

SENATE BILL REPORT

SB 5104

As of January 23, 2003

Title: An act relating to financial responsibility requirements for vessels.

Brief Description: Updating financial responsibility laws for vessels.

Sponsors: Senators Fraser, Morton and Fairley.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/24/03.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Staff: Richard Rodger (786-7461)

Background: Financial responsibility requirements are established to ensure that individuals and businesses have the ability to pay for any damages that may result from their activities. Financial responsibility requirements are used in a variety of state laws covering such people as contractors, pesticide applicators, motor vehicle operators, and operators of large vessels. Financial responsibility is generally proved or shown by: (1) evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility as determined by a state agency.

Financial responsibility requirements currently exist for vessels that transport petroleum products either as cargo or fuel. The current standards for the different types of vessels are:

- (1) barges transporting hazardous substances “ the greater of \$1 million or \$150/gross ton;
- (2) tank vessels carrying oil “ \$500 million; and
- (3) large cargo, fishing, and certain passenger vessels “ the greater of \$500,000 or \$600/gross ton. Passenger vessels are exempt if their fuel capacity is less than 6,000 gallons.

In some instances, the Department of Ecology may set a lower standard and the coverage may be provided through an "international protection and indemnity mutual organization," commonly referred to as a "P&I club."

The financial responsibility imposed on vessels may be used to pay for the removal of oil, natural resource damages, and "necessary expenses."

The Department of Ecology is required to deny entry to any vessel that does not meet the state's financial responsibility requirements.

The federal government and other states have enacted financial responsibility laws that require higher financial responsibility standards than Washington State. The North Puget Sound Oil Spill Risk Management Panel, formed by the U.S. Coast Guard and the Department of Ecology in 1999, recommended the state review its standards for imposition of liability or other spill response requirements related to discharge or substantial threat of discharge of oil.

Summary of Bill: The definitions of "hazardous substances" and "oil" are updated and the definition of an "inland barge" is deleted. A new definition is added for "fishing vessels." This was a previously undefined term, as these vessels were included under the definition of cargo vessels. Fishing vessels are defined to mean "a self propelled commercial vessel of 300 or more gross tons that is used for catching or processing fish."

The financial responsibility requirements for vessels are increased as follows:

- (1) barges transporting hazardous substances “ to \$5 million or \$300 per gross ton (the current federal Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" standard). The Department of Ecology may lower the financial responsibility requirement based on the type and quantity of cargo the barge can carry;
- (2) tank vessels “ to \$1 billion, on January 1, 2004; and
- (3) large cargo or passenger vessels “ to \$300 million, with a stepped-schedule for smaller cargo and passenger vessels. The requirement is waived for cargo and passenger vessels who prove their membership in a "P&I club."

A new standard is created for fishing vessels that used to fall under the "cargo vessel" definition. The new standard for fishing vessels is the greater of \$5 million or \$1 million per employee on the vessel.

In addition to its present uses, the financial responsibility for vessels may also be used to pay for: the removal of hazardous substances; penalties and fines; removal of shipwrecks and debris; and for necessary expenses related to a spill, or a substantial threat of a spill, involving oil or a hazardous substance.

It is unlawful for vessels who do not meet the financial responsibilities to enter Washington waters, except when there is a risk of injury to the crew or passengers.

Appropriation: None.

Fiscal Note: Requested on January 15, 2003.

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