
SENATE BILL 5254

State of Washington

53rd Legislature

1993 Regular Session

By Senators Fraser, Barr, Owen and Talmadge; by request of Office of Marine Safety

Read first time 01/20/93. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to marine safety field operations; amending RCW
2 82.23B.020; adding a new section to chapter 88.46 RCW; adding a new
3 section to chapter 88.44 RCW; creating a new section; prescribing
4 penalties; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the state's
7 economy is dependent on a healthy environment. Further, the
8 legislature finds that marine environments are at risk due to the high
9 volume of oil transported in state waters. Safe marine transportation
10 is essential to prevent oil spills, provide a healthy environment and
11 economy for the state, and reduce the risk of liability of vessel
12 owners and operators under state and federal law for costs and damages
13 associated with an oil spill. Past experience demonstrates that
14 despite the tremendous cost of oil spill response and cleanup, rarely
15 is more than fifteen percent of oil spilled on water recovered. For
16 these reasons, the legislature finds that the maritime industry is
17 better served by a program that works with the maritime community to
18 encourage safe marine transportation.

1 The legislature also finds that a vessel's size and frequency of
2 travel through Washington's navigable waters are significant factors in
3 establishing the risk a vessel poses to the state's marine environment.
4 The potential severity of a vessel oil spill increases with the amount
5 of oil carried as cargo or fuel, or both.

6 The legislature declares, therefore, that to provide the best
7 achievable protection of the state's marine environments and to provide
8 a healthy environment and economy for the state, the office of marine
9 safety should implement a field operations program to coordinate marine
10 safety measures with the maritime community, federal and state
11 agencies, and Washington's citizens.

12 The legislature intends that funds contributed by the maritime
13 community to support this effort be used only for the office of marine
14 safety's field operations program and associated administrative costs.

15 **Sec. 2.** RCW 82.23B.020 and 1992 c 73 s 7 are each amended to read
16 as follows:

17 (1) An oil spill response tax is imposed on the privilege of
18 receiving crude oil or petroleum products at a marine terminal within
19 this state from a waterborne vessel or barge operating on the navigable
20 waters of this state. The tax imposed in this section is levied upon
21 the owner of the crude oil or petroleum products immediately after
22 receipt of the same into the storage tanks of a marine terminal from a
23 waterborne vessel or barge at the rate of (~~two~~) one and six-tenths
24 cents per barrel of crude oil or petroleum product received.

25 (2) In addition to the tax imposed in subsection (1) of this
26 section, an oil spill administration tax is imposed on the privilege of
27 receiving crude oil or petroleum products at a marine terminal within
28 this state from a waterborne vessel or barge operating on the navigable
29 waters of this state. The tax imposed in this section is levied upon
30 the owner of the crude oil or petroleum products immediately after
31 receipt of the same into the storage tanks of a marine terminal from a
32 waterborne vessel or barge at the rate of three and four-tenths
33 per barrel of crude oil or petroleum product.

34 (3) The taxes imposed by this chapter shall be collected by the
35 marine terminal operator from the taxpayer. If any person charged with
36 collecting the taxes fails to bill the taxpayer for the taxes, or in
37 the alternative has not notified the taxpayer in writing of the
38 imposition of the taxes, or having collected the taxes, fails to pay

1 them to the department in the manner prescribed by this chapter,
2 whether such failure is the result of the person's own acts or the
3 result of acts or conditions beyond the person's control, he or she
4 shall, nevertheless, be personally liable to the state for the amount
5 of the taxes. Payment of the taxes by the owner to a marine terminal
6 operator shall relieve the owner from further liability for the taxes.

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

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

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

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

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

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

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

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

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

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

23 ~~((11) The office of marine safety, the department of revenue, and
24 the department of trade and economic development shall study tax
25 credits for taxpayers employing vessels with the best achievable
26 technology and the best available protection to reduce the risk of oil
27 spills to the navigable waters of the state and submit the study to the
28 appropriate standing committees of the legislature by December 1,
29 1992.))~~

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.46 RCW
31 to read as follows:

32 (1) Except as exempted in subsection (5) of this section, there is
33 levied an assessment on all covered vessels subject to RCW 88.46.040,
34 88.46.050, and 88.46.060. The assessment is due and payable when a
35 covered vessel moors or docks in Washington's waters. The
36 administrator shall by rule set rates for each covered vessel transit
37 based on annual vessel traffic forecasts generated by the office.

1 (2) The assessment levied in this section and any penalties,
2 collection costs, or interest assessed under subsection (4) of this
3 section shall be collected by the Washington state maritime commission
4 under section 4 of this act.

5 (3) Each vessel, its tackle, apparel, and furniture, and the
6 vessel's owner and operator is jointly and severally liable for the
7 assessment levied in this section. If a vessel owner or operator fails
8 to timely remit any assessment, penalty, collection costs, or interest
9 due, the state shall have a lien on the vessel for the amount accrued,
10 which shall be enforced in accordance with applicable law. The
11 administrator may proceed directly against the owner, operator, or the
12 vessel for collection of the assessment.

13 (4) The administrator may assess penalties up to ten thousand
14 dollars per assessment and costs of collection against a vessel's owner
15 or operator, or the vessel for failure to pay an assessment when due.
16 Interest on late payments may be charged from the date the assessment
17 was due until the date the assessment is paid at a rate computed under
18 RCW 82.32.050(2).

19 (5) A tank vessel is exempt from this section if the state is
20 prohibited from assessing the vessel under the United States
21 Constitution, or if:

22 (a) The vessel's owner or operator is subject to the taxes imposed
23 by RCW 82.23B.020; and

24 (b) The vessel's master possesses a certified copy of a letter from
25 the office stating that the vessel is exempt from this section.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.44 RCW
27 to read as follows:

28 (1) The commission or any successor organization shall collect the
29 assessment levied in section 3 of this act, and any penalties,
30 collection costs, or interest assessed, from all vessels subject to RCW
31 88.46.040, 88.46.050, and 88.46.060. Moneys collected by the
32 commission shall be held in trust until deposited into the oil spill
33 administration account. All penalties and interest imposed under
34 section 3 of this act shall be deposited into the state general fund.
35 The commission shall be entitled to reasonable collection costs by
36 appropriation.

37 (2) After September 1, 1993, the commission or any successor
38 organization shall submit to the office of marine safety a monthly

1 accounting of vessels subject to the assessment and of moneys
2 collected. By June 30th of each year the commission shall submit to
3 the office of marine safety an annual accounting of each vessel subject
4 to the assessment, the amount due, and the amount paid.

5 (3) The amount of assessment due, and any penalty, collection cost,
6 or interest assessed, until paid to the commission, shall constitute a
7 debt from the person liable for the assessment to the commission.

8 NEW SECTION. **Sec. 5.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect July 1, 1993.

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