
HOUSE BILL 1510

State of Washington

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By Representatives K. Schmidt, Benton, Reams, Robertson, Chandler, Mitchell, Delvin and D. Schmidt

Read first time 01/27/95. Referred to Committee on Transportation.

1 AN ACT Relating to the restructuring of oil spill prevention and
2 response programs; amending RCW 43.21I.010, 82.23B.020, 88.46.922,
3 88.46.925, 90.56.100, and 90.56.110; amending 1991 c 200 s 1120
4 (uncodified); amending 1993 c 281 s 73 (uncodified); repealing RCW
5 88.46.920 and 88.46.923; providing an effective date; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 43.21I.010 and 1992 c 73 s 4 are each amended to read
9 as follows:

10 (1) There is hereby created an agency of state government to be
11 known as the office of marine safety. The office shall be vested with
12 all powers and duties transferred to it and such other powers and
13 duties as may be authorized by law. The main administrative office of
14 the office shall be located in the city of Olympia. The administrator
15 may establish administrative facilities in other locations within the
16 state of Washington, if deemed necessary for the efficient operation of
17 the office, and if consistent with the principles set forth in
18 subsection (2) of this section.

1 (2) The office of marine safety shall be organized consistent with
2 the goals of providing state government with a focus in marine
3 transportation and serving the people of this state. The legislature
4 recognizes that the administrator needs sufficient organizational
5 flexibility to carry out the office's various duties. To the extent
6 practical, the administrator shall consider the following
7 organizational principles:

8 (a) Clear lines of authority which avoid functional duplication
9 within and between subelements of the office;

10 (b) A clear and simplified organizational design promoting
11 accessibility, responsiveness, and accountability to the legislature,
12 the consumer, and the general public; and

13 (c) Maximum span of control without jeopardizing adequate
14 supervision.

15 (3) The office shall provide leadership and coordination in
16 identifying and resolving threats to the safety of marine
17 transportation and the impact of marine transportation on the
18 environment:

19 (a) Working with other state agencies and local governments to
20 strengthen the state and local governmental partnership in providing
21 public protection;

22 (b) Providing expert advice to the executive and legislative
23 branches of state government;

24 (c) Providing active and fair enforcement of rules;

25 (d) Working with other federal, state, and local agencies and
26 facilitating their involvement in planning and implementing marine
27 safety measures;

28 (e) Providing information to the public; and

29 (f) Carrying out such other related actions as may be appropriate
30 to this purpose.

31 (4) In accordance with the administrative procedure act, chapter
32 34.05 RCW, the office shall ensure an opportunity for consultation,
33 review, and comment before the adoption of standards, guidelines, and
34 rules.

35 (5) Consistent with the principles set forth in subsection (2) of
36 this section, the administrator may create such administrative
37 divisions, offices, bureaus, and programs within the office as the
38 administrator deems necessary. The administrator shall have complete

1 charge of and supervisory powers over the office, except where the
2 administrator's authority is specifically limited by law.

3 (6) The administrator shall appoint such personnel as are necessary
4 to carry out the duties of the office. In addition to exemptions set
5 forth in RCW 41.06.070(~~((+28+))~~) (3), the administrator, the
6 administrator's confidential secretary, and up to four professional
7 staff members shall be exempt from the provisions of chapter 41.06 RCW.
8 All other employees of the office shall be subject to the provisions of
9 chapter 41.06 RCW.

10 **Sec. 2.** RCW 82.23B.020 and 1992 c 73 s 7 are each amended to read
11 as follows:

12 (1) An oil spill response 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 two cents per barrel of crude
19 oil or petroleum product received.

20 (2) In addition to the tax imposed in subsection (1) of this
21 section, an oil spill administration tax is imposed on the privilege of
22 receiving crude oil or petroleum products at a marine terminal within
23 this state from a waterborne vessel or barge operating on the navigable
24 waters of this state. The tax imposed in this section is levied upon
25 the owner of the crude oil or petroleum products immediately after
26 receipt of the same into the storage tanks of a marine terminal from a
27 waterborne vessel or barge at the rate of three cents per barrel of
28 crude oil or petroleum product.

29 (3) The taxes imposed by this chapter shall be collected by the
30 marine terminal operator from the taxpayer. If any person charged with
31 collecting the taxes fails to bill the taxpayer for the taxes, or in
32 the alternative has not notified the taxpayer in writing of the
33 imposition of the taxes, or having collected the taxes, fails to pay
34 them to the department in the manner prescribed by this chapter,
35 whether such failure is the result of the person's own acts or the
36 result of acts or conditions beyond the person's control, he or she
37 shall, nevertheless, be personally liable to the state for the amount

1 of the taxes. Payment of the taxes by the owner to a marine terminal
2 operator shall relieve the owner from further liability for the taxes.

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

11 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
12 the person charged with collection of the taxes and the person charged
13 with collection fails to pay the taxes to the department, the
14 department may, in its discretion, proceed directly against the
15 taxpayer for collection of the taxes.

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

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

27 (8) Upon prior approval of the department, the taxpayer may pay the
28 taxes imposed by this chapter directly to the department. The
29 department shall give its approval for direct payment under this
30 section whenever it appears, in the department's judgment, that direct
31 payment will enhance the administration of the taxes imposed under this
32 chapter. The department shall provide by rule for the issuance of a
33 direct payment certificate to any taxpayer qualifying for direct
34 payment of the taxes. Good faith acceptance of a direct payment
35 certificate by a terminal operator shall relieve the marine terminal
36 operator from any liability for the collection or payment of the taxes
37 imposed under this chapter.

38 (9) All receipts from the tax imposed in subsection (1) of this
39 section shall be deposited into the state oil spill response account.

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

3 (10) Within forty-five days after the end of each calendar quarter,
4 the office of financial management shall determine the balance of the
5 oil spill response account as of the last day of that calendar quarter.
6 Balance determinations by the office of financial management under this
7 section are final and shall not be used to challenge the validity of
8 any tax imposed under this chapter. The office of financial management
9 shall promptly notify the departments of revenue and ecology of the
10 account balance once a determination is made. For each subsequent
11 calendar quarter, the tax imposed by subsection (1) of this section
12 shall be imposed during the entire calendar quarter unless:

13 (a) Tax was imposed under subsection (1) of this section during the
14 immediately preceding calendar quarter, and the most recent quarterly
15 balance is more than twenty-five million dollars; or

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

19 ~~(11) ((The office of marine safety, the department of revenue, and
20 the department of trade and economic development shall study tax
21 credits for taxpayers employing vessels with the best achievable
22 technology and the best available protection to reduce the risk of oil
23 spills to the navigable waters of the state and submit the study to the
24 appropriate standing committees of the legislature by December 1,
25 1992))~~ By December 1, 1995, the legislative transportation committee
26 shall evaluate the appropriateness of the cap amounts specified in
27 subsection (10) of this section.

28 **Sec. 3.** RCW 88.46.922 and 1991 c 200 s 431 are each amended to
29 read as follows:

30 All reports, documents, surveys, books, records, files, papers, or
31 written material in the possession of the office of marine safety shall
32 be delivered to the custody of the department of ecology. All
33 cabinets, furniture, office equipment, motor vehicles, and other
34 tangible property employed by the office of marine safety shall be made
35 available to the department of ecology. All funds, credits, or other
36 assets held by the office of marine safety shall be assigned to the
37 department of ecology.

1 Any appropriations made to the office of marine safety shall, on
2 July 1, ((1997)) 1995, be transferred and credited to the department of
3 ecology.

4 Whenever any question arises as to the transfer of any personnel,
5 funds, books, documents, records, papers, files, equipment, or other
6 tangible property used or held in the exercise of the powers and the
7 performance of the duties and functions transferred, the director of
8 financial management shall make a determination as to the proper
9 allocation and certify the same to the state agencies concerned.

10 **Sec. 4.** RCW 88.46.925 and 1991 c 200 s 434 are each amended to
11 read as follows:

12 The transfer of the powers, duties, and functions(~~(, and~~
13 ~~personnel)~~) of the office of marine safety shall not affect the
14 validity of any act performed prior to July 1, ((1997)) 1995.

15 **Sec. 5.** RCW 90.56.100 and 1994 c 264 s 94 are each amended to read
16 as follows:

17 (1) The ~~((Washington wildlife rescue coalition))~~ state military
18 department shall ~~((be established for the purpose of coordinating))~~
19 coordinate the rescue and rehabilitation of wildlife injured or
20 endangered by oil spills or the release of other hazardous substances
21 into the environment.

22 (2) ~~((The Washington wildlife rescue coalition shall be composed~~
23 ~~of:~~

24 ~~(a) A representative of the department of fish and wildlife~~
25 ~~designated by the director of fish and wildlife. The department of~~
26 ~~fish and wildlife shall be designated as lead agency in the operations~~
27 ~~of the coalition. The coalition shall be chaired by the representative~~
28 ~~from the department of fish and wildlife;~~

29 ~~(b) A representative of the department of ecology designated by the~~
30 ~~director;~~

31 ~~(c) A representative of the department of community, trade, and~~
32 ~~economic development emergency management program designated by the~~
33 ~~director of community, trade, and economic development;~~

34 ~~(d) A licensed veterinarian, with experience and training in~~
35 ~~wildlife rehabilitation, appointed by the veterinary board of~~
36 ~~governors;~~

37 ~~(e) The director of the Washington conservation corps;~~

1 ~~(f) A lay person, with training and experience in the rescue and~~
2 ~~rehabilitation of wildlife appointed by the department; and~~

3 ~~(g) A person designated by the legislative authority of the county~~
4 ~~where oil spills or spills of other hazardous substances may occur.~~
5 ~~This member of the coalition shall serve on the coalition until~~
6 ~~wildlife rescue and rehabilitation is completed in that county.))~~ The
7 completion of any rescue or rehabilitation project shall be determined
8 by the ~~((director of fish and wildlife))~~ adjutant general.

9 (3) The duties of the ~~((Washington wildlife rescue coalition))~~
10 state military department in the rescue and rehabilitation of wildlife
11 injured or endangered by oil spills or the release of other hazardous
12 substances into the environment shall be to:

13 (a) Develop an emergency mobilization plan to rescue and
14 rehabilitate waterfowl and other wildlife that are injured or
15 endangered by an oil spill or the release of other hazardous substances
16 into the environment;

17 (b) Develop and maintain a resource directory of persons,
18 governmental agencies, and private organizations that may provide
19 assistance in an emergency rescue effort;

20 (c) Provide advance training and instruction to ~~((volunteers))~~
21 state military department personnel in rescuing and rehabilitating
22 waterfowl and wildlife injured or endangered by oil spills or the
23 release of other hazardous substances into the environment~~((.~~The
24 training may be provided through grants to community colleges or to
25 groups that conduct programs for training volunteers. The coalition
26 representatives from the agencies described in subsection (2) of this
27 section shall coordinate training efforts with the director of the
28 Washington conservation corps and work to provide training
29 opportunities for young citizens));

30 (d) Obtain and maintain equipment and supplies used in emergency
31 rescue efforts~~((;~~

32 ~~(e) Report to the appropriate standing committees of the~~
33 ~~legislature on the progress of the coalition's efforts and detail~~
34 ~~future funding options necessary for the implementation of this section~~
35 ~~and RCW 90.56.110. The coalition shall report by January 30, 1991)).~~

36 (4)(a) Expenses for the ~~((coalition))~~ state military department's
37 wildlife rescue and rehabilitation function may be provided by the
38 coastal protection fund administered according to RCW 90.48.400.

1 (b) The (~~coalition~~) state military department is encouraged to
2 seek grants, gifts, or donations from private sources in order to carry
3 out the provisions of this section and RCW 90.56.110. Any private
4 funds donated to the (~~commission~~) state military department for
5 carrying out the provisions of this chapter shall be deposited into the
6 wildlife rescue account hereby created within the wildlife fund as
7 authorized under Title 77 RCW.

8 **Sec. 6.** RCW 90.56.110 and 1994 c 264 s 95 are each amended to read
9 as follows:

10 The (~~department of fish and wildlife~~) state military department
11 may adopt rules including, but not limited to, the following:

12 (1) Procedures and methods of handling and caring for waterfowl or
13 other wildlife affected by spills of oil and other hazardous materials;

14 (2) The certification of persons trained in the removal of
15 pollutants from waterfowl or other wildlife;

16 (3) Development of procedures with respect to removal of oil and
17 other hazardous substances from waterfowl or other wildlife;

18 (4) The establishment of training exercises, courses, and other
19 training procedures as necessary;

20 (5) Such other rules as may be reasonably necessary to carry out
21 the intent of RCW 90.56.100.

22 **Sec. 7.** 1991 c 200 s 1120 (uncodified) is amended to read as
23 follows:

24 Sections 430 through 436 (~~of this act~~), chapter 200, Laws of 1991
25 shall take effect July 1, (~~1997~~) 1995.

26 **Sec. 8.** 1993 c 281 s 73 (uncodified) is amended to read as
27 follows:

28 Section 67 (~~of this act~~), chapter 281, Laws of 1993 shall take
29 effect July 1, (~~1997~~) 1995.

30 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
31 repealed:

32 (1) RCW 88.46.920 and 1991 c 200 s 429; and

33 (2) RCW 88.46.923 and 1991 c 200 s 432.

1 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect July 1, 1995.

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