
ENGROSSED SUBSTITUTE SENATE BILL 6461

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser and Bluechel)

Read first time 02/04/94.

1 AN ACT Relating to oil spill incident commander's liability;
2 amending RCW 88.16.190 and 88.44.180; and adding new sections to
3 chapter 88.44 RCW.

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

5 **Sec. 1.** RCW 88.16.190 and 1975 1st ex.s. c 125 s 3 are each
6 amended to read as follows:

7 (1) Any oil tanker, whether enrolled or registered, of greater than
8 one hundred and twenty-five thousand deadweight tons shall be
9 prohibited from proceeding beyond a point east of a line extending from
10 Discovery Island light south to New Dungeness light.

11 (2) An oil tanker, whether enrolled or registered, of forty to one
12 hundred and twenty-five thousand deadweight tons may proceed beyond the
13 points enumerated in subsection (1) if such tanker possesses all of the
14 following standard safety features:

15 (a) Shaft horsepower in the ratio of one horsepower to each two and
16 one-half deadweight tons; and

17 (b) Twin screws; and

18 (c) Double bottoms, underneath all oil and liquid cargo
19 compartments; and

1 (d) Two radars in working order and operating, one of which must be
2 collision avoidance radar; and

3 (e) Such other navigational position location systems as may be
4 prescribed from time to time by the board of pilotage commissioners:

5 PROVIDED, That, if such forty to one hundred and twenty-five
6 thousand deadweight ton tanker is in ballast or is under escort of a
7 tug or tugs with an aggregate shaft horsepower equivalent to five
8 percent of the deadweight tons of that tanker, subsection (2) of this
9 section shall not apply: PROVIDED FURTHER, That additional tug shaft
10 horsepower equivalencies may be required under certain conditions as
11 established by rule and regulation of the Washington utilities and
12 transportation commission pursuant to chapter 34.05 RCW: PROVIDED
13 FURTHER, That a tanker assigned a deadweight of less than forty
14 thousand deadweight tons at the time of construction or reconstruction
15 as reported in Lloyd's Register of Ships is not subject to the
16 provisions of RCW 88.16.170 through 88.16.190.

17 **Sec. 2.** RCW 88.44.180 and 1990 c 117 s 19 are each amended to read
18 as follows:

19 Obligations incurred by the commission and any other liabilities or
20 claims against the commission shall be enforced only against the assets
21 of the commission, and no liability for the debts or actions of the
22 commission exists against either the state of Washington or any
23 subdivision or instrumentality thereof, or against any member, officer,
24 employee, incident commander, or agent of the commission in his or her
25 individual or representative capacity. Except as otherwise provided in
26 this chapter, neither the members of the commission, its officers,
27 agents, ~~((nor))~~ incident commander employees nor the business entities
28 by whom ~~((the members))~~ they are regularly employed may be held
29 individually responsible for errors in judgment, mistakes, or other
30 acts, either of commission or omission, as principal, agent, person, or
31 employee, save for their own individual acts of dishonesty or crime.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.44 RCW
33 to read as follows:

34 The commission, in the exercise of its powers, may include in an
35 authorized contract, a provision for indemnifying the other contracting
36 party against specific loss, damage, or injury arising out of the
37 performance of the contract and resulting from the fault of the

1 commission, a member, officer, employee, incident commander, or agent
2 thereof. The indemnification shall be limited to the assets of the
3 commission under RCW 88.44.180.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.44 RCW
5 to read as follows:

6 The attorney general shall serve as the legal adviser to the
7 commission on all legal questions relating to the duties and activities
8 of the commission.

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