

“An Act to Prevent Oil Spills in Buzzards Bay”
Senate Bill 2374

FACT SHEET

Senate Bill 2374 “An Act to Prevent Oil Spills in Buzzards Bay” amends the Massachusetts Oil Spill Prevention and Response Act of 2004 (“MOSPA”) by requiring the Commissioner of the Massachusetts Department of Environmental Protection (“DEP”) to create an on-call Rescue Tug and State Pilot Program for Buzzards Bay and expands the authority of the Oil Spill Prevention and Response Trust Fund to assume the cost of the program.

- **Background – Oil Spills in Buzzards Bay**
 - Buzzards Bay is a fragile estuary recognized in 1985 by the U.S. Congress as an Estuary of National Significance. It is a shallow bay with rocky ledges.
 - Nearly 500,000 gallons of petroleum product have been discharged into the Bay in recent memory, the most recent being the April 2003 Bouchard-120 oil spill which discharged approximately 98,000 gallons of fuel oil into the water and was the second largest in the Bay’s history.
 - MOSPA was passed in 2004 to protect Buzzards Bay; requiring among other things State Pilots and Escort Tugs for all vessels transporting 6,000 or more barrels of oil through the Bay. Systems and procedures established by the law operated successfully from January 1, 2004 through July of 2006.

- **MOSPA Litigation**
 - Significant portions of the legislation were challenged by the Federal Government and in July of 2006 a federal court ruled against the Commonwealth alleging federal preemption and enjoining the state from enforcing these vital protections.
 - The Commonwealth together with the Coalition for Buzzards Bay appealed this ruling to the US First Circuit Court of Appeals on three issues, Financial Assurance, Escort Tugs, and Manning. In June 2007, the First Circuit vacated the lower court’s injunction and remanded the case back to the District Court.
 - In 2007, the Federal Government dropped their challenge to the Financial Assurance provision and the Coast Guard issued rules requiring escort tugs and federal pilots for single hull vessels only.
 - The Coalition maintains that the Commonwealth has the ability to require enhanced manning and escort tugs for double hull vessels. These provisions remain the subject of litigation.

- **The Proposed Rescue Tug and State Pilot Program**
 - In the event the Commonwealth loses its ability to require escort tugs for double hull vessels, 283 oil laden barges will move through Buzzards Bay without an escort and without a pilot.

- Protective measures must be passed NOW to insure that ALL barges are escorted through Buzzards Bay. This legislation creates a rescue tug program, at the same time it returns local state pilots to the waters of Buzzards Bay, something that was lost in July 2006.
 - The Rescue Tug and State Pilot Program envisioned by this bill would be responsible for monitoring the safe passage of oil laden vessels through Buzzards Bay, warn the vessels of actual or potential threats to navigation and respond to incidents.
 - The Rescue Tug and State Pilot would be dispatched to physically shadow tank vessels operating in Buzzards Bay who are **NOT** required to take an escort tug. If the 2004 MOSPA is threatened again, this provision will immediately fill safety gaps.
- **Program Costs**
 - The actual cost of the Rescue Tug and State Pilot Program will depend on the number of annual transits of oil barges through Buzzards Bay.
 - The cost of providing an escort tug and state pilot is approximately \$6,000. (This figure is based on the number of tank vessels escorted through Buzzards Bay during the twelve month period of August 2005 through July 2006.)
 - According to the Army Corp of Engineers, approximately 560 transits occurred through Buzzards Bay in 2006. 283 of those were in double hull barges.
 - Recent Coast Guard rules require single hull vessels to take an escort tug. Therefore, this legislation would only apply to double hull vessels of which approximately 283 transited Buzzards Bay in 2006. The estimated cost of this proposed program to cover unescorted barges is \$1.7 million.
 - **Program Funding**
 - The funding for the proposed Rescue Tug and State Pilot Program would be generated by an increase in the Oil Spill Prevention and Response Fee from its current rate of 2 cents per barrel of oil landed in Massachusetts ports to 5 cents per barrel. Based on fiscal year 2006 landings of 96,433,850 bbls (per MaDEP), this would generate annual revenue of approximately \$4.8 million.
 - Enough revenue would be generated to cover the cost of this new program in addition to the current training and response programs enumerated in the 2004 MOSPA.

Please contact Korrin N. Petersen, Esq., The Coalition for Buzzards Bay's Advocacy Director, with any questions or concerns.
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