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HOUSE BILL 2247

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Cooper, Linville and Ruderman; by request of Office of Financial Management

Read first time 02/26/1999. Referred to Committee on Appropriations.

1 AN ACT Relating to the oil spill response tax; amending RCW  
2 82.23B.020 and 90.56.510; and declaring an emergency.

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

4 **Sec. 1.** RCW 82.23B.020 and 1997 c 449 s 2 are each amended to read  
5 as follows:

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

14 (2) In addition to the tax imposed in subsection (1) of this  
15 section, an oil spill administration tax is imposed on the privilege of  
16 receiving crude oil or petroleum products at a marine terminal within  
17 this state from a waterborne vessel or barge operating on the navigable  
18 waters of this state. The tax imposed in this section is levied upon  
19 the owner of the crude oil or petroleum products immediately after

1 receipt of the same into the storage tanks of a marine terminal from a  
2 waterborne vessel or barge at the rate of four cents per barrel of  
3 crude oil or petroleum product.

4 (3) The taxes imposed by this chapter shall be collected by the  
5 marine terminal operator from the taxpayer. If any person charged with  
6 collecting the taxes fails to bill the taxpayer for the taxes, or in  
7 the alternative has not notified the taxpayer in writing of the  
8 imposition of the taxes, or having collected the taxes, fails to pay  
9 them to the department in the manner prescribed by this chapter,  
10 whether such failure is the result of the person's own acts or the  
11 result of acts or conditions beyond the person's control, he or she  
12 shall, nevertheless, be personally liable to the state for the amount  
13 of the taxes. Payment of the taxes by the owner to a marine terminal  
14 operator shall relieve the owner from further liability for the taxes.

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

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

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

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

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

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

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

26 (a) Tax was imposed under subsection (1) of this section during the  
27 immediately preceding calendar quarter, and the most recent quarterly  
28 balance is more than ((ten)) eight million five hundred thousand  
29 dollars; or

30 (b) Tax was not imposed under subsection (1) of this section during  
31 the immediately preceding calendar quarter, and the most recent  
32 quarterly balance is more than ((nine)) seven million five hundred  
33 thousand dollars.

34 **Sec. 2.** RCW 90.56.510 and 1997 c 449 s 3 are each amended to read  
35 as follows:

36 (1) The oil spill administration account is created in the state  
37 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in  
38 the account. Moneys from the account may be spent only after

1 appropriation. The account is subject to allotment procedures under  
2 chapter 43.88 RCW. If, on the first day of any calendar month, the  
3 balance of the oil spill response account is greater than ten million  
4 dollars and the balance of the oil spill administration account exceeds  
5 the unexpended appropriation for the current biennium, then the tax  
6 under RCW 82.23B.020(2) shall be suspended on the first day of the next  
7 calendar month until the beginning of the following biennium, provided  
8 that the tax shall not be suspended during the last six months of the  
9 biennium. If the tax imposed under RCW 82.23B.020(2) is suspended  
10 during two consecutive biennia, the department shall by November 1st  
11 after the end of the second biennium, recommend to the appropriate  
12 standing committees an adjustment in the tax rate. For the biennium  
13 ending June 30, ~~((1997))~~ 1999, and the biennium ending June 30, 2001,  
14 the state treasurer may transfer ~~((up to \$1,718,000))~~ funds from the  
15 oil spill response account to the oil spill administration account to  
16 support appropriations made from the oil spill administration account  
17 ~~((in the omnibus and transportation appropriations acts adopted not  
18 later than June 30, 1997))~~.

19 (2) Expenditures from the oil spill administration account shall be  
20 used exclusively for the administrative costs related to the purposes  
21 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting  
22 with the 1995-1997 biennium, the legislature shall give activities of  
23 state agencies related to prevention of oil spills priority in funding  
24 from the oil spill administration account. Costs of administration  
25 include the costs of:

- 26 (a) Routine responses not covered under RCW 90.56.500;
- 27 (b) Management and staff development activities;
- 28 (c) Development of rules and policies and the state-wide plan  
29 provided for in RCW 90.56.060;
- 30 (d) Facility and vessel plan review and approval, drills,  
31 inspections, investigations, enforcement, and litigation;
- 32 (e) Interagency coordination and public outreach and education;
- 33 (f) Collection and administration of the tax provided for in  
34 chapter 82.23B RCW; and
- 35 (g) Appropriate travel, goods and services, contracts, and  
36 equipment.

37 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
38 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 immediately.

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