
SUBSTITUTE SENATE BILL 5010

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Financial Institutions, Insurance & Housing
(originally sponsored by Senators Prentice and Winsley; by request of
Pollution Liability Insurance Agency)

Read first time 02/04/97.

1 AN ACT Relating to heating oil pollution liability protection;
2 amending RCW 70.149.040 and 70.149.070; and providing an expiration
3 date.

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

5 **Sec. 1.** RCW 70.149.040 and 1995 c 20 s 4 are each amended to read
6 as follows:

7 The director shall:

8 (1) Design a program for providing pollution liability insurance
9 for heating oil tanks that provides sixty thousand dollars per
10 occurrence coverage and aggregate limits, and protects the state of
11 Washington from unwanted or unanticipated liability for accidental
12 release claims;

13 (2) Administer, implement, and enforce the provisions of this
14 chapter. To assist in administration of the program, the director is
15 authorized to appoint up to two employees who are exempt from the civil
16 service law, chapter 41.06 RCW, and who shall serve at the pleasure of
17 the director;

18 (3) Administer the heating oil pollution liability trust account,
19 as established under RCW 70.149.070;

1 (4) Employ and discharge, at his or her discretion, agents,
2 attorneys, consultants, companies, organizations, and employees as
3 deemed necessary, and to prescribe their duties and powers, and fix
4 their compensation;

5 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out
6 the provisions of this chapter;

7 (6) Design and from time to time revise a reinsurance contract
8 providing coverage to an insurer or insurers meeting the requirements
9 of this chapter. The director is authorized to provide reinsurance
10 through the pollution liability insurance ((agency)) program trust
11 account;

12 (7) Solicit bids from insurers and select an insurer to provide
13 pollution liability insurance for third-party bodily injury and
14 property damage, and corrective action to owners and operators of
15 heating oil tanks;

16 (8) Register, and design a means of accounting for, operating
17 heating oil tanks;

18 (9) Implement a program to provide advice and technical assistance
19 to owners and operators of active and abandoned heating oil tanks if
20 contamination from an active or abandoned heating oil tank is
21 suspected. Advice and assistance regarding administrative and
22 technical requirements may include observation of testing or site
23 assessment and review of the results of reports. If the director finds
24 that contamination is not present or that the contamination is
25 apparently minor and not a threat to human health or the environment,
26 the director may provide written opinions and conclusions on the
27 results of the investigation to owners and operators of active and
28 abandoned heating oil tanks. The agency is authorized to collect, from
29 persons requesting advice and assistance, the costs incurred by the
30 agency in providing such advice and assistance. The costs may include
31 travel costs and expenses associated with review of reports and
32 preparation of written opinions and conclusions. Funds from cost
33 reimbursement must be deposited in the heating oil pollution liability
34 trust account. The state of Washington, the pollution liability
35 insurance agency, and its officers and employees are immune from all
36 liability, and no cause of action arises from any act or omission in
37 providing, or failing to provide, such advice, opinion, conclusion, or
38 assistance; and

1 (10) Establish a public information program to provide information
2 regarding liability, technical, and environmental requirements
3 associated with active and abandoned heating oil tanks.

4 **Sec. 2.** RCW 70.149.070 and 1995 c 20 s 7 are each amended to read
5 as follows:

6 (1) The heating oil pollution liability trust account is created in
7 the custody of the state treasurer. All receipts from the pollution
8 liability insurance fee collected under RCW 70.149.080 and reinsurance
9 premiums shall be deposited into the account. Expenditures from the
10 account may be used only for the purposes set out under this chapter.
11 Only the director or the director's designee may authorize expenditures
12 from the account. The account is subject to allotment procedures under
13 chapter 43.88 RCW, but no appropriation is required for expenditures.
14 Any residue in the account shall be transferred at the end of the
15 biennium to the pollution liability insurance ((agency)) program trust
16 account.

17 (2) Money in the account may be used by the director for the
18 following purposes:

19 (a) Corrective action costs;

20 (b) Third-party liability claims;

21 (c) Costs associated with claims administration;

22 (d) Purchase of an insurance policy to cover all registered heating
23 oil tanks, and reinsurance of the policy; and

24 (e) Administrative expenses of the program, including personnel,
25 equipment, ((and)) supplies, and providing advice and technical
26 assistance.

27 NEW SECTION. **Sec. 3.** This act expires June 1, 2001.

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