

Charles Costanzo, Vice President – Pacific Region, The American Waterways Operators

SB 5578

Good morning and thank you. Charles Costanzo, the American Waterways Operators, national trade assoc. for the tugboat and barge industry.

AWO members generally approve of measures that improve marine safety and create more work for tugboats, but SB 5578 creates marine safety problems and we oppose.

The U.S. Coast Guard has primary jurisdiction over interstate maritime commerce and for this effort to be successful they need to be involved. The State Department and Coast Guard raised concerns about a US-Canada marine safety forum mandated by SB 6269 last year, and the Coast Guard and Transport Canada expressly declined to participate. I'd like to offer a letter from Coast Guard District legal office to Secretary Bellon that outlines Coast Guard concerns and highlights the deteriorated state of the partnership. This bill is another damaging blow to a relationship that has been integral in achieving the excellent safety record that we currently enjoy. I strongly encourage this committee to find out where the Coast Guard is on this issue, because their absence is troubling.

The substance of the bill is questionable, as well. The bill would place tug escorts on oil barge transits adding thousands of tug transits to Puget Sound waters. The pilotage commission reported over 800 piloted oil barge transits last year. Since not all oil barges take a pilot, the total number is actually higher and the tug transits would be about triple that number: a tug transit to get to the start of the escort, the escort transit itself and the tug transit back to a staging area or next job location. So the legislature would be adding vessel traffic risk vectors, engine emissions, and undersea noise to a marine environment that we're trying to protect.

AWO asks that this committee consider those externalities, the absence of the Coast Guard, and weigh these against the reality that oil volumes transported by water are down by almost 30% from ten years ago. Oil barge transits are not increasing, and there is no incident on record in these waters that demonstrates that an escort tug was needed to safely complete a transit. Meanwhile, technology and regulatory requirements have reduced risk so these barges are double hulled operating in protected waters with redundant steering and propulsion.

This legislation arises from Ecology's recommendation in the vessel traffic report required after the legislature passed SB 6269. The due date for the report was June 30, 2019, but it was accelerated to deliver the final report nearly six months sooner than the legislature required. This reduces the amount of meaningful stakeholder input and creates the appearance that this process is being rushed.

Additionally, from a drafting perspective, the absence of a definition of "in ballast" is highly problematic. The law prescribes tug escorts for any waterborne vessel or barge of greater than 5000 DWT to be under escort unless it is "in ballast." This term is undefined and can mean an unladen vessel without cargo. Since the state's definition of waterborne vessel is anything capable of carrying oil in quantities of ten thousand gallons or more, then this means any vessel capable of carrying two ISO tanks aboard. Virtually every large vessel, including Washington State Ferries and the Victoria Clipper would presumably be covered under this definition. While members of the AWO would greatly appreciate the opportunity to escort each WSF ferry transit, it doesn't seem practical, desirable, or the intent of this legislation.