

CERTIFICATION OF ENROLLMENT

SENATE BILL 6538

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 41 NAYS 0

President of the Senate

Passed by the House March 5, 2002
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6538** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6538

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senators Regala, Jacobsen and Oke

Read first time 01/21/2002. Referred to Committee on Natural Resources, Parks & Shorelines.

1 AN ACT Relating to ballast water; amending RCW 77.120.030,
2 77.120.040, and 77.120.060; adding a new section to chapter 77.120 RCW;
3 creating a new section; providing an expiration date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The director of the department of fish
7 and wildlife must establish the ballast water work group.

8 (2) The ballast water work group consists of the following
9 individuals:

10 (a) One staff person from the governor's executive policy office.
11 This person must act as chair of the ballast water work group;

12 (b) Two representatives from the Puget Sound steamship operators;

13 (c) Two representatives from the Columbia river steamship
14 operators;

15 (d) Three representatives from the Washington public ports, one of
16 whom must be a marine engineer;

17 (e) Two representatives from the petroleum transportation industry;

18 (f) One representative from the Puget Sound water quality action
19 team; and

1 (g) Two representatives from the environmental community.

2 (3) The ballast water work group must study, and provide a report
3 to the legislature by December 15, 2003, the following issues:

4 (a) All issues relating to ballast water technology, including
5 exchange and treatment methods and the associated costs;

6 (b) The services needed by the industry and the state to protect
7 the marine environment; and

8 (c) The costs associated with, and possible funding methods for,
9 implementing the ballast water program.

10 (4) The ballast water work group must begin operation immediately
11 upon the effective date of this section. The department of fish and
12 wildlife must provide staff for the ballast water work group. The
13 staff must come from existing personnel within the department of fish
14 and wildlife.

15 (5) The director must also monitor the activities of the task force
16 created by the state of Oregon in 2001 Or. Laws 722, concerning ballast
17 water management. The director shall provide the ballast water work
18 group with periodic updates of the Oregon task force's efforts at
19 developing a ballast water management system.

20 (6)(a) The ballast water work group expires June 30, 2004.

21 (b) This section expires June 30, 2004.

22 **Sec. 2.** RCW 77.120.030 and 2000 c 108 s 4 are each amended to read
23 as follows:

24 The owner or operator in charge of any vessel covered by this
25 chapter is required to ensure that the vessel under their ownership or
26 control does not discharge ballast water into the waters of the state
27 except as authorized by this section.

28 (1) Discharge into waters of the state is authorized if the vessel
29 has conducted an open sea exchange of ballast water. A vessel is
30 exempt from this requirement if the vessel's master reasonably
31 determines that such a ballast water exchange operation will threaten
32 the safety of the vessel or the vessel's crew, or is not feasible due
33 to vessel design limitations or equipment failure. If a vessel relies
34 on this exemption, then it may discharge ballast water into waters of
35 the state, subject to any requirements of treatment under subsection
36 (2) of this section and subject to RCW 77.120.040.

37 (2) After July 1, ((2002)) 2004, discharge of ballast water into
38 waters of the state is authorized only if there has been an open sea

1 exchange or if the vessel has treated its ballast water to meet
2 standards set by the department. When weather or extraordinary
3 circumstances make access to treatment unsafe to the vessel or crew,
4 the master of a vessel may delay compliance with any treatment required
5 under this subsection until it is safe to complete the treatment.

6 (3) The requirements of this section do not apply to a vessel
7 discharging ballast water or sediments that originated solely within
8 the waters of Washington state, the Columbia river system, or the
9 internal waters of British Columbia south of latitude fifty degrees
10 north, including the waters of the Straits of Georgia and Juan de Fuca.

11 (4) Open sea exchange is an exchange that occurs fifty or more
12 nautical miles offshore. If the United States coast guard requires a
13 vessel to conduct an exchange further offshore, then that distance is
14 the required distance for purposes of compliance with this chapter.

15 **Sec. 3.** RCW 77.120.040 and 2000 c 108 s 5 are each amended to read
16 as follows:

17 The owner or operator in charge of any vessel covered by this
18 chapter is required to ensure that the vessel under their ownership or
19 control complies with the reporting and sampling requirements of this
20 section.

21 (1) Vessels covered by this chapter must report ballast water
22 management information to the department using ballast water management
23 forms that are acceptable to the United States coast guard. The
24 frequency, manner, and form of such reporting shall be established by
25 the department by rule. Any vessel may rely on a recognized marine
26 trade association to collect and forward this information to the
27 department.

28 (2) In order to monitor the effectiveness of national and
29 international efforts to prevent the introduction of nonindigenous
30 species, all vessels covered by this chapter must submit nonindigenous
31 species ballast water monitoring data. The monitoring, sampling,
32 testing protocols, and methods of identifying nonindigenous species in
33 ballast water shall be determined by the department by rule. A vessel
34 covered by this chapter may contract with a recognized marine trade
35 association to randomly sample vessels within that association's
36 membership, and provide data to the department.

1 (3) Vessels that do not belong to a recognized marine trade
2 association must submit individual ballast tank sample data to the
3 department for each voyage.

4 (4) All data submitted to the department under subsection (2) of
5 this section shall be consistent with sampling and testing protocols as
6 adopted by the department by rule.

7 (5) The department shall adopt rules to implement this section.
8 The rules and recommendations shall be developed in consultation with
9 advisors from regulated industries and the potentially affected
10 parties, including but not limited to shipping interests, ports,
11 shellfish growers, fisheries, environmental interests, interested
12 citizens who have knowledge of the issues, and appropriate governmental
13 representatives including the United States coast guard. In
14 recognition of the need to have a coordinated response to ballast water
15 management for the Columbia river system, the department must consider
16 rules adopted by the state of Oregon when adopting rules under this
17 section for ballast water management in the navigable waters of the
18 Columbia river system.

19 (a) The department shall set standards for the discharge of treated
20 ballast water into the waters of the state. The rules are intended to
21 ensure that the discharge of treated ballast water poses minimal risk
22 of introducing nonindigenous species. In developing this standard, the
23 department shall consider the extent to which the requirement is
24 technologically and practically feasible. Where practical and
25 appropriate, the standards shall be compatible with standards set by
26 the United States coast guard and shall be developed in consultation
27 with federal and state agencies to ensure consistency with the federal
28 clean water act, 33 U.S.C. Sec. 1251-1387.

29 (b) The department shall adopt ballast water sampling and testing
30 protocols for monitoring the biological components of ballast water
31 that may be discharged into the waters of the state under this chapter.
32 Monitoring data is intended to assist the department in evaluating the
33 risk of new, nonindigenous species introductions from the discharge of
34 ballast water, and to evaluate the accuracy of ballast water exchange
35 practices. The sampling and testing protocols must consist of cost-
36 effective, scientifically verifiable methods that, to the extent
37 practical and without compromising the purposes of this chapter,
38 utilize easily measured indices, such as salinity, or check for species
39 that indicate the potential presence of nonindigenous species or

1 pathogenic species. The department shall specify appropriate quality
2 assurance and quality control for the sampling and testing protocols.

3 **Sec. 4.** RCW 77.120.060 and 2000 c 108 s 7 are each amended to read
4 as follows:

5 The legislature recognizes that international and national laws
6 relating to this chapter are changing and that state law must adapt
7 accordingly. The department shall submit to the legislature, and make
8 available to the public, a report that summarizes the results of this
9 chapter and makes recommendations for improvement to this chapter on or
10 before December 1, 2001, and a second report on or before December 1,
11 2004. The ((2001)) 2004 report shall describe how the costs of
12 treatment required as of July 1, ((2002)) 2004, will be substantially
13 equivalent among ports where treatment is required. The 2004 report
14 must describe how the states of Washington and Oregon are coordinating
15 their efforts for ballast water management in the Columbia river
16 system. The department shall strive to fund the provisions of this
17 chapter through existing resources, cooperative agreements with the
18 maritime industry, and federal funding sources.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 77.120 RCW
20 to read as follows:

21 The department, working with the United States coast guard and the
22 marine exchanges, will work cooperatively to improve the ballast water
23 information system and make improvements no later than October 1, 2002.
24 The cooperative effort will strive to obtain ballast water reports for
25 the United States coast guard under contract. The reports may be used
26 for ballast water management information under this chapter and be
27 forwarded to the United States coast guard for its management purposes.
28 Prior to July 1, 2002, the department must take steps to reduce or
29 eliminate the costs of reporting.

30 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

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