
SUBSTITUTE HOUSE BILL 2096

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 a new section;
4 providing an effective date; and declaring an emergency.

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

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

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

14 The legislature finds that the transportation of oil on these
15 waters creates a great potential hazard to these important natural
16 resources. The legislature also finds that there is no state agency
17 responsible for maritime safety to ensure this state's interest in
18 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 long-term environmental health of
6 the state's waters depends upon the strength and vitality of its oil
7 spill prevention and response program that fosters planning,
8 coordination, and incident command. To that end, the merger of the
9 office of marine safety with the department of ecology will: Ensure
10 coordination via streamlining the marine safety functions of two
11 agencies into one; provide a focused prevention and response program
12 under a single administration; generate efficient incident command
13 response capability and continue to meet the challenges threatening
14 marine safety and the environment; and increase accountability to the
15 public, the executive branch, and the legislature.

16 (3) It is the intent of the legislature that the merger of the
17 office of marine safety with the department of ecology be accomplished
18 in an organizational manner that maintains a priority focus and
19 position for the oil spill prevention and response program. The merger
20 shall allow for ready identification of the program by the public and
21 ensure no diminution in the state's commitment to marine safety and
22 environmental protection as follow:

23 (a) The director of the department of ecology shall consolidate all
24 of the existing oil spill prevention, planning, and response programs
25 and personnel into one program management unit within the department.
26 That unit shall be a division or equivalent unit of organization within
27 the department that has a single administrator, that administrator
28 having deputy director or equivalent status in the department's line
29 organization. That administrator shall report directly to the
30 director.

31 (b) The consolidated oil spill program unit within the department
32 shall maintain prevention of oil spills from marine vessels as a
33 specific program function with dedicated personnel, as necessary to
34 carry out the applicable provisions of Title 88 RCW.

35 (c) The department shall identify and participate in resolving
36 threats to safety of marine transportation and the impact of marine
37 transportation on the environment.

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

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

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

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

31 (4) Taxes collected under this chapter shall be held in trust until
32 paid to the department. Any person collecting the taxes who
33 appropriates or converts the taxes collected shall be guilty of a gross
34 misdemeanor if the money required to be collected is not available for
35 payment on the date payment is due. The taxes required by this chapter
36 to be collected shall be stated separately from other charges made by
37 the marine terminal operator in any invoice or other statement of
38 account provided to the taxpayer.

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

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

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

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

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

32 (10) Within forty-five days after the end of each calendar quarter,
33 the office of financial management shall determine the balance of the
34 oil spill response account as of the last day of that calendar quarter.
35 Balance determinations by the office of financial management under this
36 section are final and shall not be used to challenge the validity of
37 any tax imposed under this chapter. The office of financial management
38 shall promptly notify the departments of revenue and ecology of the
39 account balance once a determination is made. For each subsequent

1 calendar quarter, the tax imposed by subsection (1) of this section
2 shall be imposed during the entire calendar quarter unless(~~(+~~
3 ~~(a))~~) tax was imposed under subsection (1) of this section during
4 the immediately preceding calendar quarter, and the most recent
5 quarterly balance is more than (~~(twenty-five))~~ ten million dollars(~~(+~~
6 ~~or~~

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

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

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

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

1 adjustment in the tax rate. For the biennium ending June 30, 1997, the
2 state treasurer may transfer up to \$1,718,000 from the oil spill
3 response account to the oil spill administration account to support
4 appropriations made from the oil spill administration account in the
5 omnibus and transportation appropriations acts adopted not later than
6 June 30, 1997.

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

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

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

32 NEW SECTION. **Sec. 5.** Section 4 of this act is necessary for the
33 immediate preservation of the public peace, health, or safety, or
34 support of the state government and its existing public institutions,
35 and takes effect June 30, 1997.

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