

SENATE BILL REPORT

SB 5183

AS OF FEBRUARY 1, 1991

Brief Description: Adopting oil and hazardous substance spill prevention and response provisions.

SPONSORS: Senators Amondson, Rasmussen, Talmadge, Gaspard, Williams, Pelz, Skratek, Wojahn, Murray, Conner and A. Smith; by request of Governor Gardner.

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Staff: Gary Wilburn (786-7453)

Hearing Dates: February 7, 1991

BACKGROUND:

There have been several major oil spills in United States waters in recent years, including spills in Alaska, Washington, New York, Texas and California. The Nestucca spilled about 231,000 gallons of oil off the Washington coast in December, 1988, and shortly thereafter the Governor of Washington and the premier of the province of British Columbia formed a task force to address spill issues. Shortly thereafter the Exxon Valdez spill occurred in Prince William Sound, and the task force was expanded to include the states of Alaska, Oregon and California.

More recently, a spill of asphalt occurred from an onshore facility near Edmonds, and a nearly 600,000 gallon spill in Tacoma during transfer from a vessel to an onshore facility.

The British Columbia/United States Task Force issued its final report in October, 1990, making 46 recommendations joined by all participants. These concern issues such as vessel traffic, vessel design, personnel, enforcement, regulatory oversight, education, interstate cooperation, and future studies. In addition, each task force member made other recommendations. Washington's recommendations included efforts to reduce navigation conflicts, use of state lease authority to regulate activity on state lands, and fees and incentives to obtain compliance with state objectives.

In 1989, the Washington State Legislature enacted legislation changing the manner in which damage assessments are conducted for oil spills. A second measure enacted minimum financial responsibility requirements for oil tankers. In 1990, the Legislature enacted measures requiring certain vessels and onshore oil facilities to prepare oil spill response plans, and a second measure established a commission to fund and implement a response system for vessels not belonging to an oil spill cleanup cooperative.

In 1990, the Congress enacted comprehensive oil spill prevention and response legislation, addressing subjects such as oil tanker hull construction, financial responsibility requirements, vessel traffic service systems, vessel manning and work shifts, navigation safety standards, and penalties.

SUMMARY:

Spill Prevention and Response Office. An Office of Spill Prevention and Response is established within the Department of Ecology. The administrator of the division will have overall authority for state programs relating to spill prevention and response. The administrator is responsible for implementing an incident command system, a state vessel inspection program, prevention and response planning by the state, and reviewing prevention and response plans prepared by facilities and vessels. The administrator will also become a member of the Board of Pilotage Commissioners.

Prevention and Response Plans. Bulk cargo vessels and facilities handling or carrying bulk hazardous substances are required to prepare response plans. In addition, facilities located on or near the navigable waters are required to prepare response plans.

Vessels and facilities are also required to prepare prevention plans. The plans require the disclosure of measures that vessel and facility operators have taken to reduce the likelihood of a spill. In addition, facilities are required to describe measures the facility will take during the period covered by the plan to further reduce the likelihood of a spill. The Department of Ecology is to develop certification procedures for key facility personnel and shall require facilities to have an operations manual.

Enforcement. The maximum penalty for negligently discharging oil to water is increased from \$20,000 to \$100,000, and is extended to discharges of hazardous substances. The maximum penalty for willful or reckless discharges is increased from \$100,000 to \$1 million.

Regional Marine Safety Committees. Regional marine safety committees are established in the Puget Sound/Strait of Juan de Fuca region and Grays Harbor/Pacific Coast region. The Department of Ecology may establish additional committees if desirable. The committees are to develop marine safety plans under the guidance of the department. The department is responsible for implementing those portions of the plans that fall within the state's jurisdiction and is to work with federal agencies to implement those portions that fall outside of the state's jurisdiction.

Governor's Advisory Committee. A five member spill advisory committee is created to review the activities of the federal government, industry, and state agencies in spill prevention and response. The committee is to forward recommendations for corrective action to the Governor, the Legislature, federal and state agencies. The Governor appoints the members to

three year terms, and they are to be representative of the public and have experience with environmental protection or marine transportation.

Vessel Requirements. Ecology is authorized to establish tow cable equipment, operation, and maintenance standards. It requires two tug escorts for tankers proceeding beyond Port Angeles and/or on the Columbia River. If the vessel has specified safety features, only one tug escort is required. Barges on the Columbia River are required to have at least one tug pushing or a tail tug. Tankers on the Columbia River are required to have a licensed pilot on board. If the tanker has an Oregon licensed pilot, a Washington pilot is not necessary. Two new criminal violations are established for negligent or reckless operation of a tank vessel and for operating a tank vessel while intoxicated or under the influence of drugs.

Financial Responsibility. The minimum level of financial responsibility for tank vessels in Washington is increased to \$500 million. Lesser amounts may be maintained where determined by Ecology based upon specified criteria relating to spill risk. All other vessels over 300 gross tons are required to have minimum financial responsibility of the greater of \$500,000 or \$600 per gross ton. Onshore and offshore facilities are also required to maintain financial responsibility, to be determined based upon the costs and damages of a reasonable worst case spill.

Funding. A tax is imposed upon the first possession of oil and hazardous substances for commercial use at a facility. The amount is unspecified. The revenues are deposited to the spill prevention and response account which is created as a revolving account for spill prevention, response and cleanup. The costs of administering the program are to be appropriated from this account. The tax is not to be collected if the account exceeds \$33 million, and is revived if the account falls below \$31 million.

Maritime Safety Advisory Commission. The staff of the Maritime Commission are subject to the state civil service law. The membership is expanded to seven members who are appointed by the Governor to represent specific marine business classes. Actions of the commission, including increases in assessments, are to be taken by the adoption of rules. The commission is sunsetted in 1995.

Pilotage. The administrator of the spill prevention office is designated a member of the Board of Pilotage Commissioners. In addition, an environmental community representative is required to be appointed to the board. A Columbia River pilotage district is established. Pilot applicants and newly active pilots are required to take simulator training. Active pilots are required to take simulator training every five years. Additional pilot reporting of grounding, collisions and near misses are required.

Department of Natural Resources Leases. The Department of Natural Resources is to include in its leases provisions

requiring the best achievable protection for the state's waters, violation of which may be grounds for lease termination.

Appropriation:

Revenue:

Fiscal Note: none requested