

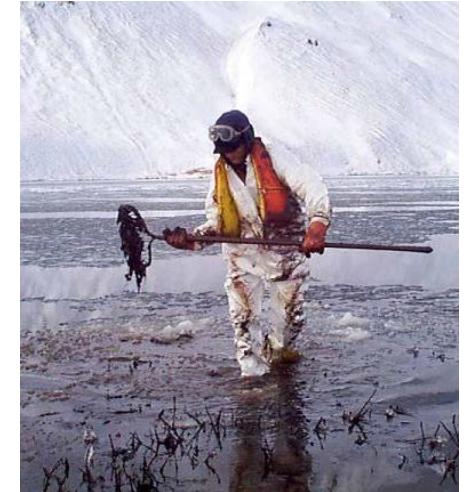
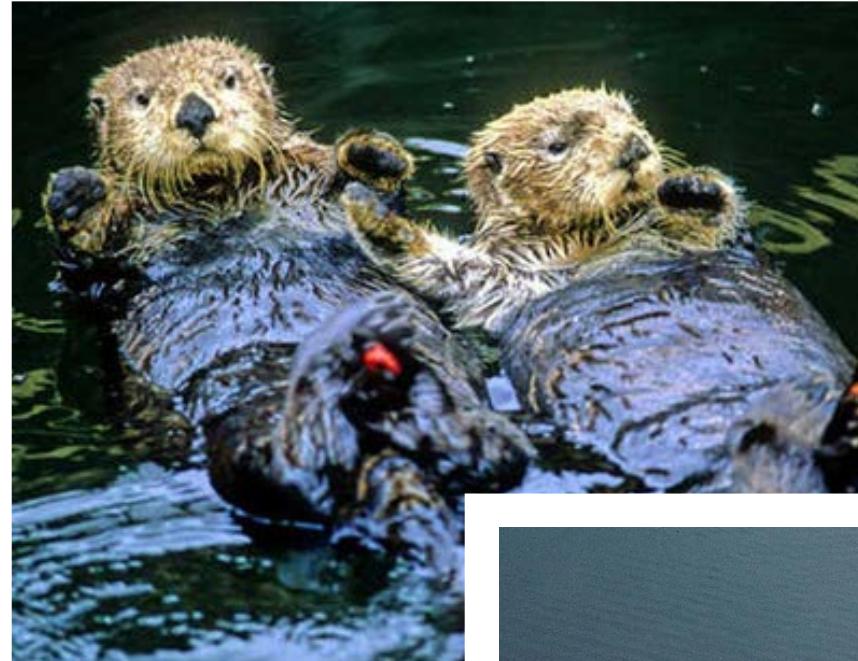
HB 322

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 greater than proposed new amounts
- Existing civil penalties enacted in 1977 (never 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 will be adjusted annually per Consumer Price Index

UNITED STATES DEPARTMENT OF LABOR

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CPI Inflation Calculator

CPI Inflation Calculator

\$ in January 2000 has the same buying power as in December 2017 [Calculate](#)

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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
- Civil penalties enacted in 1989 (never 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 penalty amounts by counting produced water mixed with crude oil as crude oil
- Directs DEC to increase civil penalties annually for crude oil discharges



AP / Al Grill

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 penalty for initial violation
- Quintuples maximum 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



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 not been raised since
- Doubles minimum penalty for discharges under 18,000 gallons from cruise ships
- Doubles maximum penalty for initial violation
- Multiplies maximum 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 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 (in addition to civil) for serious or repeated illegal discharges
 - For initial violation, DEC could penalize responsible party no less than \$1,000, no more than \$10,000 & no more than \$24 per gallon spilled
- 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

Sections 13-18

- Requires a commercial motor vehicle used to transport crude oil to have an approved Contingency Plan (C-Plan)



Section 19

- Repeals legislative disapproval of regulations governing civil penalties for oil discharges
- Repeals prohibition against punitive penalties for illegal discharges of:
 - Ballast water, pesticides, paints
 - Underground storage tanks, cruise ships, illegal drug sites



Sections 20-22

- Allows DEC time to adopt regulations before bill takes effect
 - If enacted, becomes law January 1, 2019
- Allows truckers transporting crude time to garner DEC C-Plan approval before bill takes effect

