

2 **ESHB 2096** - S COMM AMD
3 By Committee on Agriculture & Environment

4 ADOPTED 4/14/97

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 43.21I.005 and 1991 c 200 s 401 are each amended to
8 read as follows:

9 (1) The legislature declares that Washington's waters have
10 irreplaceable value for the citizens of the state. These waters are
11 vital habitat for numerous and diverse marine life and wildlife and the
12 source of recreation, aesthetic pleasure, and pride for Washington's
13 citizens. These waters are also vital for much of Washington's
14 economic vitality.

15 The legislature finds that the transportation of oil on these
16 waters creates a great potential hazard to these important natural
17 resources. The legislature also finds that there is no state agency
18 responsible for maritime safety to ensure this state's interest in
19 preserving these resources.

20 The legislature therefore finds that in order to protect these
21 waters it is necessary to establish an office of marine safety which
22 will have the responsibility to promote the safety of marine
23 transportation in Washington.

24 (2) The legislature finds that adequate funding is necessary for
25 the state to continue its priority focus on the prevention of oil
26 spills, as well as maintain a strong oil spill response, planning, and
27 environmental restoration capability. The legislature further finds
28 that long-term environmental health of the state's waters depends upon
29 the strength and vitality of its oil spill prevention and response
30 program that fosters planning, coordination, and incident command. To
31 that end, the merger of the office of marine safety with the department
32 of ecology shall: Ensure coordination via streamlining the marine
33 safety functions of two agencies into one; provide a focused prevention
34 and response program under a single administration; generate efficient
35 incident command response capability and continue to meet the
36 challenges threatening marine safety and the environment; and increase

1 accountability to the public, the executive branch, and the
2 legislature.

3 (3) It is the intent of the legislature that the state's oil spill
4 prevention, response, planning, and environmental restoration
5 activities be sufficiently funded to maintain a strong prevention and
6 response program. It is further the intent of the legislature that the
7 merger of the office of marine safety with the department of ecology be
8 accomplished in an organizational manner that maintains a priority
9 focus and position for the oil spill prevention and response program.
10 The merger shall allow for ready identification of the program by the
11 public and ensure no diminution in the state's commitment to marine
12 safety and environmental protection as follows:

13 (a) The director of the department of ecology shall consolidate all
14 of the agency's oil spill prevention, planning, and response programs
15 and personnel into a division or equivalent unit of organization within
16 the department. The division shall be managed by a single
17 administrator who is an assistant director or person of equivalent
18 status in the department's organization. The administrator shall
19 report directly to the director.

20 (b) The consolidated oil spill program unit within the department
21 shall maintain prevention of oil spills as a specific program.

22 (c) The department shall identify and participate in resolving
23 threats to safety of marine transportation and the impact of marine
24 transportation on the environment.

25 **Sec. 2.** RCW 82.23B.020 and 1995 c 399 s 214 are each amended to
26 read as follows:

27 (1) An oil spill response tax is imposed on the privilege of
28 receiving crude oil or petroleum products at a marine terminal within
29 this state from a waterborne vessel or barge operating on the navigable
30 waters of this state. The tax imposed in this section is levied upon
31 the owner of the crude oil or petroleum products immediately after
32 receipt of the same into the storage tanks of a marine terminal from a
33 waterborne vessel or barge at the rate of ~~((two))~~ one cent~~((s))~~ per
34 barrel of crude oil or petroleum product received.

35 (2) In addition to the tax imposed in subsection (1) of this
36 section, an oil spill administration tax is imposed on the privilege of
37 receiving crude oil or petroleum products at a marine terminal within
38 this state from a waterborne vessel or barge operating on the navigable

1 waters of this state. The tax imposed in this section is levied upon
2 the owner of the crude oil or petroleum products immediately after
3 receipt of the same into the storage tanks of a marine terminal from a
4 waterborne vessel or barge at the rate of (~~three~~) four cents per
5 barrel of crude oil or petroleum product.

6 (3) The taxes imposed by this chapter shall be collected by the
7 marine terminal operator from the taxpayer. If any person charged with
8 collecting the taxes fails to bill the taxpayer for the taxes, or in
9 the alternative has not notified the taxpayer in writing of the
10 imposition of the taxes, or having collected the taxes, fails to pay
11 them to the department in the manner prescribed by this chapter,
12 whether such failure is the result of the person's own acts or the
13 result of acts or conditions beyond the person's control, he or she
14 shall, nevertheless, be personally liable to the state for the amount
15 of the taxes. Payment of the taxes by the owner to a marine terminal
16 operator shall relieve the owner from further liability for the taxes.

17 (4) Taxes collected under this chapter shall be held in trust until
18 paid to the department. Any person collecting the taxes who
19 appropriates or converts the taxes collected shall be guilty of a gross
20 misdemeanor if the money required to be collected is not available for
21 payment on the date payment is due. The taxes required by this chapter
22 to be collected shall be stated separately from other charges made by
23 the marine terminal operator in any invoice or other statement of
24 account provided to the taxpayer.

25 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
26 the person charged with collection of the taxes and the person charged
27 with collection fails to pay the taxes to the department, the
28 department may, in its discretion, proceed directly against the
29 taxpayer for collection of the taxes.

30 (6) The taxes shall be due from the marine terminal operator, along
31 with reports and returns on forms prescribed by the department, within
32 twenty-five days after the end of the month in which the taxable
33 activity occurs.

34 (7) The amount of taxes, until paid by the taxpayer to the marine
35 terminal operator or to the department, shall constitute a debt from
36 the taxpayer to the marine terminal operator. Any person required to
37 collect the taxes under this chapter who, with intent to violate the
38 provisions of this chapter, fails or refuses to do so as required and

1 any taxpayer who refuses to pay any taxes due under this chapter, shall
2 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

3 (8) Upon prior approval of the department, the taxpayer may pay the
4 taxes imposed by this chapter directly to the department. The
5 department shall give its approval for direct payment under this
6 section whenever it appears, in the department's judgment, that direct
7 payment will enhance the administration of the taxes imposed under this
8 chapter. The department shall provide by rule for the issuance of a
9 direct payment certificate to any taxpayer qualifying for direct
10 payment of the taxes. Good faith acceptance of a direct payment
11 certificate by a terminal operator shall relieve the marine terminal
12 operator from any liability for the collection or payment of the taxes
13 imposed under this chapter.

14 (9) All receipts from the tax imposed in subsection (1) of this
15 section shall be deposited into the state oil spill response account.
16 All receipts from the tax imposed in subsection (2) of this section
17 shall be deposited into the oil spill administration account.

18 (10) Within forty-five days after the end of each calendar quarter,
19 the office of financial management shall determine the balance of the
20 oil spill response account as of the last day of that calendar quarter.
21 Balance determinations by the office of financial management under this
22 section are final and shall not be used to challenge the validity of
23 any tax imposed under this chapter. The office of financial management
24 shall promptly notify the departments of revenue and ecology of the
25 account balance once a determination is made. For each subsequent
26 calendar quarter, the tax imposed by subsection (1) of this section
27 shall be imposed during the entire calendar quarter unless:

28 (a) Tax was imposed under subsection (1) of this section during the
29 immediately preceding calendar quarter, and the most recent quarterly
30 balance is more than (~~twenty-five~~) ten million dollars; or

31 (b) Tax was not imposed under subsection (1) of this section during
32 the immediately preceding calendar quarter, and the most recent
33 quarterly balance is more than (~~fifteen~~) nine million dollars.

34 (~~((11) The office of marine safety, the department of revenue, and
35 the department of community, trade, and economic development shall
36 study tax credits for taxpayers employing vessels with the best
37 achievable technology and the best available protection to reduce the
38 risk of oil spills to the navigable waters of the state and submit the~~

1 study to the appropriate standing committees of the legislature by
2 December 1, 1992.)

3 **Sec. 3.** RCW 90.56.510 and 1995 2nd sp.s. c 14 s 525 are each
4 amended to read as follows:

5 (1) The oil spill administration account is created in the state
6 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
7 the account. Moneys from the account may be spent only after
8 appropriation. The account is subject to allotment procedures under
9 chapter 43.88 RCW. (~~On July 1 of each odd-numbered year, if receipts~~
10 ~~deposited in the account from the tax imposed by RCW 82.23B.020(2) for~~
11 ~~the previous fiscal biennium exceed the amount appropriated from the~~
12 ~~account for the previous fiscal biennium, the state treasurer shall~~
13 ~~transfer the amount of receipts exceeding the appropriation to the oil~~
14 ~~spill response account.)) If, on the first day of any calendar month,
15 the balance of the oil spill response account is greater than (~~twenty-~~
16 ~~five~~) ten million dollars and the balance of the oil spill
17 administration account exceeds the unexpended appropriation for the
18 current biennium, then the tax under RCW 82.23B.020(2) shall be
19 suspended on the first day of the next calendar month until the
20 beginning of the following biennium, provided that the tax shall not be
21 suspended during the last six months of the biennium. If the tax
22 imposed under RCW 82.23B.020(2) is suspended during two consecutive
23 biennia, the department shall by November 1st after the end of the
24 second biennium, recommend to the appropriate standing committees an
25 adjustment in the tax rate. For the biennium ending June 30, 1997, the
26 state treasurer may transfer up to \$1,718,000 from the oil spill
27 response account to the oil spill administration account to support
28 appropriations made from the oil spill administration account in the
29 omnibus and transportation appropriations acts adopted not later than
30 June 30, 1997.~~

31 (2) Expenditures from the oil spill administration account shall be
32 used exclusively for the administrative costs related to the purposes
33 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting
34 with the 1995-1997 biennium, the legislature shall give activities of
35 state agencies related to prevention of oil spills priority in funding
36 from the oil spill administration account. Costs of administration
37 include the costs of:

38 (a) Routine responses not covered under RCW 90.56.500;

- 1 (b) Management and staff development activities;
- 2 (c) Development of rules and policies and the state-wide plan
3 provided for in RCW 90.56.060;
- 4 (d) Facility and vessel plan review and approval, drills,
5 inspections, investigations, enforcement, and litigation;
- 6 (e) Interagency coordination and public outreach and education;
- 7 (f) Collection and administration of the tax provided for in
8 chapter 82.23B RCW; and
- 9 (g) Appropriate travel, goods and services, contracts, and
10 equipment.

11 NEW SECTION. **Sec. 4.** All employees of the office of marine safety
12 are transferred to the jurisdiction of the department of ecology. All
13 employees classified under chapter 41.06 RCW, the state civil service
14 law, are assigned to the department of ecology to perform their usual
15 duties upon the same terms as formerly, without any loss of rights,
16 subject to any action that may be appropriate thereafter in accordance
17 with the laws and rules governing state civil service.

18 NEW SECTION. **Sec. 5.** (1) An oil spill prevention and response
19 advisory committee is created within the department of ecology. The
20 committee shall consist of eleven members as follows: Four
21 legislators, one from each caucus; one member each to represent pilots
22 licensed under chapter 88.16 RCW, the marine oil transportation
23 industry, the marine cargo transportation industry, the fishing
24 industry, the shellfish industry, an environmental organization, and
25 the department of ecology. The member representing the department of
26 ecology shall be an ex-officio member. Legislative members shall be
27 appointed by the speaker of the house of representatives or the
28 president of the senate, as appropriate. The director of the
29 department of ecology shall appoint all other members.

30 (2) By December 1, 1998, the committee shall submit a report to the
31 appropriate standing committees of the legislature evaluating the
32 merger of the functions of the office of marine safety into the
33 department of ecology.

34 (3) This section expires June 30, 1999.

35 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 1997."

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6 On page 1, line 2 of the title, after "ecology;" strike the
7 remainder of the title and insert "amending RCW 43.21I.005, 82.23B.020,
8 and 90.56.510; creating new sections; providing an effective date;
9 providing an expiration date; and declaring an emergency."

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