

SENATE BILL REPORT

2SHB 3112

As Reported By Senate Committee On:
Natural Resources, Energy & Water, February 26, 2004

Title: An act relating to marine fuel facilities.

Brief Description: Concerning marine fuel facilities.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Cooper and D. Simpson).

Brief History:

Committee Activity: Natural Resources, Energy & Water: 2/25/04, 2/26/04 [DP-HT].

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: Do pass and be referred to Committee on Highways & Transportation.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Fraser, Hale, Hargrove, Honeyford, Oke and Regala.

Staff: Richard Rodger (786-7461)

Background: The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and to protect state waters from oil spills. The Director of the Department of Ecology (department) has the primary authority to oversee prevention, abatement, response, containment and cleanup efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and financial responsibility requirements for vessels and facilities that may discharge oil into navigable waters.

For the purposes of oil spill laws, "facility" is defined to include any structure, pipeline, equipment, or device that transfers oil in bulk to or from a tank vessel or pipeline. The facility must be near the navigable waters of the state and be used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. Oil spill prevention plans must establish compliance with federal law and certify compliance with a number of personnel and equipment requirements. Prevention plans are valid for five years and may be combined with contingency plans. Facilities may opt to submit contingency plans for tank vessels unloading at the facility.

Each onshore and offshore facility must have a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state. The contingency plans must meet a number of standards including the methods of response to various size spills and repositioning of oil spill containment and cleanup equipment.

The department will approve plans that have adequate personnel, equipment, notification procedures, and logistical arrangements. In reviewing plans, the department must consider the nature of vessel traffic and the amount of oil and hazardous substances transported in the area covered by a plan, navigational hazards, prior history of spills in the area, and the sensitivity of the environment. Plans must be reviewed and updated at least once every five years.

Facilities may not operate without an approved contingency plan, oil spill prevention plan, or financial responsibility requirements in compliance with state or federal law. Facilities also may not transfer cargo or passengers to or from a covered vessel that does not have an approved contingency and prevention plan, or financial responsibility in compliance with state and federal law. The unlawful operation of a facility is a gross misdemeanor, and second and subsequent offenses are a class C felony. There are also civil penalties for the unlawful operation of a facility. The director of the department may assess a civil penalty of up to \$100,000 each day that the owner or operator of a covered vessel is in violation.

Summary of Bill: The Department of Ecology is directed to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings to the Legislature by December 15, 2004. The report must describe the current federal and state spill prevention and response requirements and recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships.

Any state agency conducting ship refueling or bunkering of more than 1 million gallons of oil during a calendar year on the waters of the state must develop facility oil spill prevention and contingency plans.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill addresses the mostly unregulated practice of fueling vessels from tanker trucks. The bill includes spill prevention plans and contingency plans for the Washington State ferries because of the number of ferries involved, the new practice of fueling by tanker trucks utilized by the ferry system, and the amount of fuel they use. The Bremerton Fire Department has testified that they lack the resources to respond to a spill or a fire if an accident should occur with ferries refueling there. The study included in the bill will provide valuable information that will help DOE prevent and respond to spills.

Testimony Against: The fueling of ferries by tanker truck is safe, efficient and economical. These transfers occur under regulations of both the USCG and DOE. The bill will have a range of impacts on the ferry system from \$286,000 for the study up to a possible \$2 million per year depending on how DOE rules on their plan.

Testified: Representative Mike Cooper, prime sponsor (pro); Bruce Wishart, People for Puget Sound, Western States Petroleum Association, Shellfish Growers Association (pro); Dale Jensen, DOE (pro); Bill Greene, Washington State Ferries.