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HOUSE BILL 1785

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Riccelli, Peterson, and Doglio

1       AN ACT Relating to the volatility of crude oil received in the  
2 state by rail; amending RCW 90.56.565; adding a new section to  
3 chapter 90.56 RCW; creating a new section; and prescribing penalties.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.   **Sec. 1.**   The legislature finds that Bakken crude  
6 oils have variable chemical compositions and that organic materials  
7 from oil and gas production at wellheads are not sufficiently  
8 separated or conditioned, increasing the volatility of the crude oil.  
9 Bakken crude oil is typically more volatile than other crude oil,  
10 increasing the flammability of the oil and the potential for far  
11 greater harm to the public in the event of a derailment. Since 2013  
12 there have been at least fourteen events involving derailments of  
13 Bakken crude in the United States and Canada involving Bakken crude,  
14 including the Lac-Megantic rail derailment that killed forty-seven  
15 people, and the derailment and fire at Mosier, Oregon, causing an  
16 evacuation of much of the town and narrowly avoiding a catastrophic  
17 spill into the Columbia river.

18       At present there is no federal regulation to limit the volatility  
19 of crude oil shipped in railroad tank cars. Volatility limits are  
20 necessary to ensure that Bakken crude oil is packaged and handled  
21 safely and securely during transportation. Volatility of crude oil

1 limits are also necessary to provide effective communication to  
2 transportation workers and emergency responders of the Bakken crude  
3 oil being transported. Further, volatility limits are essential in  
4 minimizing the consequences of an accident or incident. The  
5 legislature further finds that railroads recognize the additional  
6 risks of transporting Bakken crude oil by charging a surcharge, and  
7 attempting to ban retrofitted DOT 117R tank cars in contracts despite  
8 the DOT 117Rs meeting federal standards.

9 The legislature further finds that the United States department  
10 of transportation has erroneously removed electronically controlled  
11 pneumatic brakes, a critical safety measure from the DOT 117 enhanced  
12 tank car, increasing the risks to Washington's residents. While the  
13 federal pipeline and hazardous materials safety administration has  
14 adopted so-called packing rules for high-hazard flammable trains, it  
15 has not adopted a nationwide vapor pressure standard for crude oil  
16 shipped by rail, nor has it responded to petitions from multiple  
17 states to incorporate necessary safety measures to protect public  
18 safety and the environment. In the absence of such a nationwide  
19 standard, it is necessary for the state to adopt a standard that will  
20 reduce the risks to public safety and to the environment in the event  
21 of a derailment or other casualty involving one of the many unit  
22 trains transporting Bakken crude oil across the state.

23 Therefore, it is the intent of this act to require facilities  
24 offloading or loading crude oil from a rail tank car to ensure that  
25 the oil meets specific vapor pressure standards. This will have the  
26 effect of requiring the owner of the oil to condition it to meet the  
27 standard prior to shipment from the Bakken region, and in doing so  
28 will avoid any conflict between the state requirement and preemptive  
29 federal regulation of the operation of the railroads.

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

32 (1) A facility may not load or unload crude oil into or from a  
33 rail tank car unless the oil has a vapor pressure of less than nine  
34 pounds per square inch.

35 (2) A facility may not store crude oil produced from the Bakken  
36 region unless the oil has a vapor pressure of less than nine pounds  
37 per square inch.

38 (3) The director may impose a penalty of up to twenty-five  
39 hundred dollars per day per rail tank car or the equivalent volume of

oil for violations of this section. Any penalty recovered pursuant to this section must be credited to the coastal protection fund created in RCW 90.48.390.

**Sec. 3.** RCW 90.56.565 and 2015 c 274 s 8 are each amended to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, type, vapor pressure, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars

1 delivering crude oil, and number and volume of spills during  
2 transport and delivery.

3 (4) A facility providing advance notice under this section is not  
4 responsible for meeting advance notice time frame requirements under  
5 subsection (1) of this section in the event that the schedule of  
6 arrivals of railroad cars carrying crude oil changes during a seven-  
7 day period.

8 (5) Consistent with the requirements of chapter 42.56 RCW, the  
9 department and any state, local, tribal, or public agency that  
10 receives information provided under this section may not disclose any  
11 such information to the public or to nongovernmental entities that  
12 contains proprietary, commercial, or financial information unless  
13 that information is aggregated. The requirement for aggregating  
14 information does not apply when information is shared by the  
15 department with emergency response agencies as provided in subsection  
16 (2) of this section.

17 (6) The department shall adopt rules to implement this section.  
18 The advance notice system required in this section must be consistent  
19 with the oil transfer reporting system adopted by the department  
20 pursuant to RCW 88.46.165.

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