

# **HOUSE BILL ANALYSIS**

## **SSB 6293**

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**Title:** An act relating to ballast water management.

**Brief Description:** Creating a ballast water monitoring program.

**Sponsors:** Senate Committee on Natural Resources, Parks & Recreation (originally sponsored by Senators Jacobsen and Oke).

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### **HOUSE COMMITTEE ON NATURAL RESOURCES**

**Meeting Date:** February 16, 2000.

**Bill Analysis Prepared by:** Andrea Leder, Policy Intern (786-7093), Bill Lynch, Counsel (786-7092).

#### **Background:**

In 1998, the Zebra Mussel and European Green Crab Task Force presented recommendations regarding the introduction of aquatic nuisance species in Washington State. The task force focused on four ways aquatic nuisance species may be introduced. One way the task force studied is through ballast water. In its final report, the task force included recommendations addressing introduction of aquatic nuisance species through ballast water.

At the national level, a new U.S. Coast Guard interim rule relating to ballast water and aquatic nuisance species went into effect this past summer. The rule established voluntary ballast water management guidelines that apply to vessels with ballast tanks operating in all United States waters. Along with other voluntary provisions, vessels operating beyond the 200-mile-wide Exclusive Economic Zone (EEZ) are asked to use at least one of five ballast water management practices provided in the rule. An exemption is provided if there are concerns about the safety of the vessel, its crew, or its passengers.

The rule's mandatory reporting requirements apply to vessels carrying ballast water into U.S. waters after operating beyond the EEZ. Limited vessel exceptions are provided. The rule details the specific information vessels must submit and when it must be submitted.

To maintain nationwide consistency and avoid potential conflicts and duplication, the Coast Guard has asked any political entity looking at the ballast water issue to first consider its rule prior to taking action. However, this regulation is not intended to preempt any state, regional, or local efforts that exceed, but do not conflict, with the standards detailed in the rule.

### ***Summary of Bill:***

Ballast water management and monitoring guidelines are established for vessels entering Washington waters. These guidelines apply to all vessels carrying ballast water into state waters except for:

- vessels traversing the internal waters of Washington in the Strait of Juan de Fuca, bound for a port in Canada, and not entering or departing a U.S. port;
- vessels discharging ballast water or sediments only at the location where the ballast water or sediments originated, so long as there is no mixture with ballast water or sediments from areas other than open sea waters;
- vessels not discharging ballast water in Washington waters;
- crude oil tankers engaged in coastwide trade that do not exchange or discharge ballast water into Washington waters;
- military and Coast Guard vessels; or
- vessels on innocent passage. Innocent passage involves a foreign vessel traversing the territorial sea of the United States and not entering or departing a U.S. port, or not navigating the internal waters of the United States.

Discharge of ballast water into state waters is authorized if the nonexempt vessel has conducted an open sea exchange of its ballast. An open sea exchange means an exchange that occurs 50 or more nautical miles offshore. If the U.S. Coast Guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for compliance. An exemption is provided if the vessel's master "reasonably determines" an exchange would threaten the safety of the vessel or its crew, or is not feasible due to vessel design limitations or equipment failure. If a vessel relies on this exemption, then it may discharge its ballast into state waters, subject to any treatment requirements.

After July 1, 2002, discharge of ballast into state waters is authorized only if there has been an open sea exchange or if the vessel has treated its ballast water to meet the standards set by the Department of Fish and Wildlife. When weather or extraordinary circumstances make access to treatment unsafe for the vessel and its crew, the master may delay compliance until it is safe to complete the treatment.

Neither the open sea exchange or treatment requirements apply to vessels discharging ballast water or sediments originating solely within the waters of Washington, the Columbia River system, or the internal waters of British Columbia.

All nonexempt vessels must report ballast water management information to the Department of Fish and Wildlife, using the U.S. Coast Guard's ballast water management forms. The information must be submitted before the vessel departs its Washington port of call. Vessels may rely on a recognized maritime trade association (RMTA) to forward this information to the department.

To monitor the effectiveness of national and international efforts to prevent the introduction of non-indigenous species, all nonexempt vessels must submit monitoring data describing any non-indigenous species that might be present in the vessel's

ballast. Vessels may contract with an RMTA to randomly sample vessels within that association's membership and provide data to the department. Vessels that do not belong to an RMTA must submit ballast tank sample data to the department for each voyage. The department may require monitoring data from any vessel that exempts itself from ballast water exchange for safety or feasibility reasons.

Civil penalties are provided and may be imposed by the director of Fish and Wildlife or the director's designee. The penalties address violations relating to ballast water discharge, reporting, and monitoring requirements. The department, in cooperation with members of the U.S. Coast Guard, may enforce the requirements.

The department and shipping industry must promote the creation of a pilot project. The focus of this project is to develop equipment to treat ballast water and establish operational methods that do not increase the cost of ballast water treatment at smaller ports.

The department is given rulemaking authority to develop treated ballast water discharge standards and ballast sampling and testing protocols. These rules must be developed in consultation with advisors from regulated industries and the potentially effected parties.

The Department of Fish and Wildlife is required to submit two reports to the Legislature summarizing results of the state's ballast water management program and making recommendations to improve it. The first report is due on or before December 1, 2001. This report must describe how the costs of the treatment will be "substantially equivalent" among ports where the treatment is required. The second report must be submitted on or before December 1, 2004.

The natural resources committees of the Legislature must review this program and its implementation by December 31, 2005. If needed, the committees are to make recommendations to the 2006 Legislature.

***Appropriation:*** None.

***Fiscal Note:*** Available.

***Effective Date:*** Ninety days after adjournment of session in which bill is passed.

***Rulemaking Authority:*** Department of Fish and Wildlife.

***Passed by Senate:*** 2/14/2000, 40-0