

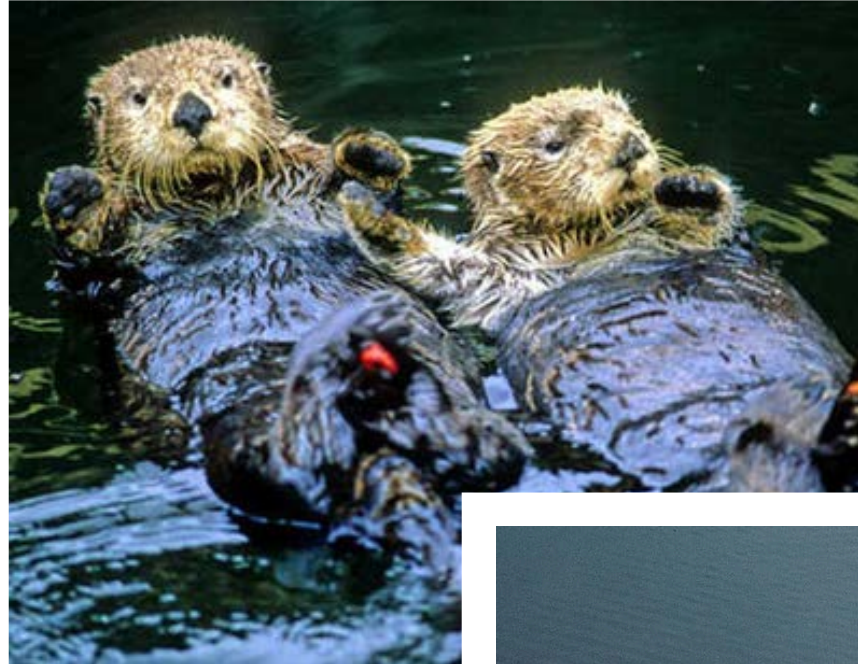
HB 322

The Spill Bill



Section 1

- Acknowledges that a penalty may be punitive
- Applies findings to non-judicial penalties



Section 2

- Increases regulatory penalties for non-crude oil spills over 18,000 gallons into aquatic environments & onto public land
- Existing penalties, adjusted for inflation, would be almost double the proposed new amounts
- Existing civil penalties, enacted in 1977, have never been raised



Location of Spill	1977 Penalties	2018 Equivalent	Spill Bill Amounts
Anadromous	\$10.00	\$39.70	\$20.00
Estuary	\$2.50	\$9.92	\$5.00
Open ocean	\$1.00	\$3.97	\$2.00

* Penalty amounts are per gallon of oil that enters each medium

Section 3

- Directs Dept. of Environmental Conservation (DEC) to increase civil penalties annually for non-crude discharges into aquatic environments & onto public land
- Amounts would be adjusted annually per Consumer Price Index

The screenshot shows the Bureau of Labor Statistics website with a red header. The main navigation bar includes links for Home, Subjects, Data Tools, Publications, Economic Releases, Students, and Beta. A search bar is located on the right. The page title is "Databases, Tables & Calculators by Subject" and the specific tool is "CPI Inflation Calculator". The calculator interface has a red header with the title "CPI Inflation Calculator". It features a text input field for a dollar amount, followed by "in" and a dropdown menu for the month (currently "January") and a dropdown menu for the year (currently "2000"). Below this is the text "has the same buying power as" followed by another "in" and a dropdown menu for the month (currently "December") and a dropdown menu for the year (currently "2017"). A "Calculate" button is positioned below the second set of dropdowns. At the bottom of the calculator interface, there is a link "About this calculator" and the text "Mobile Browser? View full screen." Below the calculator interface, there is a section titled "About the CPI Inflation Calculator" which explains that the tool uses the Consumer Price Index for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted, and that the data represents changes in the prices of all goods and services purchased for consumption by urban households.

UNITED STATES DEPARTMENT OF LABOR

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CPI Inflation Calculator

\$

in January 2000

has the same buying power as

in December 2017

Calculate

About this calculator
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About the CPI Inflation Calculator
The CPI inflation calculator uses the [Consumer Price Index](#) for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted. [This data](#) represents changes in the prices of all goods and services purchased for consumption by urban households.

Section 4

- Updates civil penalties for crude oil spills over 18,000 gallons
- Existing penalties, adjusted for inflation, roughly equal proposed new penalties
- Existing civil penalties, enacted in 1989, have never been raised



Spill Volume (gallons)	1989 Penalties	2018 Equivalent	Spill Bill Amounts
≤ 420,000	\$8.00	\$15.64	\$16.00
> 420,000	\$12.50	\$24.44	\$25.00

* Penalty amounts are per gallon of oil

Section 5

- Calculates civil penalty amounts by counting produced water mixed with crude oil as crude oil
- Directs DEC to increase civil penalties annually for crude oil discharges



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Section 6

- Doubles minimum civil penalty (established 1976, never raised) for illegal discharges of oil & crude oil under 18,000 gallons
 - Includes discharges of any amount of other hazardous substance (ballast water, pesticides, paints, & discharges from underground storage tanks, cruise ships & illegal drug sites)
- Doubles maximum civil penalty for initial violation
- Quintuples maximum civil penalty for continuing violation
- Allows a court to increase maximum penalty to deter future spills

Violation	1976 Penalties	2018 Equivalent	Spill Bill Amounts
Initial, no less than	\$500	\$2,118	\$1,000
Initial, no more than	\$100,000	\$423,581	\$200,000
Each day after violation	\$5,000	\$21,179	\$25,000

Section 7

- Allows civil court to impose punitive penalties
- Conforms to repeal in Section 14



Section 8

- Civil penalties, enacted in 1984, have never been raised
- Doubles minimum penalty for discharges of hazardous wastes
- Doubles maximum penalty for initial violation
- Multiplies maximum penalty for continuing violation by 2.5

Violation	1984 Penalties	2018 Equivalent	Spill Bill Amounts
Initial, no less than	\$500	\$1,171	\$1,000
Initial, no more than	\$100,000	\$234,116	\$200,000
Each day after violation	\$10,000	\$23,412	\$25,000

Section 9

- Civil penalties, enacted by voter initiative in 2006, have never been raised
- Doubles minimum civil penalty for discharges under 18,000 gallons from cruise ships
- Doubles maximum civil penalty for initial violation
- Multiplies maximum civil penalty for continuing violation by 2.5

Violation	2006 Penalties	2018 Equivalent	Spill Bill Amounts
Initial, no less than	\$5,000	\$6,108	\$10,000
Initial, no more than	\$100,000	\$122,163	\$200,000
Each day after violation	\$10,000	\$12,216	\$25,000

Sections 10 & 11

- Section 10
 - Describes factors a civil court may consider when determining economic benefit of non-compliance
- Section 11
 - Describes factors a court may consider when determining need for enhanced civil penalty to deter future non-compliance
 - Directs DEC to annually increase daily civil penalty caps described in Sections 6, 8 & 9 of bill



Section 12

- Authorizes DEC to assess new **administrative** penalties for serious or repeated illegal discharges
 - For each violation, DEC could penalize a responsible party no less than \$500 and no more than \$10,000
- Describes factors DEC must consider when assessing administrative penalties
- Allows DEC to sue responsible party who doesn't pay administrative penalty
 - Court could not adjust administrative penalty
 - Court must award prevailing party attorney fees & collection costs
 - Court must subtract administrative penalty from any eventual civil penalty
- Directs DEC to include water mixed with oil when determining spill volume
- Directs DEC to inflation-proof administrative penalties by increasing them annually
- Defines "oil," in this section, to include crude, petroleum & any substance refined from oil

Section 13

Requires operators of commercial motor vehicles used to transport crude oil to:

- Submit their federal spill response plans to DEC, and
- Comply with their plans



Section 14

- Repeals legislative disapproval of regulations regarding civil penalties for oil discharges
- Repeals prohibition against punitive penalties for illegal discharges of ballast water, pesticides & paints, & discharges from underground storage tanks, cruise ships & illegal drug sites
- Conforms with Section 7



Sections 15-17

- Allows DEC time to adopt regulations before this bill takes effect January 1, 2019

