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**SUBSTITUTE SENATE BILL 5579**

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**State of Washington****66th Legislature****2019 Regular Session**

**By** Senate 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)

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 and have established policies  
7 to expedite the transition to the safest rail cars available for  
8 moving light crude.

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

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

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

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

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

1 (3) The director may impose a penalty of up to twenty-five  
2 hundred dollars per day per rail tank car or the equivalent volume of  
3 oil for violations of this section. Any penalty recovered pursuant to  
4 this section must be credited to the coastal protection fund created  
5 in RCW 90.48.390.

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

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

22 (b) Twice per year, pipelines that transport crude oil must  
23 report to the department the following information about the crude  
24 oil transported by the pipeline through the state: The volume of  
25 crude oil and the state or province of origin of the crude oil. This  
26 report must be submitted each year by July 31st for the period  
27 January 1st through June 30th and by January 31st for the period July  
28 1st through December 31st.

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

33 (3) The department must publish information collected under this  
34 section on a quarterly basis on the department's internet web site.  
35 With respect to the information reported under subsection (1)(a) of  
36 this section, the information published by the department must be  
37 aggregated on a statewide basis by route through the state, by week,  
38 and by type of crude oil. The report may also include other  
39 information available to the department including, but not limited

1 to, place of origin, modes of transport, number of railroad cars  
2 delivering crude oil, and number and volume of spills during  
3 transport and delivery.

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

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

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

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