
SENATE BILL 6461

State of Washington

53rd Legislature

1994 Regular Session

By Senators Fraser and Bluechel

Read first time 01/24/94. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to oil spill incident commander's liability;
2 amending RCW 88.44.180 and 88.44.100; and adding a new section to
3 chapter 88.44 RCW.

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

5 **Sec. 1.** RCW 88.44.180 and 1990 c 117 s 19 are each amended to read
6 as follows:

7 Obligations incurred by the commission and any other liabilities or
8 claims against the commission shall be enforced only against the assets
9 of the commission, and no liability for the debts or actions of the
10 commission exists against either the state of Washington or any
11 subdivision or instrumentality thereof, or against any member, officer,
12 employee, incident commander, or agent of the commission in his or her
13 individual or representative capacity. Except as otherwise provided in
14 this chapter, neither the members of the commission, its officers,
15 agents, ~~((nor))~~ incident commander employees nor the business entities
16 by whom ~~((the members))~~ they are regularly employed may be held
17 individually responsible for errors in judgment, mistakes, or other
18 acts, either of commission or omission, as principal, agent, person, or
19 employee, save for their own individual acts of dishonesty or crime.

1 **Sec. 2.** RCW 88.44.100 and 1992 c 73 s 16 are each amended to read
2 as follows:

3 There is levied on and after October 1, 1990, ~~((an assessment))~~
4 upon all vessels, or the owners or operators thereof, which transit
5 upon waters of this state, except as exempted herein and not including
6 vessels which transit upon the portion of the Columbia river that runs
7 between the states of Washington and Oregon, an assessment to be set by
8 the commission on each vessel transit, plus annual increases as are
9 imposed ~~((pursuant to))~~ under the provisions of RCW 88.44.110. Of
10 those vessels assessed, the commission may set the rate. ~~((When the~~
11 ~~fund reaches one million five hundred thousand dollars, the commission~~
12 ~~shall discontinue the assessment until the fund declines to one million~~
13 ~~dollars, at which time the assessment must be reinstated))~~ The
14 commission shall establish a reserve fund of four hundred thousand
15 dollars. The assessment rates, at a minimum, ~~((must))~~ shall be able to
16 generate the ~~((maximum))~~ reserve fund level within four years. All
17 moneys collected hereunder shall be expended to effectuate the purpose
18 and objects of this chapter.

19 If the commission establishes an oil spill first response system
20 for the Columbia river, there may be levied on and after July 1, 1992,
21 an assessment upon all vessels, or the owners or operators thereof,
22 which transit upon the portion of the Columbia river that runs between
23 the states of Washington and Oregon.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.44 RCW
25 to read as follows:

26 The commission, in the exercise of its powers, may include in an
27 authorized contract, a provision for indemnifying the other contracting
28 party against specific loss, damage, or injury arising out of the
29 performance of the contract and resulting from the fault of the
30 commission, a member, officer, employee, incident commander, or agent
31 thereof. The indemnification shall be limited to the assets of the
32 commission under RCW 88.44.180.

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