
SENATE BILL 6576

State of Washington

63rd Legislature

2014 Regular Session

By Senators McCoy, Rolfes, Chase, Billig, and Kline

Read first time 02/27/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to oil spill prevention and response; amending RCW
2 82.23B.010, 82.23B.020, 82.23B.030, and 82.23B.040; adding new sections
3 to chapter 90.56 RCW; creating new sections; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that oil
7 transportation by train and vessel poses a potential hazard to the
8 health and well-being of Washington residents and the natural resources
9 and economic vitality of the state. Recent accidents, such as the oil
10 train explosions in North Dakota, Alabama, New Brunswick, and Quebec,
11 as well as the frequent incidence of leaks and spills from pipelines,
12 railcars, and vessels carrying oil across the nation, highlight the
13 risks to human health and the environment caused by the transportation
14 of oil. Furthermore, as the location and type of oil extracted in
15 North America changes with the advent of new technology, there are
16 associated changes in the patterns and methods of transporting crude
17 oil and refined petroleum products. According to the United States
18 department of transportation, the new types of oil being transported
19 through the state may also be particularly flammable and dangerous.

1 Measures to prevent spills from oil trains and tank vessels are
2 critical to lowering risks to the state's natural resources and
3 economic base. It is therefore the intent and purpose of this act to
4 assess the risks of spill and gaps in the current response capacity, to
5 ensure that response plans are completed and updated, to ensure that
6 the public has access to information about the movement of oil through
7 the state, and to ensure that communities are fully informed about any
8 risks posed to their safety by the transportation of oil.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.56 RCW
10 to read as follows:

11 The department shall make available on its web site a quarterly
12 report on the maritime and terrestrial transportation of oil in
13 Washington. The report must include information including, but not
14 limited to, the following sources:

15 (1) Information submitted to the department pursuant to section 3
16 of this act;

17 (2) Advanced notices of transfers and other information provided to
18 the department pursuant to RCW 88.46.165, including aggregated
19 information on the quantities and types of oil being transferred, the
20 frequency and duration of oil transfers, and the locations of product
21 transfers;

22 (3) Reported information on spills, accidents, discharges, or other
23 prohibited occurrences submitted to the department pursuant to RCW
24 90.56.050(1), 90.56.280, or 88.46.100; and

25 (4) Relevant information about the volume and type of oil
26 transported through Washington that is collected by federal agencies
27 including the United States department of transportation, United States
28 coast guard, United States department of energy, and United States army
29 corps of engineers.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW
31 to read as follows:

32 (1) The owner or operator for each facility other than a
33 transmission pipeline shall submit to the department the following
34 information:

35 (a) The number of tank vessels and railcars that transferred or
36 delivered oil at the facility each week;

1 (b) The volume and type of oil that arrived at and departed from
2 the facility each week, including the volume and type of oil:

3 (i) By mode of arrival at the facility, including but not limited
4 to arrival by vessel, rail, pipeline, or motor vehicle;

5 (ii) By mode of departure from the facility, including but not
6 limited to departure by vessel, rail, pipeline, or motor vehicle; and

7 (c) The route taken by any oil that arrived at the facility by
8 railcar.

9 (2) Beginning November 1, 2014, the owner or operator of each
10 facility must submit the information required pursuant to subsection
11 (1) of this section by February 1st, May 1st, August 1st, and November
12 1st of each year and each quarterly submission must include the
13 information in subsection (1) of this section for each week of the
14 quarter covered by the submission. The department may develop a
15 reporting form and guidance for the submission of the information in
16 subsection (1) of this section by facility owners or operators. To the
17 extent feasible, the department must integrate the reporting form with
18 other forms used by facilities to submit information to the department,
19 including forms used to submit the information required by RCW
20 88.46.165.

21 (3)(a) Prior to making any confidential information submitted
22 pursuant to this section available on its web site, the department must
23 aggregate the submitted information to the extent necessary to ensure
24 confidentiality if public disclosure of the specific information or
25 data would result in an unfair competitive disadvantage to the owner or
26 operator submitting the information.

27 (b) The department may not make publicly available specific
28 information about the volume of oil or the number of vessels or
29 railcars that arrive at or depart from individual facilities. Instead,
30 information about facility-specific arrivals and departures of oil must
31 be aggregated prior to disclosure in order to prevent unfair
32 competitive disadvantage to the owner or operator submitting the
33 information.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.56 RCW
35 to read as follows:

36 (1) The department must provide to the relevant policy and fiscal
37 committees of the senate and house of representatives:

1 (a) A review of all state and federal geographic response plans as
2 needed in contingency plans required under RCW 90.56.210 and 88.46.060
3 by December 31, 2014; and

4 (b) Annual updates, beginning December 31, 2015, and ending
5 December 31, 2021, as required under RCW 43.01.036, as to the progress
6 made in completing state and federal geographic response plans as
7 needed in contingency plans required under RCW 90.56.060, 90.56.210,
8 and 88.46.060.

9 (2) The department must contract, if practicable, with eligible
10 independent third parties to ensure completion by December 1, 2016, of
11 at least fifty percent of the geographic response plans as needed in
12 contingency plans required under RCW 90.56.210 and 88.46.060 for the
13 state.

14 NEW SECTION. **Sec. 5.** (1) Washington State University shall
15 consult with the department of ecology and the emergency management
16 division of the military department to conduct a study regarding the
17 state's capacity to respond to and recover from accidents involving
18 railcars transporting oil. In conducting this study, Washington State
19 University shall consider the potential near-term increase in the
20 volume of oil being transported via rail through Washington as a result
21 of proposed new or expanded oil refining and storage facilities.
22 Washington State University shall seek the input of relevant
23 stakeholders and other state agencies in carrying out this study.

24 (2) The study required under subsection (1) of this section must:

25 (a) Examine the current and projected prevalence of oil
26 transportation by railcar through Washington communities;

27 (b) Make a preliminary identification of the communities at the
28 greatest risk of an accident involving oil transportation by railcar;

29 (c) Examine, generally, the extent to which state and local
30 emergency plans, oil spill contingency plans developed pursuant to
31 chapter 90.56 RCW, and geographic response plans address this threat;

32 (d) Examine the roles and responsibilities of federal, state,
33 local, and tribal entities in preparing for emergencies or oil spills;

34 (e) Determine whether adequate resources are available to respond
35 to and recover from such an accident in a timely and effective manner;
36 and

1 (f) Address the potential impacts to transportation networks and
2 other critical infrastructure from an accident involving oil
3 transported by railcar.

4 (3) Washington State University shall report its findings from the
5 study to the appropriate committees of the legislature by December 1,
6 2014.

7 (4) This section expires June 30, 2015.

8 NEW SECTION. **Sec. 6.** The department of ecology and the utilities
9 and transportation commission shall jointly hold a symposium on
10 emergency prevention and response activities for bulk crude oil
11 transported in the Pacific Northwest region. The department and the
12 commission must invite state representatives from the Pacific Northwest
13 economic region authorized under chapter 43.147 RCW and representatives
14 from interested tribes and local governments. The symposium must
15 include invitations to representatives from neighboring states,
16 provinces, territories, and countries in the region. The symposium
17 must at a minimum address:

18 (1) Cooperative emergency prevention and response activities
19 between the shared international and state borders;

20 (2) Expected risks posed by increased transport of Canadian crude
21 oil throughout the Pacific Northwest region within the next three to
22 five years;

23 (3) Changes in methods for transporting crude oil and associated
24 risks;

25 (4) Identification of responsible agencies and corresponding
26 activities that can be taken to address expected risks; and

27 (5) Consideration of new or emerging technologies to make transport
28 safer.

29 NEW SECTION. **Sec. 7.** The department of ecology shall provide an
30 analysis of the safety of transporting bulk crude oil on the waters of
31 the state.

32 (1) The analysis must include:

33 (a) The capacity to address risks posed by increased waterborne
34 traffic shipping crude oil in bulk as freight;

35 (b) Weaknesses or gaps in bulk crude oil spill prevention and

1 response programs, including identification of incomplete or weak
2 programs, with a focus on Grays Harbor and the Columbia river;

3 (c) An assessment of the costs and benefits of adopting tug escort
4 requirements for oil laden tankers on the waters of Grays Harbor and
5 the lower Columbia river, and of modifying the tug escort requirements
6 for oil laden tankers on Puget Sound;

7 (d) Barge and tug operations within the state related to the
8 movement of bulk crude oil; and

9 (e) A status report on the federal, state, and local waterborne
10 bulk crude oil spill prevention and preparedness.

11 (2) The department of ecology must provide the analysis to the
12 relevant policy and fiscal committees of the senate and house of
13 representatives by December 31, 2014. The analysis must also include
14 a status report on waterborne bulk crude oil spill prevention and
15 preparedness and recommendations for strengthening crude oil spill
16 prevention and preparedness specifically in Grays Harbor and the
17 Columbia river.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.56 RCW
19 to read as follows:

20 (1) The department must provide grants to emergency responders to
21 assist with oil spill response and firefighting equipment and resources
22 needed to meet the requirements of this act.

23 (2) In developing the guidelines for prioritizing applications for
24 grant awards, the department must consult with communities located
25 along or near the routes of waterborne and rail shipping of bulk crude
26 oil, emergency responder agencies, representatives from the oil and
27 rail industries, and businesses that receive shipments of bulk crude
28 oil.

29 (a) In reviewing an application the department must evaluate the
30 funding request, the need for additional funding, and the extent the
31 applicant is able to coordinate with other response agencies having
32 equipment and resources in the area.

33 (b) Funding must be prioritized for applicants from areas where
34 liquid bulk crude oil is transferred from one mode of transportation to
35 another.

36 (c) Grants must be coordinated to maximize currently existing

1 equipment and resources that have been put in place by first responders
2 and industry.

3 **Sec. 9.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read
4 as follows:

5 ~~((Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.))~~ The definitions in this
7 section apply throughout this chapter unless the context clearly
8 requires otherwise.

9 (1) "Barrel" means a unit of measurement of volume equal to forty-
10 two United States gallons of crude oil or petroleum product.

11 (2) "Bulk oil terminal" means a facility of any kind, other than a
12 waterborne vessel, that is used for transferring crude oil to or from
13 a rail tank car.

14 (3) "Crude oil" means any naturally occurring liquid hydrocarbons
15 at atmospheric temperature and pressure coming from the earth,
16 including condensate and natural gasoline.

17 ~~((3))~~ (4) "Department" means the department of revenue.

18 ~~((4))~~ (5) "Marine terminal" means a facility of any kind, other
19 than a waterborne vessel, that is used for transferring crude oil or
20 petroleum products to or from a waterborne vessel or barge.

21 ~~((5))~~ (6) "Navigable waters" means those waters of the state and
22 their adjoining shorelines that are subject to the ebb and flow of the
23 tide, including the Columbia and Snake rivers.

24 ~~((6))~~ (7) "Person" has the meaning provided in RCW 82.04.030.

25 ~~((7))~~ (8) "Petroleum product" means any liquid hydrocarbons at
26 atmospheric temperature and pressure that are the product of the
27 fractionation, distillation, or other refining or processing of crude
28 oil, and that are used as, useable as, or may be refined as a fuel or
29 fuel blendstock, including but not limited to, gasoline, diesel fuel,
30 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
31 petroleum.

32 ~~((8))~~ (9) "Tank car" means a railcar, the body of which consists
33 of a tank for transporting liquids.

34 (10) "Taxpayer" means the person owning crude oil or petroleum
35 products immediately after receipt of the same into the storage tanks
36 of a marine or bulk oil terminal in this state from a waterborne vessel
37 or barge and who is liable for the taxes imposed by this chapter.

1 (~~(+9)~~) (11) "Waterborne vessel or barge" means any ship, barge, or
2 other watercraft capable of travelling on the navigable waters of this
3 state and capable of transporting any crude oil or petroleum product in
4 quantities of ten thousand gallons or more for purposes other than
5 providing fuel for its motor or engine.

6 **Sec. 10.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to
7 read as follows:

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

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

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

1 state for the amount of the taxes. Payment of the taxes by the owner
2 to a marine or bulk oil terminal operator (~~shall~~) must relieve the
3 owner from further liability for the taxes.

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

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

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

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

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

1 marine or bulk oil terminal operator from any liability for the
2 collection or payment of the taxes imposed under this chapter.

3 (9) All receipts from the tax imposed in subsection (1) of this
4 section (~~shall~~) must be deposited into the state oil spill response
5 account. All receipts from the tax imposed in subsection (2) of this
6 section shall be deposited into the oil spill prevention account.

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

18 (a) Tax was imposed under subsection (1) of this section during the
19 immediately preceding calendar quarter, and the most recent quarterly
20 balance is more than nine million dollars; or

21 (b) Tax was not imposed under subsection (1) of this section during
22 the immediately preceding calendar quarter, and the most recent
23 quarterly balance is more than eight million dollars.

24 **Sec. 11.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read
25 as follows:

26 The taxes imposed under this chapter (~~shall~~) only apply to the
27 first receipt of crude oil or petroleum products at a marine or bulk
28 oil terminal in this state and not to the later transporting and
29 subsequent receipt of the same oil or petroleum product, whether in the
30 form originally received at a marine or bulk oil terminal in this state
31 or after refining or other processing.

32 **Sec. 12.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to
33 read as follows:

34 Credit (~~shall~~) must be allowed against the taxes imposed under
35 this chapter for any crude oil or petroleum products received at a

1 marine or bulk oil terminal and subsequently exported from or sold for
2 export from the state.

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