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HOUSE BILL 1042

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives King, Jacobsen, Orr, Springer and Lemmon

Read first time 01/13/93. Referred to Committee on Fisheries & Wildlife.

1 AN ACT Relating to ballast discharge; amending RCW 88.46.010;  
2 adding new sections to chapter 88.46 RCW; creating a new section; and  
3 making an appropriation.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the discharge of  
6 ballast water and ballast sediments into state waters has the potential  
7 to be detrimental to human health, fisheries, and the marine aquatic  
8 ecosystem. Ballast water and sediment may contain organisms and  
9 pathogens that originate in the waters of other states or countries.  
10 Some of these organisms and pathogens have been found to be injurious  
11 to human health or the marine aquatic ecosystem. On July 4, 1991, the  
12 marine environmental protection committee of the International Maritime  
13 Organization adopted resolution MEPC 50(31), "International Guidelines  
14 for Preventing the Introduction of Unwanted Aquatic Organisms and  
15 Pathogens from Ships' Ballast Water and Sediment Discharges." These  
16 international voluntary guidelines are intended for use by mariners and  
17 member states to prevent harmful effects of ballast discharge.

18 The legislature further finds that it is in the best interest of  
19 the state to have owner-operators of vessels comply to the maximum

1 extent practicable with ballast discharge procedures that will reduce  
2 the possibility of harmful effects of such discharge. Some appropriate  
3 ballast discharge options are described in the international maritime  
4 organization guidelines. The legislature declares that an important  
5 element in controlling the discharge of ballast is accurate and  
6 complete recordkeeping that identifies ballast discharge procedures  
7 that are used.

8       **Sec. 2.** RCW 88.46.010 and 1992 c 73 s 18 are each amended to read  
9 as follows:

10       Unless the context clearly requires otherwise, the definitions in  
11 this section apply throughout this chapter.

12       (1) "Administrator" means the administrator of the office of marine  
13 safety created in RCW 43.21I.010.

14       (2) "Best achievable protection" means the highest level of  
15 protection that can be achieved through the use of the best achievable  
16 technology and those staffing levels, training procedures, and  
17 operational methods that provide the greatest degree of protection  
18 achievable. The administrator's determination of best achievable  
19 protection shall be guided by the critical need to protect the state's  
20 natural resources and waters, while considering (a) the additional  
21 protection provided by the measures; (b) the technological  
22 achievability of the measures; and (c) the cost of the measures.

23       (3) "Best achievable technology" means the technology that provides  
24 the greatest degree of protection taking into consideration (a)  
25 processes that are being developed, or could feasibly be developed,  
26 given overall reasonable expenditures on research and development, and  
27 (b) processes that are currently in use. In determining what is best  
28 achievable technology, the administrator shall consider the  
29 effectiveness, engineering feasibility, and commercial availability of  
30 the technology.

31       (4) "Cargo vessel" means a self-propelled ship in commerce, other  
32 than a tank vessel or a passenger vessel, of three hundred or more  
33 gross tons, including but not limited to, commercial fish processing  
34 vessels and freighters.

35       (5) "Bulk" means material that is stored or transported in a loose,  
36 unpackaged liquid, powder, or granular form capable of being conveyed  
37 by a pipe, bucket, chute, or belt system.

1 (6) "Covered vessel" means a tank vessel, cargo vessel, or  
2 passenger vessel.

3 (7) "Department" means the department of ecology.

4 (8) "Director" means the director of the department of ecology.

5 (9) "Discharge" means any spilling, leaking, pumping, pouring,  
6 emitting, emptying, or dumping.

7 (10)(a) "Facility" means any structure, group of structures,  
8 equipment, pipeline, or device, other than a vessel, located on or near  
9 the navigable waters of the state that transfers oil in bulk to or from  
10 a tank vessel or pipeline, that is used for producing, storing,  
11 handling, transferring, processing, or transporting oil in bulk.

12 (b) A facility does not include any: (i) Railroad car, motor  
13 vehicle, or other rolling stock while transporting oil over the  
14 highways or rail lines of this state; (ii) retail motor vehicle motor  
15 fuel outlet; (iii) facility that is operated as part of an exempt  
16 agricultural activity as provided in RCW 82.04.330; (iv) underground  
17 storage tank regulated by the department or a local government under  
18 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense  
19 more than three thousand gallons of fuel to a ship that is not a  
20 covered vessel, in a single transaction.

21 (11) "Guidelines" means "International Guidelines for Preventing  
22 the Introduction of Unwanted Aquatic Organisms and Pathogens from  
23 Ships' Ballast Water and Sediment Discharges," adopted by the  
24 International Maritime Organization July 4, 1991, as resolution MEPC  
25 50(31).

26 (12) "Marine facility" means any facility used for tank vessel  
27 wharfage or anchorage, including any equipment used for the purpose of  
28 handling or transferring oil in bulk to or from a tank vessel.

29 (~~(12)~~) (13) "Navigable waters of the state" means those waters of  
30 the state, and their adjoining shorelines, that are subject to the ebb  
31 and flow of the tide and/or are presently used, have been used in the  
32 past, or may be susceptible for use to transport intrastate,  
33 interstate, or foreign commerce.

34 (~~(13)~~) (14) "Office" means the office of marine safety  
35 established by RCW 43.21I.010.

36 (~~(14)~~) (15) "Oil" or "oils" means any naturally occurring liquid  
37 hydrocarbons at atmospheric temperature and pressure coming from the  
38 earth, including condensate and natural gasoline, and any fractionation  
39 thereof, including, but not limited to, crude oil, petroleum, gasoline,

1 fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes  
2 other than dredged spoil. Oil does not include any substance listed in  
3 Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under  
4 section 101(14) of the federal comprehensive environmental response,  
5 compensation, and liability act of 1980, as amended by P.L. 99-499.

6 ~~((15))~~ (16) "Offshore facility" means any facility located in,  
7 on, or under any of the navigable waters of the state, but does not  
8 include a facility any part of which is located in, on, or under any  
9 land of the state, other than submerged land. "Offshore facility" does  
10 not include a marine facility.

11 ~~((16))~~ (17) "Onshore facility" means any facility any part of  
12 which is located in, on, or under any land of the state, other than  
13 submerged land, that because of its location, could reasonably be  
14 expected to cause substantial harm to the environment by discharging  
15 oil into or on the navigable waters of the state or the adjoining  
16 shorelines.

17 ~~((17))~~ (18)(a) "Owner or operator" means (i) in the case of a  
18 vessel, any person owning, operating, or chartering by demise, the  
19 vessel; (ii) in the case of an onshore or offshore facility, any person  
20 owning or operating the facility; and (iii) in the case of an abandoned  
21 vessel or onshore or offshore facility, the person who owned or  
22 operated the vessel or facility immediately before its abandonment.

23 (b) "Operator" does not include any person who owns the land  
24 underlying a facility if the person is not involved in the operations  
25 of the facility.

26 ~~((18))~~ (19) "Passenger vessel" means a ship of three hundred or  
27 more gross tons with a fuel capacity of at least six thousand gallons  
28 carrying passengers for compensation.

29 ~~((19))~~ (20) "Person" means any political subdivision, government  
30 agency, municipality, industry, public or private corporation,  
31 copartnership, association, firm, individual, or any other entity  
32 whatsoever.

33 ~~((20))~~ (21) "Ship" means any boat, ship, vessel, barge, or other  
34 floating craft of any kind.

35 ~~((21))~~ (22) "Spill" means an unauthorized discharge of oil into  
36 the waters of the state.

37 ~~((22))~~ (23) "Tank vessel" means a ship that is constructed or  
38 adapted to carry, or that carries, oil in bulk as cargo or cargo  
39 residue, and that:

1 (a) Operates on the waters of the state; or  
2 (b) Transfers oil in a port or place subject to the jurisdiction of  
3 this state.

4 (~~(23)~~) (24) "Waters of the state" includes lakes, rivers, ponds,  
5 streams, inland waters, underground water, salt waters, estuaries,  
6 tidal flats, beaches and lands adjoining the seacoast of the state,  
7 sewers, and all other surface waters and watercourses within the  
8 jurisdiction of the state of Washington.

9 (~~(24)~~) (25) "Worst case spill" means: (a) In the case of a  
10 vessel, a spill of the entire cargo and fuel of the vessel complicated  
11 by adverse weather conditions; and (b) in the case of an onshore or  
12 offshore facility, the largest foreseeable spill in adverse weather  
13 conditions.

14 NEW SECTION. **Sec. 3.** The administrator shall advise the owner or  
15 operator of any vessel capable of discharging ballast in Washington  
16 state of the availability of the guidelines. The administrator shall  
17 encourage the owner and operator of any such vessel to use appropriate  
18 procedures described in the guidelines to minimize the detrimental  
19 effects of deballasting in Washington's waters. Shipping agents shall  
20 make reasonable efforts to facilitate the transfer of information  
21 between the administrator and the owner or operator of such vessels.

22 NEW SECTION. **Sec. 4.** (1) By January 1, 1994, the administrator,  
23 in consultation with the departments of ecology and health and using  
24 the guidelines, shall develop a ballast water control report form to  
25 obtain information on ballast discharge procedures.

26 (2) The information on the form may include, but shall not be  
27 limited to, the following:

- 28 (a) The date;
- 29 (b) Vessel identification and port of registry;
- 30 (c) The owner or operator and shipping agent;
- 31 (d) The presence of the guidelines;
- 32 (e) The last port of call and date of departure;
- 33 (f) The next port of call and date of arrival;
- 34 (g) The quantity and sources of ballast water or sediment carried  
35 on arrival in Washington port;
- 36 (h) The quantity of ballast water or sediment discharged into or  
37 taken from this port before departure;

1 (i) The type of ballast water control action taken; and

2 (j) The salinity of ballast water discharged or taken on.

3 (3) Beginning June 1, 1994, the administrator shall make the form  
4 and directions for completion available to the owner or operator of any  
5 vessel that is capable of discharging ballast and that calls in  
6 Washington for the purpose of discharging or loading cargo or  
7 bunkering.

8 NEW SECTION. **Sec. 5.** Beginning June 1, 1994, the owner or  
9 operator of each vessel that enters a port in Washington and is capable  
10 of discharging ballast shall complete and return a ballast water  
11 control report form to the office within ten days of entering the port.

12 NEW SECTION. **Sec. 6.** The administrator may collect ballast  
13 sediment and water samples from any vessel capable of discharging  
14 ballast in order to obtain information about the nature of ballast  
15 water and sediment. Transport of personnel responsible for sample  
16 collection to and from the vessel shall be the responsibility of the  
17 administrator. Collection of samples shall not delay the vessel. The  
18 administrator shall make reasonable efforts to minimize interference  
19 with the normal operation of the vessel during sample collection. The  
20 administrator, in cooperation with the departments of ecology and  
21 health, shall analyze the information collected in the ballast water  
22 control report forms and samples and shall report its findings to the  
23 appropriate committees of the legislature by July 1, 1995.

24 NEW SECTION. **Sec. 7.** Sections 3 through 6 of this act are each  
25 added to chapter 88.46 RCW.

26 NEW SECTION. **Sec. 8.** The sum of two hundred fifty-six thousand  
27 five hundred eleven dollars, or as much thereof as may be necessary, is  
28 appropriated for the biennium ending June 30, 1995, from the general  
29 fund for the purposes of this act. Of that amount, two hundred thirty-  
30 seven thousand one hundred ten dollars shall be provided to the office  
31 of marine safety for the purposes of this act, ten thousand dollars

1 shall be provided to the department of ecology for the purposes of this  
2 act, and nine thousand four hundred one dollars shall be provided to  
3 the department of health for the purposes of this act.

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