 equipment and resources in the area.

11 (b) Funding must be prioritized for applicants from areas where oil  
12 or other hazardous materials are transferred from one mode of  
13 transportation to another.

14 (c) Grants must be coordinated to maximize currently existing  
15 equipment and resources that have been put in place by first responders  
16 and industry.

17 NEW SECTION. **Sec. 9.** The sum of ten million dollars, or as much  
18 thereof as may be necessary, is appropriated for the fiscal year ending  
19 June 30, 2015, from the general fund--state to the department of  
20 ecology to implement this act.

21 NEW SECTION. **Sec. 10.** This act may be known and cited as the  
22 spill prevention and response act.

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