

SENATE BILL REPORT

ESSB 5579

As Amended by House, April 12, 2019

Title: An act relating to the volatility of crude oil received in the state by rail.

Brief Description: Concerning the volatility of crude oil received in the state by rail.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Billig, Carlyle, Pedersen, Palumbo, Hasegawa, Keiser, Rolfes, Saldaña, Van De Wege, Frockt, Conway, Hunt, Liias, Dhingra, Kuderer and Nguyen).

Brief History:

Committee Activity: Environment, Energy & Technology: 1/29/19, 2/07/19 [DPS, DNP].

Floor Activity:

Passed Senate: 3/04/19, 27-20.

Passed House: 4/12/19, 53-40.

Brief Summary of Engrossed First Substitute Bill

- Prohibits a facility from unloading or loading crude oil with a vapor pressure greater than 9 pounds per square inch (psi).
- Prohibits a facility from storing crude oil with a vapor pressure greater than 9 psi.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5579 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Billig, Das, Liias, McCoy, Nguyen and Wellman.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Brown, Rivers and Short.

Staff: Jan Odano (786-7486)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Oil Spill and Response. The Legislature enacted oil spill prevention and response measures in 1990 to promote the safety of marine transportation and protect state waters from oil spills. The director of the Department of Ecology (Ecology) has the primary authority to oversee prevention, abatement, response, containment, and clean-up efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Oil Spill Prevention Plans and Oil Spill Contingency Plans. Ecology administers an oil spill preparedness, prevention, and response program. Among other statutes administered by Ecology's Oil Spills Program, state law directs facilities including railroads, oil refineries, terminals, pipelines, and vessel operators involved in the bulk transfer of oil to put in place oil spill contingency plans outlining containment and remediation responses to potential oil spills from the vessel.

Disclosure of Information about Oil Transportation. Vessel operators and railroads are required to provide an advance notice to Ecology that includes time, location, and volume information prior to certain transfers of oil. Facilities receiving crude oil from railroads must include in the advance notice the route taken to the facility, the scheduled time, location, volume, gravity of crude oil, and originating region of crude oil received. This advanced notice must be provided once per week to Ecology for the receipts scheduled for the following week. Ecology must also publish a quarterly report featuring information from the railroad receipt notices, including place of origin, mode of transport, number of railroad cars delivering oil, and the number and volume of spills during transport and delivery. Information in the quarterly report must be aggregated on a statewide basis by route, by week, and by type of oil.

Railroad Safety. The Federal Railroad Administration is responsible for establishing national railroad safety rules. The rules address concerns such as hazardous materials; track, signal, and train control; operating practices; and motive of power and equipment. The Surface Transportation Board has jurisdiction over railroad rates, service issues, mergers, sales, construction, and abandonment of rail lines. The Pipeline and Materials Hazardous Safety Administration (PMHSA) within the U.S. Department of Transportation regulates movement of hazardous materials by all modes of transportation. PHMSA develops standards to classify, handle, and package shipments of hazardous materials.

Summary of Engrossed First Substitute Bill: Beginning July 1, 2020, a facility may not load or unload from a rail tank car crude oil with a vapor pressure greater than 9 psi. A facility may not store crude oil produced from the Bakken region unless the crude oil has a vapor pressure less than 9 psi. A railroad car carrying crude oil is not prohibited from entering the state, or required to stop or have the vapor pressure checked before entering the state.

Ecology is authorized to impose a penalty of no more than \$2,500 per day, per rail tank car for a violation of this act. Penalties received must be deposited in the Coastal Protection Fund.

Advanced notice provided to Ecology must include the type and vapor pressure of crude oil received from a rail tank car.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Bakken crude is known to be uniquely volatility than other crude oils. It is important to have conversations about safe guards for communities to prevent damaging effects from derailments. There is no way to put out a Bakken crude oil fire. Where the federal government has not adopted safety standards, the states can establish them. The only rail car that did not explode at Lac Megantic had a psi of 9, which is why 9 psi is important.

CON: It is important to note that crude oil is travelling at 13.7 psi and gasoline at 13.5 psi.

OTHER: We have concerns about the assertions contained in the bill regarding rail safety. The volatility of vapor pressure is the domain of the petroleum industry. PHMSA has initiated a rulemaking on vapor pressure. We prefer to have one standard instead of different standards across the states. safety of first responders is very important and the volatility of oil must be considered.

Persons Testifying: PRO: Senator Andy Billig, Prime Sponsor; Darcy Nonemacher, Washington Environmental Council.

CON: Jessica Spiegel, WSPA.

OTHER: Johan Hellman, BNSF Railway; Dale Jensen, Department of Ecology; Herb Krohn, Washington State Legislative Director, United Transpiration Union/SMART Union Transportation Division.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Provides that the prohibition on loading and unloading of certain crude oil at a facility does not take effect until two years after the volume of crude oil transported by rail received by the facility during a calendar year has increased by more than 10 percent relative to the volume transported in 2018.
- Removes the prohibition regarding the storage of certain crude oil.
- Requires Ecology to provide to the Utilities and Transportation Commission (UTC), data reported by facilities on the characteristics, volatility, vapor pressure, and volume of crude oil transported by rail.

- Requires UTC to incorporate into its annual work plan the data received from Ecology related to the transport of crude oil.
- Removes the intent section.