

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2590

62nd Legislature
2012 1st Special Session

Passed by the House April 6, 2012
Yeas 93 Nays 1

Speaker of the House of Representatives

Passed by the Senate April 10, 2012
Yeas 40 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2590** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2590

Passed Legislature - 2012 1st Special Session

State of Washington

62nd Legislature

2012 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Bailey and Buys; by request of Pollution Liability Insurance Agency)

READ FIRST TIME 01/30/12.

1 AN ACT Relating to extending the expiration of the pollution
2 liability insurance agency's authority and its funding source; amending
3 RCW 70.148.020, 70.148.900, 70.149.900, 82.23A.010, 82.23A.020, and
4 82.23A.902; and providing expiration dates.

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

6 **Sec. 1.** RCW 70.148.020 and 2006 c 276 s 1 are each amended to read
7 as follows:

8 (1) The pollution liability insurance program trust account is
9 established in the custody of the state treasurer. All funds
10 appropriated for this chapter and all premiums collected for
11 reinsurance shall be deposited in the account. Expenditures from the
12 account shall be used exclusively for the purposes of this chapter
13 including payment of costs of administering the pollution liability
14 insurance and underground storage tank community assistance programs.
15 Expenditures for payment of administrative and operating costs of the
16 agency are subject to the allotment procedures under chapter 43.88 RCW
17 and may be made only after appropriation by statute. No appropriation
18 is required for other expenditures from the account.

1 (2) Each calendar quarter, the director shall report to the
2 insurance commissioner the loss and surplus reserves required for the
3 calendar quarter. The director shall notify the department of revenue
4 of this amount by the fifteenth day of each calendar quarter.

5 (3) Each calendar quarter the director shall determine the amount
6 of reserves necessary to fund commitments made to provide financial
7 assistance under RCW 70.148.130 to the extent that the financial
8 assistance reserves do not jeopardize the operations and liabilities of
9 the pollution liability insurance program. The director shall notify
10 the department of revenue of this amount by the fifteenth day of each
11 calendar quarter. The director may immediately establish an initial
12 financial assistance reserve of five million dollars from available
13 revenues. The director may not expend more than fifteen million
14 dollars for the financial assistance program.

15 ~~((4) During the 2005-2007 fiscal biennium, the legislature may
16 transfer from the pollution liability insurance program trust account
17 to the state general fund such amounts as reflect the excess fund
18 balance of the account.~~

19 ~~(5))~~ This section expires ~~((June 1, 2013))~~ July 1, 2020.

20 **Sec. 2.** RCW 70.148.900 and 2006 c 276 s 3 are each amended to read
21 as follows:

22 This chapter ~~((shall))~~ expires ~~((June 1, 2013))~~ July 1, 2020.

23 **Sec. 3.** RCW 70.149.900 and 2006 c 276 s 4 are each amended to read
24 as follows:

25 ~~((Sections 1 through 11 of this act shall expire June 1, 2013))~~
26 This chapter expires July 1, 2020.

27 **Sec. 4.** RCW 82.23A.010 and 2004 c 203 s 4 are each amended to read
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

31 (1) "Petroleum product" means plant condensate, lubricating oil,
32 gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil,
33 residual oil, and every other product derived from the refining of
34 crude oil, but the term does not include crude oil or liquefiable
35 gases.

1 (2) "Possession" means the control of a petroleum product located
2 within this state and includes both actual and constructive possession.
3 "Actual possession" occurs when the person with control has physical
4 possession. "Constructive possession" occurs when the person with
5 control does not have physical possession. "Control" means the power
6 to sell or use a petroleum product or to authorize the sale or use by
7 another.

8 (3) "Previously taxed petroleum product" means a petroleum product
9 in respect to which a tax has been paid under this chapter and that has
10 not been remanufactured or reprocessed in any manner (other than mere
11 repackaging or recycling for beneficial reuse) since the tax was paid.

12 (4) "Rack" means a mechanism for delivering petroleum products from
13 a refinery or terminal into a truck, trailer, railcar, or other means
14 of nonbulk transfer. For the purposes of this definition:

15 (a) "Terminal" has the same definition as in RCW 82.36.010 and
16 82.38.020; and

17 (b) "Nonbulk transfer" means a transfer that does not meet the
18 definition of "bulk transfer" as defined in RCW 82.36.010 and
19 82.38.020.

20 (5) "Wholesale value" means fair market wholesale value, determined
21 as nearly as possible according to the wholesale selling price at the
22 place of use of similar products of like quality and character, in
23 accordance with rules of the department.

24 ((+5)) (6) Except for terms defined in this section, the
25 definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this
26 chapter.

27 **Sec. 5.** RCW 82.23A.020 and 1991 c 4 s 8 are each amended to read
28 as follows:

29 (1) A tax is imposed on the privilege of possession of petroleum
30 products in this state. The rate of the tax shall be ((fifty)) thirty
31 one-hundredths of one percent multiplied by the wholesale value of the
32 petroleum product. For purposes of determining the tax imposed under
33 this section for petroleum products introduced at the rack, the
34 wholesale value is determined when the petroleum product is removed at
35 the rack unless the removal is to an exporter licensed under chapter
36 82.36 or 82.38 RCW for direct delivery to a destination outside of the

1 state. For all other cases, the wholesale value is determined upon the
2 first nonbulk possession in the state.

3 (2) Moneys collected under this chapter shall be deposited in the
4 pollution liability insurance program trust account under RCW
5 70.148.020.

6 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
7 The tax due dates, reporting periods, and return requirements
8 applicable to chapter 82.04 RCW apply equally to the tax imposed in
9 this chapter.

10 (4) Within thirty days after the end of each calendar quarter the
11 department shall determine the "quarterly balance," which shall be the
12 cash balance in the pollution liability insurance program trust account
13 as of the last day of that calendar quarter, after excluding the
14 reserves determined for that quarter under RCW 70.148.020 (2) and (3).
15 Balance determinations by the department under this section are final
16 and shall not be used to challenge the validity of any tax imposed
17 under this section. For each subsequent calendar quarter, tax shall be
18 imposed under this section during the entire calendar quarter unless:

19 (a) Tax was imposed under this section during the immediately
20 preceding calendar quarter, and the most recent quarterly balance is
21 more than fifteen million dollars; or

22 (b) Tax was not imposed under this section during the immediately
23 preceding calendar quarter, and the most recent quarterly balance is
24 more than seven million five hundred thousand dollars.

25 **Sec. 6.** RCW 82.23A.902 and 2006 c 276 s 5 are each amended to read
26 as follows:

27 This chapter (~~shall~~) expires (~~on June 1, 2013~~) July 1, 2020,
28 coinciding with the expiration of chapter 70.148 RCW.

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