

SSB 6567 - S AMD 679

By Senator Baumgartner

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

3 "NEW SECTION. **Sec. 1.** (1) The state of Washington has a long
4 history of leading in efforts to protect our natural environment while
5 encouraging economic opportunities. Public safety, protection of the
6 natural environment, and economic opportunities are goals shared by all
7 Washingtonians.

8 (2) Liquid bulk crude oil spill prevention and response programs in
9 Washington state, created through thoughtful cooperation and
10 coordination between industry and the communities they serve, is a
11 model to the rest of the nation and a model to the world. As modes of
12 transport for various types of liquid bulk crude oil change and as the
13 volume of liquid bulk crude oil transported through Washington changes,
14 it is important that proactive steps are taken to ensure public safety
15 and protection of natural resources.

16 (3) This act is intended to build upon strong and prudent plans
17 currently in effect, identify areas that need further protections, and
18 invest taxpayer funds today to increase safety and prevent spills.

19 (4) Prevention of crude oil spills is a top priority of the
20 legislature. Providing first responders, local communities, and
21 impacted parties with the tools to respond when spills do occur is in
22 the vital interest of the citizens of Washington state.

23 NEW SECTION. **Sec. 2.** (1) The department of ecology, in
24 consultation with the utilities and transportation commission, the
25 federal railroad administration, and industry representatives, shall
26 conduct a study on the safety of transporting crude oil in liquid bulk
27 form by rail. The study must include:

28 (a) A review of:

1 (i) The federal, state, and local emergency response and prevention
2 programs and activities for spills from tank cars transporting liquid
3 bulk crude oil with a focus on high hazard areas where emergency
4 response equipment can be strategically placed for use by federal,
5 state, regional, or local governments or other emergency responders;

6 (ii) The capacity of local jurisdictions to prevent and respond to
7 liquid bulk crude oil spills;

8 (iii) The identification of weaknesses or gaps in federal, state,
9 and local liquid bulk crude oil spill prevention and response; and

10 (iv) Federal regulations governing liquid bulk crude oil spill
11 prevention and response for transport by rail;

12 (b) A survey of:

13 (i) Local government funding for emergency liquid bulk crude oil
14 spill prevention and response programs;

15 (ii) Sources of funding, entities assessed, or contributions
16 required by participants of emergency liquid bulk crude oil spill
17 prevention and response programs; and

18 (iii) Regional or countywide cooperative agreements implementing
19 liquid bulk crude oil spill prevention and response programs;

20 (c) Recommendations for legislative consideration on the following:

21 (i) Levels of funding and sources of funding for emergency liquid
22 bulk crude oil spill prevention and response programs;

23 (ii) Participants that should be included in an emergency liquid
24 bulk crude oil spill prevention and response program and the amount
25 these participants should be assessed;

26 (iii) Appropriate use of funds such as: Liquid bulk crude oil
27 spill response, equipment, training, or other benefits to those who are
28 assessed;

29 (iv) Cooperative regional or countywide agreements to meet
30 emergency liquid bulk crude oil spill prevention and response program
31 needs, while maintaining an individual organization's distinct purpose;
32 and

33 (v) Methods to increase cooperation and coordination among
34 organizations responding to liquid bulk crude oil spills, including:

35 (A) Sharing resources or mutual aide between terrestrial and on-
36 water liquid bulk crude oil spill emergencies; and

37 (B) Communication to ensure a common understanding of the potential
38 threat from liquid bulk crude oil spills; and

1 (d) A report on the status and progress of federal rule making for
2 tank car safety requirements including model, age, modifications, and
3 upgrades.

4 (2) The department of ecology must provide: (a) A preliminary
5 evaluation on the status of the safety of transporting liquid bulk
6 crude oil by rail in the state and include recommendations for near-
7 term legislative action to address needs identified in the review as
8 required under subsection (1)(a)(i) of this section, to the relevant
9 policy and fiscal committees of the senate and house of representatives
10 by December 31, 2014; and (b) using the study and reviews conducted
11 under this section, a final report regarding the safety of the
12 transport of liquid bulk crude oil by rail, as well as recommendations
13 for policy, budget needs, or legislation to the relevant policy and
14 fiscal committees of the senate and house of representatives by
15 December 31, 2015.

16 NEW SECTION. **Sec. 3.** The department of ecology shall provide an
17 analysis on the safety of transporting liquid bulk crude oil on waters
18 of the state.

19 (1) The analysis must include:

20 (a) The capacity to address risks posed by liquid bulk crude oil;

21 (b) Weaknesses or gaps in liquid bulk crude oil spill prevention
22 and response programs, including identification of programs that are
23 not complete or need to be more robust, with a focus on Grays Harbor
24 and the Columbia river; and

25 (c) Barge and tug operations within the state related to the
26 movement of liquid bulk crude oil; and

27 (d) A status report on the federal, state, and local waterborne
28 liquid bulk crude oil spill prevention and preparedness.

29 (2) The department of ecology must provide to the relevant policy
30 and fiscal committees of the senate and house of representatives by
31 December 31, 2014, a status report on waterborne liquid bulk crude oil
32 spill prevention and preparedness; recommendations for Grays Harbor and
33 the Columbia river crude oil spill prevention and preparedness; an
34 analysis of barge and tug liquid bulk crude oil operations; and safety
35 gaps or weaknesses in liquid bulk crude oil spill prevention and
36 response programs.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.56 RCW
2 to read as follows:

3 (1) The department must provide to the relevant policy and fiscal
4 committees of the senate and house of representatives:

5 (a) A review of all state and federal geographic response plans as
6 needed in contingency plans required under RCW 90.56.210 and 88.46.060
7 by December 31, 2014; and

8 (b) Annual updates, beginning December 31, 2015, and ending
9 December 31, 2021, as required under RCW 43.01.036, as to the progress
10 made in completing state and federal geographic response plans as
11 needed in contingency plans required under RCW 90.56.060, 90.56.210,
12 and 88.46.060.

13 (2) The department must contract, if practicable, with eligible
14 independent third parties to ensure completion by December 1, 2016, of
15 at least fifty percent of the geographic response plans as needed in
16 contingency plans required under RCW 90.56.210 and 88.46.060 for the
17 state.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.56 RCW
19 to read as follows:

20 (1) The owner or operator for each facility other than a
21 transmission pipeline shall submit to the department data and
22 information on the volume and type of crude oil that arrived at and
23 departed from the facility each month, including the state, province,
24 or country of origin of the crude oil, the mode of arrival and
25 departure at the facility including, but not limited to, arrival by
26 vessel, rail, or pipeline.

27 (2)(a) Any person required to present information to the department
28 pursuant to subsection (1) of this section may request that specific
29 information be held in confidence. Information requested to be held in
30 confidence is presumed to be confidential.

31 (b) Information presented to the department pursuant to subsection
32 (1) of this section must be held in confidence by the department or
33 aggregated to the extent necessary to ensure confidentiality if public
34 disclosure of the specific information or data would result in an
35 unfair competitive disadvantage to the person supplying the
36 information.

1 (c)(i) Whenever the department receives a request to publicly
2 disclose unaggregated information or otherwise proposes to publicly
3 disclose information submitted pursuant to subsection (1) of this
4 section, notice of the request or proposal must be provided to the
5 person submitting the information. The notice must indicate the form
6 in which the information is to be released. Upon receipt of notice,
7 the person submitting the information has ten working days in which to
8 respond to the notice to justify the claim of confidentiality on each
9 specific item of information covered by the notice on the basis that
10 public disclosure of the specific information would result in an unfair
11 competitive disadvantage to the person supplying the information.

12 (ii) The department shall consider the respondent's submittal in
13 determining whether to publicly disclose the information submitted to
14 it to which a claim of confidentiality is made. The department shall
15 issue a written decision that sets forth its reasons for making the
16 determination whether each item of information for which a claim of
17 confidentiality is made remains confidential or must be publicly
18 disclosed.

19 (iii) The department shall not publicly disclose information
20 submitted to it pursuant to subsection (1) of this section within ten
21 working days after the department has issued its written decision
22 required in (c)(ii) of this subsection.

23 (iv) No information submitted to the department pursuant to
24 subsection (1) of this section may be deemed confidential if the person
25 submitting the information or data has made it public.

26 (v) With respect to information provided under subsection (1) of
27 this section, neither the department nor any employee of the department
28 may do any of the following:

29 (A) Use the information for any purpose other than the statistical
30 purposes for which it is supplied;

31 (B) Make any publication whereby the information furnished by any
32 particular establishment or individual can be identified; or

33 (C) Permit anyone other than department employees to examine the
34 individual reports provided under subsection (1) of this section.

35 (d) Any confidential information pertinent to the responsibilities
36 of the department that is obtained by another state agency must be
37 available to the department and must be treated in a confidential
38 manner.

1 NEW SECTION. **Sec. 6.** (1) The department of ecology in
2 consultation with the senate energy, environment, and
3 telecommunications committee and the house of representatives
4 environment committee, shall hold a regional meeting in British
5 Columbia, Canada, during the week of July 21 through 24, 2014,
6 coinciding with the Pacific Northwest economic region annual summit in
7 British Columbia and a joint work session prior to the regional meeting
8 to address emergency prevention and response activities for liquid bulk
9 crude oil transported in the Pacific Northwest region.

10 (2) The department of ecology must invite state representatives
11 from the Pacific Northwest economic region authorized under chapter
12 43.147 RCW and representatives from affected tribes, local governments,
13 the United States government, provinces, Canada, and other appropriate
14 stakeholders. The work session and the regional meeting must at a
15 minimum address:

16 (a) Cooperative emergency prevention and response activities
17 between the shared international and state borders;

18 (b) Expected risks posed by increased transport of Canadian crude
19 oil or liquid bulk crude oil throughout the Pacific Northwest region
20 within the next three to five years;

21 (c) Changes in methods for transporting liquid bulk crude oil and
22 associated risks;

23 (d) Identification of responsible agencies and corresponding
24 activities that can be taken to address expected risks; and

25 (e) Consideration of new or emerging technologies to make transport
26 of Canadian crude oil or liquid bulk crude oil safer.

27 NEW SECTION. **Sec. 7.** (1) The department of ecology shall provide
28 grants to emergency responders to assist with oil spill response and
29 firefighting equipment and resources needed to meet the requirements of
30 this act.

31 (2) The department of ecology, in consultation with emergency first
32 responders, representatives from oil and rail industries, and
33 businesses that are recipients of liquid bulk crude oil shall review
34 grant applications.

35 (a) The application review must include an evaluation of equipment
36 and resource requests, funding requirements, and coordination with
37 existing equipment and resources in the area.

1 (b) Funding must be prioritized for applicants from areas where
2 liquid bulk crude oil is transferred from one mode of transportation to
3 another.

4 (c) Grants must be coordinated to maximize currently existing
5 equipment and resources that have been put in place by first responders
6 and industry.

7 **Sec. 8.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read
8 as follows:

9 ~~((Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.))~~ The definitions in this
11 section apply throughout this chapter unless the context clearly
12 requires otherwise.

13 (1) "Barrel" means a unit of measurement of volume equal to forty-
14 two United States gallons of crude oil or petroleum product.

15 (2) "Bulk oil terminal" means a facility of any kind, other than a
16 waterborne vessel, that is used for transferring crude oil from a tank
17 car.

18 (3) "Crude oil" means any naturally occurring liquid hydrocarbons
19 at atmospheric temperature and pressure coming from the earth,
20 including condensate and natural gasoline.

21 ~~((+3))~~ (4) "Department" means the department of revenue.

22 ~~((+4))~~ (5) "Marine terminal" means a facility of any kind, other
23 than a waterborne vessel, that is used for transferring crude oil or
24 petroleum products to or from a waterborne vessel or barge.

25 ~~((+5))~~ (6) "Navigable waters" means those waters of the state and
26 their adjoining shorelines that are subject to the ebb and flow of the
27 tide, including the Columbia and Snake rivers.

28 ~~((+6))~~ (7) "Person" has the meaning provided in RCW 82.04.030.

29 ~~((+7))~~ (8) "Petroleum product" means any liquid hydrocarbons at
30 atmospheric temperature and pressure that are the product of the
31 fractionation, distillation, or other refining or processing of crude
32 oil, and that are used as, useable as, or may be refined as a fuel or
33 fuel blendstock, including but not limited to, gasoline, diesel fuel,
34 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
35 petroleum.

36 ~~((+8))~~ (9) "Tank car" means a rail car, the body of which consists
37 of a tank for transporting liquids.

1 (10) "Taxpayer" means the person owning crude oil or petroleum
2 products immediately after receipt of the same into the storage tanks
3 of a marine or bulk oil terminal in this state (~~from a waterborne~~
4 ~~vessel or barge~~) and who is liable for the taxes imposed by this
5 chapter.

6 (~~(9)~~) (11) "Waterborne vessel or barge" means any ship, barge, or
7 other watercraft capable of travelling on the navigable waters of this
8 state and capable of transporting any crude oil or petroleum product in
9 quantities of ten thousand gallons or more for purposes other than
10 providing fuel for its motor or engine.

11 **Sec. 9.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to read
12 as follows:

13 (1) An oil spill response tax is imposed on the privilege of
14 receiving: (a) Crude oil or petroleum products at a marine terminal
15 within this state from a waterborne vessel or barge operating on the
16 navigable waters of this state; and (b) crude oil at a bulk oil
17 terminal within this state from a tank car. The tax imposed in this
18 section is levied upon the owner of the crude oil or petroleum products
19 immediately after receipt of the same into the storage tanks of a
20 marine or bulk oil terminal from a tank car or waterborne vessel or
21 barge at the rate of one cent per barrel of crude oil or petroleum
22 product received.

23 (2) In addition to the tax imposed in subsection (1) of this
24 section, an oil spill administration tax is imposed on the privilege of
25 receiving: (a) Crude oil or petroleum products at a marine terminal
26 within this state from a waterborne vessel or barge operating on the
27 navigable waters of this state; and (b) crude oil at a bulk oil
28 terminal within this state from a tank car. The tax imposed in this
29 section is levied upon the owner of the crude oil or petroleum products
30 immediately after receipt of the same into the storage tanks of a
31 marine or bulk oil terminal from a tank car or waterborne vessel or
32 barge at the rate of four cents per barrel of crude oil or petroleum
33 product.

34 (3) The taxes imposed by this chapter (~~shall~~) must be collected
35 by the marine or bulk oil terminal operator from the taxpayer. If any
36 person charged with collecting the taxes fails to bill the taxpayer for
37 the taxes, or in the alternative has not notified the taxpayer in

1 writing of the (~~imposition of the~~) taxes imposed, or having collected
2 the taxes, fails to pay them to the department in the manner prescribed
3 by this chapter, whether such failure is the result of the person's own
4 acts or the result of acts or conditions beyond the person's control,
5 he or she (~~shall~~), nevertheless, (~~be~~) is personally liable to the
6 state for the amount of the taxes. Payment of the taxes by the owner
7 to a marine or bulk oil terminal operator (~~shall~~) must relieve the
8 owner from further liability for the taxes.

9 (4) Taxes collected under this chapter (~~shall~~) must be held in
10 trust until paid to the department. Any person collecting the taxes
11 who appropriates or converts the taxes collected (~~shall be~~) is guilty
12 of a gross misdemeanor if the money required to be collected is not
13 available for payment on the date payment is due. The taxes required
14 by this chapter to be collected (~~shall~~) must be stated separately
15 from other charges made by the marine or bulk oil terminal operator in
16 any invoice or other statement of account provided to the taxpayer.

17 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
18 the person charged with collection of the taxes and the person charged
19 with collection fails to pay the taxes to the department, the
20 department may, in its discretion, proceed directly against the
21 taxpayer for collection of the taxes.

22 (6) The taxes (~~shall be~~) are due from the marine or bulk oil
23 terminal operator, along with reports and returns on forms prescribed
24 by the department, within twenty-five days after the end of the month
25 in which the taxable activity occurs.

26 (7) The amount of taxes, until paid by the taxpayer to the marine
27 or bulk oil terminal operator or to the department, (~~shall~~)
28 constitute a debt from the taxpayer to the marine or bulk oil terminal
29 operator. Any person required to collect the taxes under this chapter
30 who, with intent to violate the provisions of this chapter, fails or
31 refuses to do so as required and any taxpayer who refuses to pay any
32 taxes due under this chapter (~~, shall be~~) is guilty of a misdemeanor
33 as provided in chapter 9A.20 RCW.

34 (8) Upon prior approval of the department, the taxpayer may pay the
35 taxes imposed by this chapter directly to the department. The
36 department (~~shall~~) must give its approval for direct payment under
37 this section whenever it appears, in the department's judgment, that
38 direct payment will enhance the administration of the taxes imposed

1 under this chapter. The department (~~shall~~) must provide by rule for
2 the issuance of a direct payment certificate to any taxpayer qualifying
3 for direct payment of the taxes. Good faith acceptance of a direct
4 payment certificate by a terminal operator (~~shall~~) must relieve the
5 marine or bulk oil terminal operator from any liability for the
6 collection or payment of the taxes imposed under this chapter.

7 (9) All receipts from the tax imposed in subsection (1) of this
8 section (~~shall~~) must be deposited into the state oil spill response
9 account. All receipts from the tax imposed in subsection (2) of this
10 section shall be deposited into the oil spill prevention account.

11 (10) Within forty-five days after the end of each calendar quarter,
12 the office of financial management (~~shall~~) must determine the balance
13 of the oil spill response account as of the last day of that calendar
14 quarter. Balance determinations by the office of financial management
15 under this section are final and (~~shall~~) may not be used to challenge
16 the validity of any tax imposed under this chapter. The office of
17 financial management (~~shall~~) must promptly notify the departments of
18 revenue and ecology of the account balance once a determination is
19 made. For each subsequent calendar quarter, the tax imposed by
20 subsection (1) of this section shall be imposed during the entire
21 calendar quarter unless:

22 (a) Tax was imposed under subsection (1) of this section during the
23 immediately preceding calendar quarter, and the most recent quarterly
24 balance is more than nine million dollars; or

25 (b) Tax was not imposed under subsection (1) of this section during
26 the immediately preceding calendar quarter, and the most recent
27 quarterly balance is more than eight million dollars.

28 **Sec. 10.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read
29 as follows:

30 The taxes imposed under this chapter (~~shall~~) only apply to the
31 first receipt of crude oil or petroleum products at a marine or bulk
32 oil terminal in this state and not to the later transporting and
33 subsequent receipt of the same oil or petroleum product, whether in the
34 form originally received at a marine or bulk oil terminal in this state
35 or after refining or other processing.

1 **Sec. 11.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to
2 read as follows:

3 Credit (~~shall~~) must be allowed against the taxes imposed under
4 this chapter for any crude oil or petroleum products received at a
5 marine or bulk oil terminal and subsequently exported from or sold for
6 export from the state.

7 **Sec. 12.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Barge" means a vessel that is not self-propelled.

12 (2) "Cargo vessel" means a self-propelled ship in commerce, other
13 than a tank vessel, fishing vessel, or a passenger vessel, of three
14 hundred or more gross tons.

15 (3) "Bulk" means material that is stored or transported in a loose,
16 unpackaged liquid, powder, or granular form capable of being conveyed
17 by a pipe, bucket, chute, or belt system.

18 (4) "Covered vessel" means a tank vessel, cargo vessel, or
19 passenger vessel.

20 (5) "Department" means the department of ecology.

21 (6) "Director" means the director of the department of ecology.

22 (7)(a) "Facility" means any structure, group of structures,
23 equipment, pipeline, or device, other than a vessel, located on or near
24 the navigable waters of the state that transfers oil in bulk to or from
25 any vessel with an oil carrying capacity over two hundred fifty barrels
26 or pipeline, that is used for producing, storing, handling,
27 transferring, processing, or transporting oil in bulk.

28 (b) A facility does not include any: (i) Railroad car, motor
29 vehicle, or other rolling stock while transporting oil over the
30 highways or rail lines of this state; (ii) retail motor vehicle motor
31 fuel outlet; (iii) facility that is operated as part of an exempt
32 agricultural activity as provided in RCW 82.04.330; (iv) underground
33 storage tank regulated by the department or a local government under
34 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
35 more than three thousand gallons of fuel to a ship that is not a
36 covered vessel, in a single transaction.

1 (8) "Fishing vessel" means a self-propelled commercial vessel of
2 three hundred or more gross tons that is used for catching or
3 processing fish.

4 (9) "Gross tons" means tonnage as determined by the United States
5 coast guard under 33 C.F.R. section 138.30.

6 (10) "Hazardous substances" means any substance listed as of March
7 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section
8 ((~~101(14)~~)) 102(a) of the federal comprehensive environmental response,
9 compensation, and liability act of 1980, as amended by P.L. 99-499.
10 The following are not hazardous substances for purposes of this
11 chapter:

12 (a) Wastes listed as F001 through F028 in Table 302.4; and

13 (b) Wastes listed as K001 through K136 in Table 302.4.

14 (11) "Navigable waters of the state" means those waters of the
15 state, and their adjoining shorelines, that are subject to the ebb and
16 flow of the tide and/or are presently used, have been used in the past,
17 or may be susceptible for use to transport intrastate, interstate, or
18 foreign commerce.

19 (12) "Oil" or "oils" means oil of any kind that is liquid at
20 ((~~atmospheric temperature~~)) twenty-five degrees Celsius and one
21 atmosphere of pressure and any fractionation thereof, including, but
22 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
23 well condensate, petroleum, gasoline, fuel oil, diesel oil, biological
24 oils and blends, oil sludge, oil refuse, and oil mixed with wastes
25 other than dredged spoil. Oil does not include any substance listed as
26 of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under
27 section ((~~101(14)~~)) 102(a) of the federal comprehensive environmental
28 response, compensation, and liability act of 1980, as amended by P.L.
29 99-499.

30 (13) "Offshore facility" means any facility located in, on, or
31 under any of the navigable waters of the state, but does not include a
32 facility any part of which is located in, on, or under any land of the
33 state, other than submerged land.

34 (14) "Onshore facility" means any facility any part of which is
35 located in, on, or under any land of the state, other than submerged
36 land, that because of its location, could reasonably be expected to
37 cause substantial harm to the environment by discharging oil into or on
38 the navigable waters of the state or the adjoining shorelines.

1 (15)(a) "Owner or operator" means (i) in the case of a vessel, any
2 person owning, operating, or chartering by demise, the vessel; (ii) in
3 the case of an onshore or offshore facility, any person owning or
4 operating the facility; and (iii) in the case of an abandoned vessel or
5 onshore or offshore facility, the person who owned or operated the
6 vessel or facility immediately before its abandonment.

7 (b) "Operator" does not include any person who owns the land
8 underlying a facility if the person is not involved in the operations
9 of the facility.

10 (16) "Passenger vessel" means a ship of three hundred or more gross
11 tons with a fuel capacity of at least six thousand gallons carrying
12 passengers for compensation.

13 (17) "Ship" means any boat, ship, vessel, barge, or other floating
14 craft of any kind.

15 (18) "Spill" means an unauthorized discharge of oil into the waters
16 of the state.

17 (19) "Tank vessel" means a ship that is constructed or adapted to
18 carry, or that carries, oil in bulk as cargo or cargo residue, and
19 that:

20 (a) Operates on the waters of the state; or

21 (b) Transfers oil in a port or place subject to the jurisdiction of
22 this state.

23 (20) "Waters of the state" includes lakes, rivers, ponds, streams,
24 inland waters, underground water, salt waters, estuaries, tidal flats,
25 beaches and lands adjoining the seacoast of the state, sewers, and all
26 other surface waters and watercourses within the jurisdiction of the
27 state of Washington.

28 **Sec. 13.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and
29 amended to read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Best achievable protection" means the highest level of
33 protection that can be achieved through the use of the best achievable
34 technology and those staffing levels, training procedures, and
35 operational methods that provide the greatest degree of protection
36 achievable. The director's determination of best achievable protection

1 shall be guided by the critical need to protect the state's natural
2 resources and waters, while considering:

- 3 (a) The additional protection provided by the measures;
- 4 (b) The technological achievability of the measures; and
- 5 (c) The cost of the measures.

6 (2)(a) "Best achievable technology" means the technology that
7 provides the greatest degree of protection taking into consideration:

8 (i) Processes that are being developed, or could feasibly be
9 developed, given overall reasonable expenditures on research and
10 development; and

11 (ii) Processes that are currently in use.

12 (b) In determining what is best achievable technology, the director
13 shall consider the effectiveness, engineering feasibility, and
14 commercial availability of the technology.

15 (3) "Bulk" means material that is stored or transported in a loose,
16 unpackaged liquid, powder, or granular form capable of being conveyed
17 by a pipe, bucket, chute, or belt system.

18 (4) "Cargo vessel" means a self-propelled ship in commerce, other
19 than a tank vessel or a passenger vessel, of three hundred or more
20 gross tons, including but not limited to, commercial fish processing
21 vessels and freighters.

22 (5) "Covered vessel" means a tank vessel, cargo vessel, or
23 passenger vessel.

24 (6) "Department" means the department of ecology.

25 (7) "Director" means the director of the department of ecology.

26 (8) "Discharge" means any spilling, leaking, pumping, pouring,
27 emitting, emptying, or dumping.

28 (9)(a) "Facility" means any structure, group of structures,
29 equipment, pipeline, or device, other than a vessel, located on or near
30 the navigable waters of the state that transfers oil in bulk to or from
31 a tank vessel or pipeline, that is used for producing, storing,
32 handling, transferring, processing, or transporting oil in bulk.

33 (b) A facility does not include any: (i) Railroad car, motor
34 vehicle, or other rolling stock while transporting oil over the
35 highways or rail lines of this state; (ii) retail motor vehicle motor
36 fuel outlet; (iii) facility that is operated as part of an exempt
37 agricultural activity as provided in RCW 82.04.330; (iv) underground
38 storage tank regulated by the department or a local government under

1 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense
2 more than three thousand gallons of fuel to a ship that is not a
3 covered vessel, in a single transaction.

4 (10) "Marine facility" means any facility used for tank vessel
5 wharfage or anchorage, including any equipment used for the purpose of
6 handling or transferring oil in bulk to or from a tank vessel.

7 (11) "Navigable waters of the state" means those waters of the
8 state, and their adjoining shorelines, that are subject to the ebb and
9 flow of the tide and/or are presently used, have been used in the past,
10 or may be susceptible for use to transport intrastate, interstate, or
11 foreign commerce.

12 (12) "Offshore facility" means any facility located in, on, or
13 under any of the navigable waters of the state, but does not include a
14 facility any part of which is located in, on, or under any land of the
15 state, other than submerged land. "Offshore facility" does not include
16 a marine facility.

17 (13) "Oil" or "oils" means oil of any kind that is liquid at
18 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
19 atmosphere of pressure and any fractionation thereof, including, but
20 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
21 well condensate, petroleum, gasoline, fuel oil, diesel oil, biological
22 oils and blends, oil sludge, oil refuse, and oil mixed with wastes
23 other than dredged spoil. Oil does not include any substance listed in
24 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
25 section (~~(101(14))~~) 102(a) of the federal comprehensive environmental
26 response, compensation, and liability act of 1980, as amended by P.L.
27 99-499.

28 (14) "Onshore facility" means any facility any part of which is
29 located in, on, or under any land of the state, other than submerged
30 land, that because of its location, could reasonably be expected to
31 cause substantial harm to the environment by discharging oil into or on
32 the navigable waters of the state or the adjoining shorelines.

33 (15)(a) "Owner or operator" means (i) in the case of a vessel, any
34 person owning, operating, or chartering by demise, the vessel; (ii) in
35 the case of an onshore or offshore facility, any person owning or
36 operating the facility; and (iii) in the case of an abandoned vessel or
37 onshore or offshore facility, the person who owned or operated the
38 vessel or facility immediately before its abandonment.

1 (b) "Operator" does not include any person who owns the land
2 underlying a facility if the person is not involved in the operations
3 of the facility.

4 (16) "Passenger vessel" means a ship of three hundred or more gross
5 tons with a fuel capacity of at least six thousand gallons carrying
6 passengers for compensation.

7 (17) "Person" means any political subdivision, government agency,
8 municipality, industry, public or private corporation, copartnership,
9 association, firm, individual, or any other entity whatsoever.

10 (18) "Race Rocks light" means the nautical landmark located
11 southwest of the city of Victoria, British Columbia.

12 (19) "Regional vessels of opportunity response group" means a group
13 of nondedicated vessels participating in a vessels of opportunity
14 response system to respond when needed and available to spills in a
15 defined geographic area.

16 (20) "Severe weather conditions" means observed nautical conditions
17 with sustained winds measured at forty knots and wave heights measured
18 between twelve and eighteen feet.

19 (21) "Ship" means any boat, ship, vessel, barge, or other floating
20 craft of any kind.

21 (22) "Spill" means an unauthorized discharge of oil into the waters
22 of the state.

23 (23) "Strait of Juan de Fuca" means waters off the northern coast
24 of the Olympic Peninsula seaward of a line drawn from New Dungeness
25 light in Clallam county to Discovery Island light on Vancouver Island,
26 British Columbia, Canada.

27 (24) "Tank vessel" means a ship that is constructed or adapted to
28 carry, or that carries, oil in bulk as cargo or cargo residue, and
29 that:

30 (a) Operates on the waters of the state; or

31 (b) Transfers oil in a port or place subject to the jurisdiction of
32 this state.

33 (25) "Umbrella plan holder" means a nonprofit corporation
34 established consistent with this chapter for the purposes of providing
35 oil spill response and contingency plan coverage.

36 (26) "Vessel emergency" means a substantial threat of pollution
37 originating from a covered vessel, including loss or serious

1 degradation of propulsion, steering, means of navigation, primary
2 electrical generating capability, and seakeeping capability.

3 (27) "Vessels of opportunity response system" means nondedicated
4 boats and operators, including fishing and other vessels, that are
5 under contract with and equipped by contingency plan holders to assist
6 with oil spill response activities, including on-water oil recovery in
7 the near shore environment and the placement of oil spill containment
8 booms to protect sensitive habitats.

9 (28) "Volunteer coordination system" means an oil spill response
10 system that, before a spill occurs, prepares for the coordination of
11 volunteers to assist with appropriate oil spill response activities,
12 which may include shoreline protection and cleanup, wildlife recovery,
13 field observation, light construction, facility maintenance, donations
14 management, clerical support, and other aspects of a spill response.

15 (29) "Waters of the state" includes lakes, rivers, ponds, streams,
16 inland waters, underground water, salt waters, estuaries, tidal flats,
17 beaches and lands adjoining the seacoast of the state, sewers, and all
18 other surface waters and watercourses within the jurisdiction of the
19 state of Washington.

20 (30) "Worst case spill" means: (a) In the case of a vessel, a
21 spill of the entire cargo and fuel of the vessel complicated by adverse
22 weather conditions; and (b) in the case of an onshore or offshore
23 facility, the largest foreseeable spill in adverse weather conditions.

24 **Sec. 14.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Best achievable protection" means the highest level of
29 protection that can be achieved through the use of the best achievable
30 technology and those staffing levels, training procedures, and
31 operational methods that provide the greatest degree of protection
32 achievable. The director's determination of best achievable protection
33 shall be guided by the critical need to protect the state's natural
34 resources and waters, while considering (a) the additional protection
35 provided by the measures; (b) the technological achievability of the
36 measures; and (c) the cost of the measures.

1 (2) "Best achievable technology" means the technology that provides
2 the greatest degree of protection taking into consideration (a)
3 processes that are being developed, or could feasibly be developed,
4 given overall reasonable expenditures on research and development, and
5 (b) processes that are currently in use. In determining what is best
6 achievable technology, the director shall consider the effectiveness,
7 engineering feasibility, and commercial availability of the technology.

8 (3) "Board" means the pollution control hearings board.

9 (4) "Cargo vessel" means a self-propelled ship in commerce, other
10 than a tank vessel or a passenger vessel, three hundred or more gross
11 tons, including but not limited to, commercial fish processing vessels
12 and freighters.

13 (5) "Bulk" means material that is stored or transported in a loose,
14 unpackaged liquid, powder, or granular form capable of being conveyed
15 by a pipe, bucket, chute, or belt system.

16 (6) "Committee" means the preassessment screening committee
17 established under RCW 90.48.368.

18 (7) "Covered vessel" means a tank vessel, cargo vessel, or
19 passenger vessel.

20 (8) "Department" means the department of ecology.

21 (9) "Director" means the director of the department of ecology.

22 (10) "Discharge" means any spilling, leaking, pumping, pouring,
23 emitting, emptying, or dumping.

24 (11)(a) "Facility" means any structure, group of structures,
25 equipment, pipeline, or device, other than a vessel, located on or near
26 the navigable waters of the state that transfers oil in bulk to or from
27 a tank vessel or pipeline, that is used for producing, storing,
28 handling, transferring, processing, or transporting oil in bulk.

29 (b) A facility does not include any: (i) Railroad car, motor
30 vehicle, or other rolling stock while transporting oil over the
31 highways or rail lines of this state; (ii) underground storage tank
32 regulated by the department or a local government under chapter 90.76
33 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is
34 operated as part of an exempt agricultural activity as provided in RCW
35 82.04.330; or (v) marine fuel outlet that does not dispense more than
36 three thousand gallons of fuel to a ship that is not a covered vessel,
37 in a single transaction.

1 (12) "Fund" means the state coastal protection fund as provided in
2 RCW 90.48.390 and 90.48.400.

3 (13) "Having control over oil" shall include but not be limited to
4 any person using, storing, or transporting oil immediately prior to
5 entry of such oil into the waters of the state, and shall specifically
6 include carriers and bailees of such oil.

7 (14) "Marine facility" means any facility used for tank vessel
8 wharfage or anchorage, including any equipment used for the purpose of
9 handling or transferring oil in bulk to or from a tank vessel.

10 (15) "Navigable waters of the state" means those waters of the
11 state, and their adjoining shorelines, that are subject to the ebb and
12 flow of the tide and/or are presently used, have been used in the past,
13 or may be susceptible for use to transport intrastate, interstate, or
14 foreign commerce.

15 (16) "Necessary expenses" means the expenses incurred by the
16 department and assisting state agencies for (a) investigating the
17 source of the discharge; (b) investigating the extent of the
18 environmental damage caused by the discharge; (c) conducting actions
19 necessary to clean up the discharge; (d) conducting predamage and
20 damage assessment studies; and (e) enforcing the provisions of this
21 chapter and collecting for damages caused by a discharge.

22 (17) "Oil" or "oils" means oil of any kind that is liquid at
23 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one
24 atmosphere of pressure and any fractionation thereof, including, but
25 not limited to, crude oil, bitumen, synthetic crude oil, natural gas
26 well condensate, petroleum, gasoline, fuel oil, diesel oil, biological
27 oils and blends, oil sludge, oil refuse, and oil mixed with wastes
28 other than dredged spoil. Oil does not include any substance listed in
29 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under
30 section (~~(101(14))~~) 102(a) of the federal comprehensive environmental
31 response, compensation, and liability act of 1980, as amended by P.L.
32 99-499.

33 (18) "Offshore facility" means any facility located in, on, or
34 under any of the navigable waters of the state, but does not include a
35 facility any part of which is located in, on, or under any land of the
36 state, other than submerged land.

37 (19) "Onshore facility" means any facility any part of which is
38 located in, on, or under any land of the state, other than submerged

1 land, that because of its location, could reasonably be expected to
2 cause substantial harm to the environment by discharging oil into or on
3 the navigable waters of the state or the adjoining shorelines.

4 (20)(a) "Owner or operator" means (i) in the case of a vessel, any
5 person owning, operating, or chartering by demise, the vessel; (ii) in
6 the case of an onshore or offshore facility, any person owning or
7 operating the facility; and (iii) in the case of an abandoned vessel or
8 onshore or offshore facility, the person who owned or operated the
9 vessel or facility immediately before its abandonment.

10 (b) "Operator" does not include any person who owns the land
11 underlying a facility if the person is not involved in the operations
12 of the facility.

13 (21) "Passenger vessel" means a ship of three hundred or more gross
14 tons with a fuel capacity of at least six thousand gallons carrying
15 passengers for compensation.

16 (22) "Person" means any political subdivision, government agency,
17 municipality, industry, public or private corporation, copartnership,
18 association, firm, individual, or any other entity whatsoever.

19 (23) "Ship" means any boat, ship, vessel, barge, or other floating
20 craft of any kind.

21 (24) "Spill" means an unauthorized discharge of oil or hazardous
22 substances into the waters of the state.

23 (25) "Tank vessel" means a ship that is constructed or adapted to
24 carry, or that carries, oil in bulk as cargo or cargo residue, and
25 that:

26 (a) Operates on the waters of the state; or

27 (b) Transfers oil in a port or place subject to the jurisdiction of
28 this state.

29 (26) "Waters of the state" includes lakes, rivers, ponds, streams,
30 inland waters, underground water, salt waters, estuaries, tidal flats,
31 beaches and lands adjoining the seacoast of the state, sewers, and all
32 other surface waters and watercourses within the jurisdiction of the
33 state of Washington.

34 (27) "Worst case spill" means: (a) In the case of a vessel, a
35 spill of the entire cargo and fuel of the vessel complicated by adverse
36 weather conditions; and (b) in the case of an onshore or offshore
37 facility, the largest foreseeable spill in adverse weather conditions.

1 NEW SECTION. **Sec. 15.** 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.

5 NEW SECTION. **Sec. 16.** This act may be known and cited as the
6 spill prevention and response act."

SSB 6567 - S AMD
By Senator

7 On page 1, line 2 of the title, after "rail;" strike the remainder
8 of the title and insert "amending RCW 82.23B.010, 82.23B.020,
9 82.23B.030, 82.23B.040, 88.40.011, and 90.56.010; reenacting and
10 amending RCW 88.46.010; adding new sections to chapter 90.56 RCW; and
11 creating new sections."

EFFECT: Adds studies of rail and waterborne transport of crude
oil;

Requires Ecology to contract out completion of at least 50% of
geographic response plans;

Requires facilities receiving crude oil by rail to report, on a
monthly basis, volume and type and origin;

Provides confidentiality procedures for facilities reporting crude
oil volume and type;

Requires Ecology, in consultation with the Senate EET Committee and
House Environment Committee to hold a work session and a regional
meeting, coinciding with PNWER annual summit, on transportation of
liquid bulk crude in the Pacific Northwest region;

Requires Ecology to provide grants to emergency first responders
for oil spill response equipment and resources;

Applies the barrel tax to crude oil by rail; and

Amends the definition of "oil" and "oils" to include bitumen,
synthetic crude, etc., for the purposes of oil spill prevention and
response, vessel oil spill and response, and financial responsibilities
of the transport of petroleum statutes.

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