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SENATE BILL 5968

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State of Washington                      65th Legislature                      2017 3rd Special Session

By Senator Ericksen

Read first time 06/27/17.

1            AN ACT Relating to the funding of oil spill prevention and oil  
2 spill response; and amending RCW 82.23B.020 and 90.56.500.

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

4            **Sec. 1.** RCW 82.23B.020 and 2015 c 274 s 14 are each amended to  
5 read as follows:

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

16            (2) In addition to the tax imposed in subsection (1) of this  
17 section, an oil spill administration tax is imposed on the privilege  
18 of receiving: (a) Crude oil or petroleum products at a marine  
19 terminal within this state from a waterborne vessel or barge  
20 operating on the navigable waters of this state; or (b) crude oil or  
21 petroleum products at a bulk oil terminal within this state from a

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

6 (3) The taxes imposed by this chapter must be collected by the  
7 marine or bulk oil terminal operator from the taxpayer. If any person  
8 charged with collecting the taxes fails to bill the taxpayer for the  
9 taxes, or in the alternative has not notified the taxpayer in writing  
10 of the taxes imposed, 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 nevertheless, is personally liable to the state for the amount of the  
15 taxes. Payment of the taxes by the owner to a marine or bulk oil  
16 terminal operator relieves the owner from further liability for the  
17 taxes.

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

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

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

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

1 under this chapter, is guilty of a misdemeanor as provided in chapter  
2 9A.20 RCW.

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

14 (9) All receipts from the tax imposed in subsection (1) of this  
15 section must 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 prevention account.

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

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

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

35 **Sec. 2.** RCW 90.56.500 and 2015 c 274 s 6 are each amended to  
36 read as follows:

37 (1) The state oil spill response account is created in the state  
38 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in  
39 the account. All costs reimbursed to the state by a responsible party

1 or any other person for responding to a spill of oil shall also be  
2 deposited in the account. Moneys in the account shall be spent only  
3 after appropriation. The account is subject to allotment procedures  
4 under chapter 43.88 RCW.

5 (2)(a) The account shall be used exclusively to pay for:

6 (i) The costs associated with the response to spills or imminent  
7 threats of spills of crude oil or petroleum products into the waters  
8 of the state; and

9 (ii) The costs associated with the department's use of an  
10 emergency response towing vessel.

11 (b) During the ((2015-2017)) 2017-2019 biennium, the legislature  
12 may transfer up to ((two)) three million ((two hundred twenty five  
13 thousand)) dollars from the account to the oil spill prevention  
14 account created in RCW 90.56.510.

15 (3) Payment of response costs under subsection (2)(a)(i) of this  
16 section shall be limited to spills which the director has determined  
17 are likely to exceed one thousand dollars.

18 (4) Before expending moneys from the account, but without  
19 delaying response activities, the director shall make reasonable  
20 efforts to obtain funding for response costs under subsection (2) of  
21 this section from the person responsible for the spill and from other  
22 sources, including the federal government.

23 (5) Reimbursement for response costs from this account shall be  
24 allowed only for costs which are not covered by funds appropriated to  
25 the agencies responsible for response activities. Costs associated  
26 with the response to spills of crude oil or petroleum products shall  
27 include:

28 (a) Natural resource damage assessment and related activities;

29 (b) Spill related response, containment, wildlife rescue,  
30 cleanup, disposal, and associated costs;

31 (c) Interagency coordination and public information related to a  
32 response; and

33 (d) Appropriate travel, goods and services, contracts, and  
34 equipment.

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