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ENGROSSED SUBSTITUTE HOUSE BILL 2096

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State of Washington

55th Legislature

1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and K. Schmidt)

Read first time 03/05/97.

1 AN ACT Relating to consolidating and funding of the state's oil  
2 spill prevention programs within the department of ecology; amending  
3 RCW 43.21I.005, 82.23B.020, and 90.56.510; creating new sections;  
4 providing an effective date; providing an expiration date; and  
5 declaring an emergency.

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

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.

1 The legislature therefore finds that in order to protect these  
2 waters it is necessary to establish an office of marine safety which  
3 will have the responsibility to promote the safety of marine  
4 transportation in Washington.

5 (2) The legislature finds that adequate funding is necessary for  
6 the state to continue its priority focus on the prevention of oil  
7 spills, as well as maintain a strong oil spill response, planning, and  
8 environmental restoration capability. The legislature further finds  
9 that long-term environmental health of the state's waters depends upon  
10 the strength and vitality of its oil spill prevention and response  
11 program that fosters planning, coordination, and incident command. To  
12 that end, the merger of the office of marine safety with the department  
13 of ecology shall: Ensure coordination via streamlining the marine  
14 safety functions of two agencies into one; provide a focused prevention  
15 and response program under a single administration; generate efficient  
16 incident command response capability and continue to meet the  
17 challenges threatening marine safety and the environment; and increase  
18 accountability to the public, the executive branch, and the  
19 legislature.

20 (3) It is the intent of the legislature that the state's oil spill  
21 prevention, response, planning, and environmental restoration  
22 activities be sufficiently funded to maintain a strong prevention and  
23 response program. It is further the intent of the legislature that the  
24 merger of the office of marine safety with the department of ecology be  
25 accomplished in an organizational manner that maintains a priority  
26 focus and position for the oil spill prevention and response program.  
27 The merger shall allow for ready identification of the program by the  
28 public and ensure no diminution in the state's commitment to marine  
29 safety and environmental protection as follows:

30 (a) The director of the department of ecology shall consolidate all  
31 of the existing oil spill prevention, planning, and response programs  
32 and personnel into a division or equivalent unit of organization within  
33 the department. The division shall be managed by a single  
34 administrator who is an assistant director or person of equivalent  
35 status in the department's organization. The administrator shall  
36 report directly to the director.

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

1        (c) The department shall identify and participate in resolving  
2 threats to safety of marine transportation and the impact of marine  
3 transportation on the environment.

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

6        (1) An oil spill response tax is imposed on the privilege of  
7 receiving crude oil or petroleum products at a marine terminal within  
8 this state from a waterborne vessel or barge operating on the navigable  
9 waters of this state. The tax imposed in this section is levied upon  
10 the owner of the crude oil or petroleum products immediately after  
11 receipt of the same into the storage tanks of a marine terminal from a  
12 waterborne vessel or barge at the rate of (~~two~~) one cent(~~s~~) per  
13 barrel of crude oil or petroleum product received.

14        (2) In addition to the tax imposed in subsection (1) of this  
15 section, an oil spill administration tax is imposed on the privilege of  
16 receiving crude oil or petroleum products at a marine terminal within  
17 this state from a waterborne vessel or barge operating on the navigable  
18 waters of this state. The tax imposed in this section is levied upon  
19 the owner of the crude oil or petroleum products immediately after  
20 receipt of the same into the storage tanks of a marine terminal from a  
21 waterborne vessel or barge at the rate of (~~three~~) four cents per  
22 barrel of crude oil or petroleum product.

23        (3) The taxes imposed by this chapter shall be collected by the  
24 marine terminal operator from the taxpayer. If any person charged with  
25 collecting the taxes fails to bill the taxpayer for the taxes, or in  
26 the alternative has not notified the taxpayer in writing of the  
27 imposition of the taxes, or having collected the taxes, fails to pay  
28 them to the department in the manner prescribed by this chapter,  
29 whether such failure is the result of the person's own acts or the  
30 result of acts or conditions beyond the person's control, he or she  
31 shall, nevertheless, be personally liable to the state for the amount  
32 of the taxes. Payment of the taxes by the owner to a marine terminal  
33 operator shall relieve the owner from further liability for the taxes.

34        (4) Taxes collected under this chapter shall be held in trust until  
35 paid to the department. Any person collecting the taxes who  
36 appropriates or converts the taxes collected shall be guilty of a gross  
37 misdemeanor if the money required to be collected is not available for  
38 payment on the date payment is due. The taxes required by this chapter

1 to be collected shall be stated separately from other charges made by  
2 the marine terminal operator in any invoice or other statement of  
3 account provided to the taxpayer.

4 (5) If a taxpayer fails to pay the taxes imposed by this chapter to  
5 the person charged with collection of the taxes and the person charged  
6 with collection fails to pay the taxes to the department, the  
7 department may, in its discretion, proceed directly against the  
8 taxpayer for collection of the taxes.

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

13 (7) The amount of taxes, until paid by the taxpayer to the marine  
14 terminal operator or to the department, shall constitute a debt from  
15 the taxpayer to the marine terminal operator. Any person required to  
16 collect the taxes under this chapter who, with intent to violate the  
17 provisions of this chapter, fails or refuses to do so as required and  
18 any taxpayer who refuses to pay any taxes due under this chapter, shall  
19 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

20 (8) Upon prior approval of the department, the taxpayer may pay the  
21 taxes imposed by this chapter directly to the department. The  
22 department shall give its approval for direct payment under this  
23 section whenever it appears, in the department's judgment, that direct  
24 payment will enhance the administration of the taxes imposed under this  
25 chapter. The department shall provide by rule for the issuance of a  
26 direct payment certificate to any taxpayer qualifying for direct  
27 payment of the taxes. Good faith acceptance of a direct payment  
28 certificate by a terminal operator shall relieve the marine terminal  
29 operator from any liability for the collection or payment of the taxes  
30 imposed under this chapter.

31 (9) All receipts from the tax imposed in subsection (1) of this  
32 section shall be deposited into the state oil spill response account.  
33 All receipts from the tax imposed in subsection (2) of this section  
34 shall be deposited into the oil spill administration account.

35 (10) Within forty-five days after the end of each calendar quarter,  
36 the office of financial management shall determine the balance of the  
37 oil spill response account as of the last day of that calendar quarter.  
38 Balance determinations by the office of financial management under this  
39 section are final and shall not be used to challenge the validity of

1 any tax imposed under this chapter. The office of financial management  
2 shall promptly notify the departments of revenue and ecology of the  
3 account balance once a determination is made. For each subsequent  
4 calendar quarter, the tax imposed by subsection (1) of this section  
5 shall be imposed during the entire calendar quarter unless:

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

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

12 (~~((11) The office of marine safety, the department of revenue, and  
13 the department of community, trade, and economic development shall  
14 study tax credits for taxpayers employing vessels with the best  
15 achievable technology and the best available protection to reduce the  
16 risk of oil spills to the navigable waters of the state and submit the  
17 study to the appropriate standing committees of the legislature by  
18 December 1, 1992.))~~)

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

21 (1) The oil spill administration account is created in the state  
22 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in  
23 the account. Moneys from the account may be spent only after  
24 appropriation. The account is subject to allotment procedures under  
25 chapter 43.88 RCW. On July 1 of each odd-numbered year, if receipts  
26 deposited in the account from the tax imposed by RCW 82.23B.020(2) for  
27 the previous fiscal biennium exceed the amount appropriated from the  
28 account for the previous fiscal biennium, the state treasurer shall  
29 transfer the amount of receipts exceeding the appropriation to the oil  
30 spill response account. If, on the first day of any calendar month,  
31 the balance of the oil spill response account is greater than (~~twenty-~~  
32 ~~five~~) ten million dollars and the balance of the oil spill  
33 administration account exceeds the unexpended appropriation for the  
34 current biennium, then the tax under RCW 82.23B.020(2) shall be  
35 suspended on the first day of the next calendar month until the  
36 beginning of the following biennium, provided that the tax shall not be  
37 suspended during the last six months of the biennium. If the tax  
38 imposed under RCW 82.23B.020(2) is suspended during two consecutive

1 biennia, the department shall by November 1st after the end of the  
2 second biennium, recommend to the appropriate standing committees an  
3 adjustment in the tax rate. For the biennium ending June 30, 1997, the  
4 state treasurer may transfer up to \$1,718,000 from the oil spill  
5 response account to the oil spill administration account to support  
6 appropriations made from the oil spill administration account in the  
7 omnibus and transportation appropriations acts adopted not later than  
8 June 30, 1997.

9 (2) Expenditures from the oil spill administration account shall be  
10 used exclusively for the administrative costs related to the purposes  
11 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting  
12 with the 1995-1997 biennium, the legislature shall give activities of  
13 state agencies related to prevention of oil spills priority in funding  
14 from the oil spill administration account. Costs of administration  
15 include the costs of:

- 16 (a) Routine responses not covered under RCW 90.56.500;
- 17 (b) Management and staff development activities;
- 18 (c) Development of rules and policies and the state-wide plan  
19 provided for in RCW 90.56.060;
- 20 (d) Facility and vessel plan review and approval, drills,  
21 inspections, investigations, enforcement, and litigation;
- 22 (e) Interagency coordination and public outreach and education;
- 23 (f) Collection and administration of the tax provided for in  
24 chapter 82.23B RCW; and
- 25 (g) Appropriate travel, goods and services, contracts, and  
26 equipment.

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

34 NEW SECTION. **Sec. 5.** (1) An oil spill prevention and response  
35 advisory committee is created within the department of ecology. The  
36 committee shall consist of ten members as follows: Four legislators,  
37 one from each caucus; one member each to represent the marine oil

1 transportation industry, the marine cargo transportation industry, the  
2 fishing industry, the shellfish industry, an environmental  
3 organization, and the department of ecology. The member representing  
4 the department of ecology shall be an ex-officio member. Legislative  
5 members shall be appointed by the speaker of the house of  
6 representatives or the president of the senate, as appropriate. The  
7 director of the department of ecology shall appoint all other members.

8 (2) By December 1, 1998, the committee shall submit a report to the  
9 appropriate standing committees of the legislature evaluating the  
10 merger of the functions of the office of marine safety into the  
11 department of ecology.

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

13 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 July 1, 1997.

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