

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6538**

Chapter 282, Laws of 2002

(partial veto)

57th Legislature  
2002 Regular Session

BALLAST WATER

EFFECTIVE DATE: 6/13/02

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

BRAD OWEN

**President of the Senate**

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

FRANK CHOPP

**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.

TONY M. COOK

**Secretary**

Approved April 1, 2002, with the exception of section 6, which is vetoed.

FILED

April 1, 2002 - 11:17 a.m.

GARY LOCKE

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SENATE BILL 6538**

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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.***

34 **\*Sec. 6 was vetoed. See message at end of chapter.**

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 1, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2002.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 6,  
3 Senate Bill No. 6538 entitled:

4 "AN ACT Relating to ballast water;"

5 Senate Bill No. 6538 requires the director of the Department of  
6 Fish and Wildlife to establish a work group to study issues related to  
7 ballast water, including treatment technologies to prevent the spread  
8 of invasive species and other pollutants. The group will also examine  
9 rules for the treatment and disposal of ballast water in Washington  
10 waters.

11 Section 6 of the bill was an emergency clause, which would have  
12 made the law effective upon my signature. I believe the emergency  
13 clause is unnecessary for this bill.

14 For these reasons, I have vetoed section 6 of Senate Bill No. 6538.

15 With the exception of section 6, Senate Bill No. 6538 is approved."