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SHB 1027 - H AMD TO THE REVENUE COMM AMD (1027-SA AMD REV H2490.2)
188 ADOPTED 3-15-91

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By Representatives Wang, Rust, and Horn

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On page 73, line 23, strike everything through line 26 on page
79 and insert:

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"NEW SECTION. Sec. 801. Unless the context clearly requires
otherwise, the definitions in this section apply throughout this
chapter.

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(1) "Barrel" means a unit of measurement of volume equal to
forty-two U.S. gallons of crude oil or petroleum product.

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

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(3) "Department" means the department of revenue.

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

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

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

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(7) "Petroleum product" means any liquid hydrocarbons at
atmospheric temperature and pressure that is the product of the
fractionation, distillation, or other refining or processing of

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1 crude oil, and that is used as, useable as, or may be refined as a
2 fuel or fuel blendstock, including but not limited to, gasoline,
3 diesel fuel, aviation fuel, bunker fuel, and fuels containing a
4 blend of alcohol and petroleum.

5 (8) "Taxpayer" means the person owning crude oil or petroleum
6 products at the time the same are off-loaded at a marine terminal
7 in this state and who is liable for the taxes imposed by this
8 chapter.

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

14 NEW SECTION. Sec 802. (1) An oil spill response tax is
15 imposed on the privilege of off-loading crude oil or petroleum
16 products at a marine terminal within this state from a waterborne
17 vessel or barge operating on the navigable waters of this state.
18 The tax imposed in this section is levied upon the owner of the
19 crude oil or petroleum products at the time such off-loading occurs
20 at the rate of two cents per barrel of crude oil or petroleum
21 product off-loaded.

22 (2) In addition to the tax imposed in subsection (1) of this
23 section, an oil spill administration tax is imposed on the
24 privilege of off-loading crude oil or petroleum products at a
25 marine terminal within this state from a waterborne vessel or barge

1 operating on the navigable waters of this state. The tax imposed
2 in this section is levied upon the owner of the crude oil or
3 petroleum products at the time such off-loading occurs at the rate
4 of three cents per barrel of crude oil or petroleum product off-
5 loaded.

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

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

1 invoice or other statement of account provided to the taxpayer.

2 (5) If a taxpayer fails to pay the taxes imposed by this
3 chapter to the person charged with collection of the taxes and the
4 person charged with collection fails to pay the taxes to the
5 department, the department may, in its discretion, proceed directly
6 against the taxpayer for collection of the taxes.

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

11 (7) The amount of taxes, until paid by the taxpayer to the
12 marine terminal operator or to the department, shall constitute a
13 debt from the taxpayer to the marine terminal operator. Any person
14 required to collect the taxes under this chapter who, with intent
15 to violate the provisions of this chapter, fails or refuses to do
16 so as required and any taxpayer who refuses to pay any taxes due
17 under this chapter, shall be guilty of a misdemeanor as provided in
18 chapter 9A.20 RCW.

19 (8) Upon prior approval of the department, the owner of crude
20 oil or petroleum products off-loaded in this state may pay the
21 taxes imposed by this chapter directly to the department. The
22 department shall give its approval for direct payment under this
23 section whenever it appears, in the department's judgment, that
24 direct payment will enhance the administration of the taxes imposed
25 under this chapter. The department shall provide by rule for the

1 issuance of a direct payment certificate to any taxpayer qualifying
2 for direct payment of the taxes. Good faith acceptance of a direct
3 payment certificate by a terminal operator shall relieve the marine
4 terminal operator from any liability for the collection or payment
5 of the taxes imposed under this chapter.

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

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

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

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

4 NEW SECTION. Sec. 803. The taxes imposed under this chapter
5 shall only apply to the first off-loading of crude oil or petroleum
6 products at a marine terminal in this state and not to the later
7 transporting and subsequent off-loading of the same oil or
8 petroleum product, whether in the form originally off-loaded in
9 this state or after refining or other processing.

10 NEW SECTION. Sec. 804. Credit shall be allowed against the
11 taxes imposed under this chapter for any crude oil or petroleum
12 products off-loaded at a marine terminal and subsequently exported
13 from or sold for export from the state.

14 NEW SECTION. Sec. 805. The state oil spill response account
15 is created in the custody of the state treasurer. All receipts
16 from section 802(1) of this act shall be deposited in the account.
17 The account is subject to allotment procedures under chapter 43.88
18 RCW. Only the director of ecology or the director's designee may
19 authorize expenditures from the account. Expenditures from the
20 account shall be used exclusively for the costs associated with the
21 response to spills of crude oil or petroleum products into the
22 navigable waters of the state. Payment of response costs under

1 this section shall be limited to spills which the director has
2 determined are likely to exceed fifty thousand dollars. Prior to
3 approving an expenditure under this section, the director shall
4 make reasonable efforts to obtain funding for response costs from
5 the person responsible for the spill and from other sources,
6 including the federal government. Reimbursement for response costs
7 shall be allowed only for costs which are not covered by funds
8 appropriated to the agencies responsible for response activities.
9 Costs associated with the response to spills of crude oil or
10 petroleum products shall include:

11 (1) Natural resource damage assessment and related activities;

12 (2) Spill related response, containment, wildlife rescue,
13 cleanup, disposal, and associated costs;

14 (3) Interagency coordination and public information related to
15 a response; and

16 (4) Appropriate travel, goods and services, contracts, and
17 equipment.

18 NEW SECTION. Sec. 806. The state oil spill administration
19 account is created in the state treasury. All receipts from
20 section 802(2) of this act shall be deposited in the account.
21 Moneys from the account may be spent only after appropriation. The
22 account is subject to allotment procedures under chapter 43.88 RCW.
23 On July 1 of each odd-numbered year, if receipts from the tax
24 imposed by section 802(2) of this act for the previous fiscal

1 biennium exceed the amount appropriated from the account for the
2 previous fiscal biennium, the state treasurer shall transfer the
3 amount of receipts exceeding the appropriation to the oil spill
4 response account. Expenditures from the oil spill administration
5 account shall be used exclusively for the administrative costs
6 related to the purposes of this chapter, and chapters 90.48, 88.40,
7 and chapter 88.-- (sections 413 through 424 of this act) RCW.
8 Costs of administration include the costs of:

9 (1) Routine responses not covered under section 805 of this
10 act;

11 (2) Management and staff development activities;

12 (3) Development of rules and policies and the state-wide plan
13 provided for in RCW 90.48.378 as recodified by this act;

14 (4) Facility and vessel plan review and approval, drills,
15 inspections, investigations, enforcement, and litigation;

16 (5) Interagency coordination and public outreach and
17 education;

18 (6) Collection and administration of the tax provided for in
19 chapter 82.-- RCW (sections 801 through 804 of this act); and

20 (7) Appropriate travel, goods and services, contracts, and
21 equipment.

22 NEW SECTION. Sec. 807. The following amounts are
23 appropriated from the oil spill administration account for the
24 biennium ending June 30, 1993, for the purposes of this act and

1 chapters 90.48, 90.56, 88.40, and 88.-- (sections 413 through 424
2 of this act) RCW.

3	Department of Ecology	\$ 2,844,000
4	Marine Safety Office	\$ 2,996,000
5	Department of Wildlife	\$ 965,000
6	Department of Community Development	\$ 500,000
7	Department of Fisheries	\$ 410,000
8	State Parks and Recreation Commission	\$ 61,000
9	University of Washington	\$ 229,000
10	Department of Natural Resources	\$ 35,000
11	Department of Revenue	\$ <u>120,000</u>

12 Total Appropriation.....\$ 8,160,000

13 The appropriations in this section are subject to the following
14 conditions and limitations:

15 (1) The entire appropriation to the University of Washington
16 is provided solely for the Washington sea grant program to develop
17 and conduct a spill prevention education program in accordance with
18 section 110 of this act; and

19 (2) \$450,000 of the appropriation to the department of
20 wildlife is provided solely for a marine mammal and bird
21 rehabilitation center, of which \$400,000 is for one-time capital
22 costs and \$50,000 is for biennial contract staffing costs for the
23 center.

1 NEW SECTION. Sec. 808. The director of ecology shall submit
2 a report to the appropriate standing committees of the legislature
3 by November 1 of each even-numbered year showing detailed
4 information regarding expenditures authorized by the director under
5 section 805 of this act. The report shall include, but not be
6 limited to:

7 (1) The total amount spent for each response for which the
8 director has approved expenditures and the amount paid for from the
9 spill prevention and response account;

10 (2) The amount recovered from a responsible party for each
11 spill;

12 (3) The amount of time between a spill and the time a
13 responsible party assumes responsibility for the response costs
14 related to a spill;

15 (4) The number of incidents for which the director has
16 determined that the responsible party or another source was
17 available to pay for the response; and

18 (5) A recommendation concerning the need to continue
19 collecting the tax under section 802(1) of this act.

20 This section shall expire December 31, 1996."

21 Renumber sections consecutively and correct any internal
22 references accordingly.

23 **SHB 1027** - H AMD TO REV COMM AMD (1027-S AMH REV H2490.2)
24 By Representative Wang

1 On page 115, before line 1 of the amendment, insert "Section
2 805 of this act
3 Section 806 of this act"

4 On page 115, line 4 of the amendment, strike "801 through 805,
5 807, and 808" and insert "sections 801 through 804, 809, and 810"

6 On page 116, line 6, after "immediately" insert ", except for
7 sections 801 through 804, 809, and 810 of this act, which shall
8 take effect October 1, 1991"

EFFECT: The tax on crude oil and petroleum products delivered by tank vessels to marine terminals in the state is changed from one tax of 5 a barrel deposited in one account to two taxes deposited into separate accounts. A tax of 2 a barrel is imposed for an oil spill response account and a tax of 3 a barrel is imposed for an oil spill administration account. The response account may only be used for spills where the cost of response will exceed \$50,000. The response account is capped at \$25 million. The administration account will be used to pay state agency costs to administer the bill, including the establishment of a marine mammal and bird rehabilitation center. The administration account is subject to appropriation. Any amount remaining in the account at the end of the biennium in excess of the appropriated amount is transferred to the response account.