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HOUSE BILL 1517

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By Representatives Phillips, Horn, Rust, Basich, Jacobsen, D. Sommers, Brekke, Van Luven, Valle, Sprenkle, G. Fisher, R. King and Wang.

Read first time January 31, 1991. Referred to Committee on Natural Resources & Parks\Appropriations. Referred 2\5\91 to Committee on Environmental Affairs.

1 AN ACT Relating to Pacific Ocean Resources Compact; adding a new  
2 chapter to Title 90 RCW; and making an appropriation.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature hereby ratifies the  
5 Pacific Ocean Resources Compact as set forth in section 2 of this act.  
6 This compact shall take effect after one or more of the states of  
7 Alaska, California, Hawaii, or Oregon ratify the compact and consent is  
8 granted by Congress as required by section 10, Article I of the  
9 Constitution of the United States.

10 (2) In addition to the states of Alaska, California, Hawaii, and  
11 Oregon, the Province of British Columbia may become an associate party  
12 to the compact, without voting power. Upon request of the Province of  
13 British Columbia and approval of Congress, the Province of British

1 Columbia may become a full party to this compact with the same rights  
2 and powers as the party states.

3 NEW SECTION. **Sec. 2.** The provisions of the Pacific Ocean  
4 Resources Compact are as follows:

5 ARTICLE I

6 FINDINGS AND PURPOSE

7 A. The parties recognize:

8 (1) The states of Alaska, California, Hawaii, Oregon, and  
9 Washington and the Province of British Columbia have a common interest  
10 in the protection of marine and coastal resources. This common  
11 interest results from:

12 (a) The fluid, dynamic ocean currents and atmospheric winds that  
13 carry pollutants beyond one party's coastal area to another;

14 (b) The migratory nature of many important living marine resources  
15 that depend upon the marine habitat of various parties for different  
16 parts of their lifecycle;

17 (c) The economic reliance of each party upon renewable resources of  
18 the ocean;

19 (d) The use of the ocean for transport of oil and other hazardous  
20 substances between ports in the various parties and other nations;

21 (e) A regional interest in providing a stable environment for those  
22 communities dependent upon ocean resources and ocean trade for a  
23 livelihood.

24 (2) Some marine resource activities, such as fisheries, are  
25 currently highly managed with regard for their regional or  
26 transboundary nature through existing state programs, regional  
27 fisheries councils, interstate compacts, and international treaties.

1 Because there are existing formal mechanisms for interstate cooperation  
2 and coordination for these marine resource activities, this compact is  
3 not intended to encompass these activities.

4 (3) A formal interstate agreement does not exist to address and  
5 resolve issues of mutual concern or to coordinate individual programs  
6 of the parties that affect regional interests in the areas of:

7 (a) Prevention of oil and hazardous substance spills;

8 (b) Transportation of oil and other hazardous substances;

9 (c) Oil and hazardous substance spill response planning; and

10 (d) Environmental monitoring and research.

11 (4) Each party has jurisdiction over the submerged and submersible  
12 lands within its territorial sea and responsibility for management of  
13 many marine resources and ocean uses. Each party has unique natural  
14 resource, social, economic, and political conditions for which local  
15 management by the individual party is the most appropriate.

16 (5) Parties now do not have an effective means to address mutual  
17 concerns related to transport of oil and hazardous substances in waters  
18 within and beyond the party's jurisdiction that may jeopardize ocean  
19 resources and uses important to one or more coastal parties.

20 (6) The 1983 Presidential Proclamation of the two hundred-mile  
21 United States Exclusive Economic Zone has created the opportunity for  
22 all coastal states to more fully exercise and assert their  
23 responsibilities pertaining to the protection, conservation, and  
24 development of ocean resources under United States jurisdiction.

25 (7) Citizens of the Pacific states and the Province of British  
26 Columbia are increasingly concerned with the environmental integrity of  
27 the ocean and protection of all ocean resources.

28 (8) Recent studies conducted in the wake of major accidental  
29 releases of oil and other hazardous substances have concluded that the

1 existing system of response to spills fails to provide adequate  
2 protection to ocean resources in the following ways:

- 3 (a) Inadequate personnel training and qualifications;
- 4 (b) Weaknesses in vessel design and integrity;
- 5 (c) Insufficient traffic management;
- 6 (d) Gaps in regulatory oversight;
- 7 (e) Incomplete cost recovery by the states or provinces; and
- 8 (f) A lack of information about the marine and coastal  
9 environments.

10 (9) A spill or discharge of oil or hazardous substance from an  
11 ocean-going vessel has the potential of causing major regional impacts.

12 B. Therefore the purpose of this compact shall be:

13 (1) To assist in the promotion of interstate commerce by providing  
14 uniform regulation of the transportation of oil or hazardous substance  
15 within the compact zone;

16 (2) To provide a legal mechanism to regulate certain ocean  
17 activities within the United States Exclusive Economic Zone that the  
18 parties cannot now individually regulate;

19 (3) To enhance regional sovereignty over issues of critical  
20 importance;

21 (4) To direct federal agencies to act in the best interest of the  
22 region;

23 (5) To foster regional cooperation and pooling of resources to  
24 reduce costs and increase effective use of scarce resources;

25 (6) To enhance the oversight and supervision of activities of  
26 concern to the parties;

27 (7) To address issues of mutual concern to the Pacific states and  
28 the Province of British Columbia and enhance the parties' influence  
29 over activities of concern that are not now addressed through existing  
30 compacts, including:

- 1 (a) Spill prevention;
- 2 (b) Transportation of oil and other hazardous substances;
- 3 (c) Spill response planning; and
- 4 (d) Environmental monitoring and research;
- 5 (8) To foster cooperation and coordination among the parties in  
6 order to increase the effectiveness of the individual party's ocean  
7 laws and programs;
- 8 (9) To provide technical assistance to parties for ocean activities  
9 covered by this compact;
- 10 (10) To provide for formal participation by the Province of British  
11 Columbia with the compact to more fully address issues of regional  
12 concern;
- 13 (11) To ensure that the citizens of the region have opportunities  
14 to participate in discussions and deliberations of regional ocean  
15 resources issues;
- 16 (12) To establish an innovative system under which the parties can  
17 represent their shared interests within the compact zone, including:
- 18 (a) The maintenance and protection of common ocean resources; and  
19 (b) The vessel transportation of oil and other hazardous  
20 substances;
- 21 (13) To establish uniform safety standards for routes, crews, and  
22 equipment for vessels transporting oil and hazardous substances within  
23 the compact zone and to provide oversight for the implementation of  
24 these standards and regulations by federal agencies, states, or  
25 provinces and private industry;
- 26 (14) To promote more coordinated management of ocean resources that  
27 are of mutual concern;
- 28 (15) To provide a forum for the regional coordination of the  
29 individual parties' plans for the management and protection of those  
30 areas of the Pacific Ocean and adjacent waters over which the

1 compacting parties jointly or separately now have or may acquire  
2 jurisdiction.

3 ARTICLE II

4 DEFINITIONS

5 Unless the context clearly requires otherwise, the definitions in this  
6 section apply throughout this compact.

7 (1) "Compact" means the representative body created by Article IV  
8 of this compact.

9 (2) "Compact zone" means the portion of the oceans bordering the  
10 parties within the two hundred-mile exclusive economic zone.

11 (3) "Hazardous substance" or "hazardous substances" means any  
12 element or compound that, when it enters in or upon the water, presents  
13 an imminent and substantial danger to the public health or welfare or  
14 the environment, including but not limited to fish, animals,  
15 vegetation, or any part of the natural habitat in which they are found.  
16 "Hazardous substance" includes but is not limited to a substance  
17 designated under 33 U.S.C. Sec. 1321(b)(2)(A), any element, compound,  
18 mixture, solution or substance designated under 42 U.S.C. Sec. 9602,  
19 any hazardous waste having characteristics identified under or listed  
20 under 42 U.S.C. Sec. 6921, any toxic pollutant listed under 33 U.S.C.  
21 Sec. 1317(a), and any imminently hazardous chemical substance or  
22 mixture with respect to which the Administrator of the United States  
23 Environmental Protection Agency has taken action under 15 U.S.C. Sec.  
24 2606.

25 (4) "Navigable waters" means the waters of the United States,  
26 including the territorial sea.

27 (5) "Oil" means crude petroleum oil and any other hydrocarbons  
28 regardless of gravity, which are produced at the well in liquid form by

1 ordinary production methods, and any petroleum products or  
2 petrochemicals of any kind and in any form whether crude, refined, or  
3 a petroleum by-product, including petroleum, fuel oil, gasoline,  
4 lubricating oils, oily sludge, oily refuse, or mixed with other wastes,  
5 liquefied natural gas, or propane.

6 (6) "Party" means a state or province that joins the compact as  
7 provided in Article III of this compact.

8 (7) "Representative" means an individual appointed as provided in  
9 Article IV of this compact to represent a party to the compact.

10 (8) "Vessel" means a watercraft or other artificial contrivance  
11 that is constructed or adapted to carry, or that carries oil or  
12 hazardous substance in bulk as cargo or cargo residue, and that:

13 (a) Operates on the navigable waters of the compact zone; or

14 (b) Transfers oil or hazardous substance in a place subject to the  
15 jurisdiction of the United States.

16 ARTICLE III

17 OPERATIVE DATES

18 (1) Except as provided in paragraph (2) of this Article, this  
19 compact shall become effective when one or more of the states of  
20 Alaska, California, Hawaii, or Oregon ratify the compact and consent is  
21 granted by Congress as required by section 10, Article I of the  
22 Constitution of the United States.

23 (2) This agreement shall become operative as to the Province of  
24 British Columbia as a full party upon request of the Province of  
25 British Columbia and the approval of the Congress.

26 ARTICLE IV

27 PACIFIC OCEAN RESOURCES COMPACT



1 (1) The Pacific Ocean Resources Compact is authorized to:

2 (a) Facilitate the prevention of oil and hazardous substance spills  
3 through the establishment of uniform safety standards for routes,  
4 crews, and equipment for vessels transporting oil and hazardous  
5 substances to the extent that the parties and the federal government  
6 have such authority within the compact zone;

7 (b) Ensure a coordinated network of oil and hazardous substance  
8 spill response plans and programs of the parties, federal agencies, and  
9 private organizations;

10 (c) By regulation, establish the requirements for submission of and  
11 approval by the compact of a contingency plan by any vessel  
12 transporting oil or hazardous substances in the compact zone. Such  
13 requirements shall be at least as stringent as the requirements for  
14 spill response plans under section 4202 of the federal oil pollution  
15 act of 1990, P.L. 101-380. A plan developed in accordance with the  
16 regulations adopted by the compact and approved by the compact shall  
17 satisfy the requirements of section 4202 of the oil pollution act and  
18 any requirements of an individual party for submitting a vessel  
19 contingency or spill response plan. In establishing regulations under  
20 this paragraph, the compact shall work closely with officials of the  
21 parties to assure that the vessel contingency plans required under this  
22 compact are at least as comprehensive as similar plans required by the  
23 parties and to integrate, to the fullest extent possible, any  
24 requirements for vessel contingency plans in effect at the time the  
25 compact initiates its requirements under this paragraph;

26 (d) Establish and maintain an informational clearinghouse related  
27 to spill response, including a directory of personnel, equipment,  
28 technical expertise, organizations, and other resources available to  
29 assist as part of a regional oil or hazardous substance spill response;

1 (e) Provide a forum for discussion and recommendation to resolve  
2 conflicts among member parties or the federal government regarding  
3 various ocean resources programs that have been or may be established  
4 by each party;

5 (f) Provide opportunities for public participation in compact  
6 activities by holding meetings of the compact in various locations  
7 within the territorial limits of the parties, providing opportunities  
8 for public comment at meetings, and developing a public outreach  
9 program;

10 (g) Designate state or provincial agency officials to act on behalf  
11 of the compact as liaisons with federal agencies;

12 (h) Identify the regional data needs related to ocean resources and  
13 recommend a method for compiling the data in a format that can be  
14 shared by all parties;

15 (i) Consult with and advise any pertinent party or federal agency  
16 with regard to problems connected with ocean resources management and  
17 recommend the adoption of any rules or regulations the compact  
18 considers advisable that are within the jurisdiction of the agency;

19 (j) Establish a schedule of civil penalties for violations of the  
20 rules or regulations of the compact adopted in accordance with 5 U.S.C.  
21 Secs. 551 to 559 and 701 to 706; and

22 (k) Request the United States Coast Guard to enforce or assist in  
23 the enforcement of any regulations adopted by the compact related to  
24 the prevention of and response to oil or hazardous substance spills in  
25 the compact zone.

26 (2) In addition to the authority granted under paragraph (1) of  
27 this Article, the compact may:

28 (a) Accept grants and gifts;

29 (b) Enter into contracts for whose performance the compact shall be  
30 solely responsible in order to support its operations;

1 (c) Conduct and prepare, independently or in cooperation with  
2 others, studies, investigations, research, and programs relating to the  
3 purposes of this compact;

4 (d) Conduct public hearings on matters pertaining to the purposes  
5 of this compact;

6 (e) Issue subpoenas;

7 (f) In accordance with the provisions of 5 U.S.C. Secs. 551 to 559  
8 and 701 to 706, enforce the rules and regulations adopted by the  
9 compact to carry out the authority of the compact as set forth in this  
10 Article;

11 (g) Appoint technical and advisory committees for the purpose of  
12 advising the compact on regional ocean resources issues, data needs,  
13 and format and other purposes related to the compact's activities. A  
14 technical or advisory committee appointed by the compact shall not be  
15 subject to the provisions of the Federal Advisory Committee Act, P.L.  
16 92-463, as amended;

17 (h) Allow a variance from the provisions of this compact or rules  
18 or regulations adopted by the compact pursuant to this Article. A  
19 variance shall be based on a showing by the person or entity seeking  
20 the variance that the activity allowed under the variance will have no  
21 regional impact and that the variance is economically necessary. Under  
22 no circumstances may a variance result in the regulation of the  
23 transportation of oil or hazardous substance according to standards  
24 less stringent than standards imposed under federal law.

25 (3) The compact shall adopt all regulations necessary to carry out  
26 its duties and exercise its authority under this Article. The compact  
27 shall adopt such regulations in accordance with the provisions of 5  
28 U.S.C. Secs. 500 to 559.

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The compact shall select a chairperson and a vice-chairperson. After the initial chairperson and vice-chairperson are selected, the compact shall establish a rotation for the selection of the chairperson and vice-chairperson so the office rotates through the parties to the compact. The compact shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications, and compensation. The compact shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory parties but must meet at least once a year.

ARTICLE VII  
VOTING AND QUORUM

(1) A majority of the representatives shall constitute a quorum.  
(2) Each party shall be entitled to one vote. No action or decision of the compact shall be approved unless the action or decision receives a majority of the votes of the parties.

ARTICLE VIII  
SUPPORT AGENCIES

The compact may contract for the staff support necessary to carry out the purposes of this compact or request appropriate agencies of the signatory parties to act as the research agencies of the compact.

1 ARTICLE IX

2 PARTIES' POWERS UNDER COMPACT

3 Except as specifically provided in Article V of this compact,  
4 nothing in this compact shall be construed to limit the powers of any  
5 party or to repeal or prevent the enactment of any legislation or the  
6 enforcement of any requirement imposing additional conditions and  
7 restrictions to conserve ocean resources.

8 ARTICLE X

9 ABSENCE

10 Continued absence of representation or of any compact  
11 representative from any party shall be brought to the attention of the  
12 appointing authority of the party not represented.

13 ARTICLE XI

14 FUNDING

15 (1) Each party shall contribute to the support of the compact  
16 according to the party's relative proportion of the party's gross state  
17 product, but each party must contribute at least ten percent of the  
18 total annual budget for the compact and shall not be required to  
19 contribute more than fifty percent of the total annual budget for the  
20 compact.

21 (2) The annual contribution of each party shall be figured to the  
22 nearest one hundred dollars.

23 (3) The compact shall prepare an annual budget which shall be  
24 approved by vote of the compact. After approval, the proposed budget

1 shall be presented to the chief executive and legislative body of the  
2 signatory parties.

3 (4) Each party shall be responsible for the expenses of its own  
4 representatives.

5 ARTICLE XII

6 WITHDRAWAL FROM COMPACT

7 This compact shall continue in force and remain binding upon each  
8 party until renounced by it. Renunciation of this compact must be  
9 preceded by sending six months' notice in writing of intention to  
10 withdraw from the compact to the other parties to the compact.

11 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act shall  
12 constitute a new chapter in Title 90 RCW.

13 NEW SECTION. **Sec. 4.** The sum of ..... dollars, or as  
14 much thereof as may be necessary, is appropriated for the biennium  
15 ending June 30, 1993, from the general fund to the Pacific Ocean  
16 Resources Compact for the purposes of carrying out the provisions of  
17 the Pacific Ocean Resources Compact.