

SENATE BILL REPORT

SB 5876

AS REPORTED BY COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES,
MARCH 5, 1991

Brief Description: Specifying liability for oil spill response.

SPONSORS: Senators Amondson, Snyder, Anderson, Conner, Metcalf, Vognild, Nelson, Sutherland, Oke and Bauer.

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Majority Report: That Substitute Senate Bill No. 5876 be substituted therefor, and the substitute bill do pass.

Signed by Senators Metcalf, Chairman; Oke, Vice Chairman; Amondson, Conner, Owen, Patterson, Snyder, and Sutherland.

Staff: Gabrielle Horner (786-7717)

Hearing Dates: March 5, 1991

BACKGROUND:

The Federal Oil Pollution Act of 1990 provides "oil spill responders" limited liability from damages resulting from responder cleanup actions. Individuals and organizations that are considered to be oil spill responders include fishermen, barge operators, bird and animal rescue centers, volunteers, spill response contractors, and spill response cooperatives.

Under the federal law, oil spill responders are not liable for removal costs or damages arising from their response activities, as long as a responder's actions are consistent with the National Contingency Plan--a plan prepared by the President providing for the efficient, coordinated, and effective removal of oil spills.

Oil spill responders are liable, under federal law, for removal costs or damages if they act with gross negligence or willful misconduct, or cause personal injury or death. Federal limited liability for oil spill responders does not apply to parties responsible for the oil or the oil spill.

The Federal Oil Pollution Act of 1990 does not preempt or prohibit current or future state law related to oil spill prevention, removal, liability, or responsibility. Oil spill cleanup contractors contend that they face uncertain liability in states that do not provide the same liability exemption as federal law.

Existing state law exempts governmental units, volunteers, or contractors (that are specified by rule) from liability for necessary expenses or property damages resulting from oil

spill cleanup efforts, unless damages from a cleanup action can be attributed to gross negligence or bad faith. State limited liability does not apply to any person responsible for the spilled oil, the facility, or the covered vessel from which the oil was spilled.

SUMMARY:

Persons responding to remove oil from the state's waters are not liable for oil removal costs or damages resulting from their response actions, as long as their actions are consistent with the National Contingency Plan, a federal on-scene coordinator (usually the Coast Guard), or a Department of Ecology official with responsibility for oil spill response.

State limited liability does not apply to parties responsible for the oil, or for the vessel from which the oil was spilled, actions resulting in personal injury or wrongful death, or if the responder was grossly negligent or engages in willful misconduct.

EFFECT OF PROPOSED SUBSTITUTE:

Existing state law pertaining to limited liability for persons responding to an oil spill is repealed.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Current state law limiting the liability of persons responding to an oil spill differs significantly from the federal Oil Pollution Act of 1990, leaving oil spill responders with uncertain liability in this state.

TESTIMONY AGAINST: None

TESTIFIED: Vice Admiral John D. Costello, President, Marine Spill Response Coalition (pro); Bill Park, General Manager, NW Region, Marine Spill Response Coalition (pro); Jim Halstrom, Marine Spill Response Coalition (pro)