

SSB 5344 - S AMD 50
By Senator Ranker

PULLED 03/05/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the northern
4 coast of the Olympic Peninsula and Washington's west coast from Cape
5 Flattery south to Cape Disappointment:

6 (a) Possess uniquely rich and highly vulnerable biological, marine,
7 and cultural resources supporting some of the nation's most valuable
8 commercial, sport, and tribal fisheries;

9 (b) Sustain endangered species and numerous species of vulnerable
10 marine mammals; and

11 (c) Are internationally recognized through extraordinary
12 designations including a world heritage site, a national park, a
13 national marine sanctuary, national wildlife refuges, a maritime area
14 off-limits to shipping, and tribal lands and fishing areas of federally
15 recognized coastal Indian tribes.

16 (2) The legislature further finds that these coasts are
17 periodically beset by severe storms with dangerously high seas and by
18 strong currents, obscuring fog, and other conditions that imperil
19 vessels and crews. When vessels suffer damage or founder, the coasts
20 are likewise imperiled, particularly if oil is spilled into coastal
21 waters. Oil spills pose great potential risks to treasured resources.

22 (3) The legislature further finds that Washington has maintained an
23 emergency response tug at Neah Bay since 1999 to protect state waters
24 from maritime casualties and resulting oil spills. The tug is
25 necessary because of peculiarities of local waters that call for
26 special precautionary measures. The tug has demonstrated its necessity
27 and capability by responding to forty-one vessels in need of
28 assistance. State funding for the tug is scheduled to end on June 30,
29 2009.

1 (4) The legislature intends that the maritime industry should
2 provide and fully fund at least one year-round emergency response tug
3 at Neah Bay, with necessary logistical and operational support, and
4 that any tug provided by the maritime industry pursuant to this act
5 should meet or exceed technical performance requirements specified in
6 the state's fiscal year 2009 contract for the Neah Bay emergency
7 response tug.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 88.46 RCW
9 to read as follows:

10 (1) The owner or operator of a covered vessel that is subject to
11 requirements specified in RCW 88.46.130 must provide at least one
12 emergency response towing vessel that must be:

13 (a) Stationed at Neah Bay; and

14 (b) Continuously available and capable of responding to any vessel
15 emergency, including but not limited to:

16 (i) Loss or serious degradation of propulsion, steering, means of
17 navigation, primary electrical generating capability, or seakeeping
18 capability;

19 (ii) Hull breach; or

20 (iii) Oil spill.

21 (2) An emergency response towing vessel must be capable of:

22 (a) Deploying at any hour of any day to provide emergency
23 assistance;

24 (b) Being underway within twenty minutes of a decision to deploy,
25 with adequate crew to safely remain underway for at least forty-eight
26 hours;

27 (c) Effectively employing a ship anchor chain recovery hook and
28 line throwing gun;

29 (d) A bollard pull of at least seventy short tons; and

30 (e) Effectively operating in severe weather conditions with
31 sustained winds measured at forty knots and wave heights of twelve to
32 eighteen feet, including:

33 (i) Holding position within one hundred feet of another vessel; and

34 (ii) Making up to, stopping, holding, and towing a drifting or
35 disabled vessel of one hundred eighty thousand metric dead weight tons.

36 (3) An emergency response towing vessel must be equipped with:

37 (a) A ship anchor chain recovery hook;

- 1 (b) A line throwing gun; and
- 2 (c) Appropriate equipment for:
 - 3 (i) Damage control patching;
 - 4 (ii) Vessel dewatering;
 - 5 (iii) Air safety monitoring; and
 - 6 (iv) Digital photography.

7 (4) The requirements of this section may be fulfilled by a private
8 organization or nonprofit cooperative providing umbrella coverage under
9 contract to a single or multiple covered vessels. If a nonprofit
10 cooperative is formed or used to meet the requirements of this section,
11 it shall equitably apportion costs to each participating covered vessel
12 based on risk associated with particular classes of covered vessels,
13 navigational and structural characteristics of covered vessels, and the
14 number of covered vessel transits to or from a Washington port through
15 the Strait of Juan de Fuca, as defined in RCW 88.46.130(5), except for
16 transits extending no further west than Race Rocks.

17 (5) The department is authorized to contract with an emergency
18 response towing vessel provided under this section. Any use by the
19 department must be paid by the department.

20 (6) An owner or operator of a covered vessel that is required to
21 provide an emergency response towing vessel may not restrict the
22 emergency response towing vessel from responding to noncovered vessels
23 in distress.

24 (7) Nothing in this section prohibits the owner or operator of a
25 covered vessel or a private organization or nonprofit cooperative from
26 contracting with an emergency response towing vessel with capabilities
27 exceeding requirements specified in this section.

28 NEW SECTION. **Sec. 3.** (1) The legislature finds that all sectors
29 of the maritime industry have demonstrated the ability to cooperate in
30 reducing risks of oil spills and in providing for comprehensive
31 response actions when spills occur. Therefore, the legislature expects
32 that owners or operators of covered vessels that are subject to
33 requirements specified in RCW 88.46.130 will cooperate in sharing
34 responsibility for the emergency response system and in equitably
35 apportioning costs.

36 (2) The department of ecology shall monitor progress of the
37 maritime industry in establishing and funding the emergency response

1 system required by RCW 88.46.130. The department shall provide interim
2 progress reports to appropriate standing committees in the senate and
3 house of representatives by October 1, 2009, and again by December 1,
4 2009, the latter date coinciding with the deadline for contingency
5 plans for covered vessels operating in the Strait of Juan de Fuca to
6 provide for the emergency response system required by RCW 88.46.130.

7 (3) The department's reports required under subsection (2) of this
8 section must describe the maritime industry's processes for ensuring
9 that the emergency response system is established and funded by July 1,
10 2010, as required by RCW 88.46.130. The reports must provide available
11 information regarding:

12 (a) The anticipated annual cost of providing the emergency response
13 system;

14 (b) The methodology for determining the anticipated average annual
15 cost for each class of covered vessel, including:

16 (i) A system for crediting enhanced navigational or structural
17 characteristics;

18 (ii) Appropriate limits on total cost for vessels that frequently
19 transit the Strait of Juan de Fuca, as defined in RCW 88.46.130(5),
20 except for transits extending no further west than Race Rocks;

21 (iii) Assessment of risk posed by vessel casualties; and

22 (iv) Consideration of current economic conditions; and

23 (c) Any impediment to equitable apportionment of costs.

24 (4) As used in this section, "class of covered vessel" means:

25 (a) Oil tankers;

26 (b) Tank barges;

27 (c) Tug and oil barge combinations;

28 (d) Cargo vessels;

29 (e) Passenger vessels; and

30 (f) Other covered vessels.

31 (5) This section expires June 30, 2010.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.46 RCW
33 to read as follows:

34 As soon as practicable following return of an emergency response
35 towing vessel after an incident necessitating a response, the covered
36 vessel owner or operator or the contracting organization shall submit
37 a report to the department. The report must provide a detailed

1 description of the incident necessitating a response and actions taken
2 to render assistance, and include high quality photographic
3 documentation.

4 **Sec. 5.** RCW 88.46.068 and 2006 c 316 s 4 are each amended to read
5 as follows:

6 (1) The department shall ((by rule)) adopt by rule procedures to
7 determine the adequacy of contingency plans approved under RCW
8 88.46.060. The rules shall require random practice drills without
9 prior notice that will test the adequacy of the responding entities.
10 The rules may provide for unannounced practice drills of individual
11 contingency plans.

12 (2) In addition to reviewing and approving contingency plans
13 required by RCW 88.46.060, the department shall also review and approve
14 the emergency response system required by RCW 88.46.130. Adequacy of
15 the system may be determined through practice drills, which may be
16 conducted without prior notice. Successful responses to vessel
17 emergencies may satisfy this requirement. Drills must test emergency
18 response towing vessels' ability to respond to worst case scenarios.

19 (3) The department shall review and publish a report on the drills,
20 including an assessment of response time and available equipment and
21 personnel compared to those listed in the contingency plans relying on
22 the responding entities, and requirements, if any, for changes in the
23 plans or their implementation.

24 (4) The department may require additional drills and changes in
25 arrangements for implementing approved plans which are necessary to
26 ensure their effective implementation.

27 **Sec. 6.** RCW 88.46.130 and 1991 c 200 s 426 are each amended to
28 read as follows:

29 (1) By July 1, 2010, the owner or operator of a covered vessel
30 transiting to or from a Washington port through the Strait of Juan de
31 Fuca, except for transits extending no further west than Race Rocks,
32 shall establish and fund an emergency response system ((for the Strait
33 of Juan de Fuca shall be established by July 1, 1992. In establishing
34 the emergency response system, the administrator shall consider the
35 recommendations of the regional marine safety committees. The
36 administrator shall also consult with the province of British Columbia

1 ~~regarding its participation in the emergency response system)~~
2 providing at least one emergency response towing vessel stationed at
3 Neah Bay.

4 (2) Any emergency response towing vessel provided under this
5 section must:

6 (a) Be available to serve vessels in distress in the Strait of Juan
7 de Fuca and off of the western coast of the state from Cape Flattery
8 light south to Cape Disappointment light; and

9 (b) Meet the requirements specified in section 2 of this act.

10 (3) In addition to meeting requirements specified in RCW 88.46.060,
11 contingency plans for covered vessels operating in the Strait of Juan
12 de Fuca must provide for the emergency response system required by this
13 section. Documents demonstrating compliance with this section must be
14 submitted to the department by December 1, 2009. An initial
15 contingency plan submitted to the department after December 1, 2009,
16 must be accompanied by documents demonstrating compliance with this
17 section.

18 (4) The requirements of this section are met if:

19 (a) Owners or operators of covered vessels provide at least one
20 emergency response towing vessel that complies with subsection (2) of
21 this section; or

22 (b) The United States government implements a system of protective
23 measures that the department determines to be substantially equivalent.

24 (5) As used in this section, "Strait of Juan de Fuca" means waters
25 off of the northern coast of the Olympic Peninsula, from Cape Flattery
26 light east to New Dungeness light, terminating at a line extending from
27 Discovery Island light south to New Dungeness light.

28 NEW SECTION. Sec. 7. (1) The director of the department of
29 ecology, or the director's designee, shall initiate discussions with
30 the director's counterpart in the government for the Canadian province
31 of British Columbia to explore options for Washington and British
32 Columbia to share marine emergency response assets required under this
33 act.

34 (2) The department of ecology must report any progress or outcomes
35 from discussions initiated under this section to appropriate committees
36 of the legislature by January 1, 2011.

37 (3) This section expires July 31, 2011.

1 NEW SECTION. **Sec. 8.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected."

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5 On page 1, line 1 of the title, after "vessels;" strike the
6 remainder of the title and insert "amending RCW 88.46.068 and
7 88.46.130; adding new sections to chapter 88.46 RCW; creating new
8 sections; and providing expiration dates."

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