

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2096

Chapter 449, Laws of 1997

55th Legislature
1997 Regular Session

OIL SPILL PREVENTION PROGRAM CONSOLIDATION

EFFECTIVE DATE: 7/1/97

Passed by the House April 21, 1997
Yeas 97 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate April 14, 1997
Yeas 45 Nays 2

BRAD OWEN
President of the Senate

Approved May 20, 1997

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2096** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 20, 1997 - 4:32 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2096

AS AMENDED BY THE SENATE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and K. Schmidt)

Read first time 03/05/97.

1 AN ACT Relating to consolidating and funding of the state's oil
2 spill prevention programs within the department of ecology; amending
3 RCW 43.21I.005, 82.23B.020, and 90.56.510; creating new sections;
4 providing an effective date; providing an expiration date; and
5 declaring an emergency.

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

7 **Sec. 1.** RCW 43.21I.005 and 1991 c 200 s 401 are each amended to
8 read as follows:

9 (1) The legislature declares that Washington's waters have
10 irreplaceable value for the citizens of the state. These waters are
11 vital habitat for numerous and diverse marine life and wildlife and the
12 source of recreation, aesthetic pleasure, and pride for Washington's
13 citizens. These waters are also vital for much of Washington's
14 economic vitality.

15 The legislature finds that the transportation of oil on these
16 waters creates a great potential hazard to these important natural
17 resources. The legislature also finds that there is no state agency
18 responsible for maritime safety to ensure this state's interest in
19 preserving these resources.

1 The legislature therefore finds that in order to protect these
2 waters it is necessary to establish an office of marine safety which
3 will have the responsibility to promote the safety of marine
4 transportation in Washington.

5 (2) The legislature finds that adequate funding is necessary for
6 the state to continue its priority focus on the prevention of oil
7 spills, as well as maintain a strong oil spill response, planning, and
8 environmental restoration capability. The legislature further finds
9 that long-term environmental health of the state's waters depends upon
10 the strength and vitality of its oil spill prevention and response
11 program that fosters planning, coordination, and incident command. To
12 that end, the merger of the office of marine safety with the department
13 of ecology shall: Ensure coordination via streamlining the marine
14 safety functions of two agencies into one; provide a focused prevention
15 and response program under a single administration; generate efficient
16 incident command response capability and continue to meet the
17 challenges threatening marine safety and the environment; and increase
18 accountability to the public, the executive branch, and the
19 legislature.

20 (3) It is the intent of the legislature that the state's oil spill
21 prevention, response, planning, and environmental restoration
22 activities be sufficiently funded to maintain a strong prevention and
23 response program. It is further the intent of the legislature that the
24 merger of the office of marine safety with the department of ecology be
25 accomplished in an organizational manner that maintains a priority
26 focus and position for the oil spill prevention and response program.
27 The merger shall allow for ready identification of the program by the
28 public and ensure no diminution in the state's commitment to marine
29 safety and environmental protection as follows:

30 (a) The director of the department of ecology shall consolidate all
31 of the agency's oil spill prevention, planning, and response programs
32 and personnel into a division or equivalent unit of organization within
33 the department. The division shall be managed by a single
34 administrator who is an assistant director or person of equivalent
35 status in the department's organization. The administrator shall
36 report directly to the director.

37 (b) The consolidated oil spill program unit within the department
38 shall maintain prevention of oil spills as a specific program.

1 (c) The department shall identify and participate in resolving
2 threats to safety of marine transportation and the impact of marine
3 transportation on the environment.

4 **Sec. 2.** RCW 82.23B.020 and 1995 c 399 s 214 are each amended to
5 read as follows:

6 (1) An oil spill response tax is imposed on the privilege of
7 receiving crude oil or petroleum products at a marine terminal within
8 this state from a waterborne vessel or barge operating on the navigable
9 waters of this state. The tax imposed in this section is levied upon
10 the owner of the crude oil or petroleum products immediately after
11 receipt of the same into the storage tanks of a marine terminal from a
12 waterborne vessel or barge at the rate of (~~two~~) one cent(~~s~~) per
13 barrel of crude oil or petroleum product received.

14 (2) In addition to the tax imposed in subsection (1) of this
15 section, an oil spill administration tax is imposed on the privilege of
16 receiving crude oil or petroleum products at a marine terminal within
17 this state from a waterborne vessel or barge operating on the navigable
18 waters of this state. The tax imposed in this section is levied upon
19 the owner of the crude oil or petroleum products immediately after
20 receipt of the same into the storage tanks of a marine terminal from a
21 waterborne vessel or barge at the rate of (~~three~~) four cents per
22 barrel of crude oil or petroleum product.

23 (3) The taxes imposed by this chapter shall be collected by the
24 marine terminal operator from the taxpayer. If any person charged with
25 collecting the taxes fails to bill the taxpayer for the taxes, or in
26 the alternative has not notified the taxpayer in writing of the
27 imposition of the taxes, or having collected the taxes, fails to pay
28 them to the department in the manner prescribed by this chapter,
29 whether such failure is the result of the person's own acts or the
30 result of acts or conditions beyond the person's control, he or she
31 shall, nevertheless, be personally liable to the state for the amount
32 of the taxes. Payment of the taxes by the owner to a marine terminal
33 operator shall relieve the owner from further liability for the taxes.

34 (4) Taxes collected under this chapter shall be held in trust until
35 paid to the department. Any person collecting the taxes who
36 appropriates or converts the taxes collected shall be guilty of a gross
37 misdemeanor if the money required to be collected is not available for
38 payment on the date payment is due. The taxes required by this chapter

1 to be collected shall be stated separately from other charges made by
2 the marine terminal operator in any invoice or other statement of
3 account provided to the taxpayer.

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

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

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

20 (8) Upon prior approval of the department, the taxpayer 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 direct
24 payment will enhance the administration of the taxes imposed under this
25 chapter. The department shall provide by rule for the issuance of a
26 direct payment certificate to any taxpayer qualifying for direct
27 payment of the taxes. Good faith acceptance of a direct payment
28 certificate by a terminal operator shall relieve the marine terminal
29 operator from any liability for the collection or payment of the taxes
30 imposed under this chapter.

31 (9) All receipts from the tax imposed in subsection (1) of this
32 section shall be deposited into the state oil spill response account.
33 All receipts from the tax imposed in subsection (2) of this section
34 shall be deposited into the oil spill administration account.

35 (10) Within forty-five days after the end of each calendar quarter,
36 the office of financial management shall determine the balance of the
37 oil spill response account as of the last day of that calendar quarter.
38 Balance determinations by the office of financial management under this
39 section are final and shall not be used to challenge the validity of

1 any tax imposed under this chapter. The office of financial management
2 shall promptly notify the departments of revenue and ecology of the
3 account balance once a determination is made. For each subsequent
4 calendar quarter, the tax imposed by subsection (1) of this section
5 shall be imposed during the entire calendar quarter unless:

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

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

12 ~~((11) The office of marine safety, the department of revenue, and
13 the department of community, trade, and economic development shall
14 study tax credits for taxpayers employing vessels with the best
15 achievable technology and the best available protection to reduce the
16 risk of oil spills to the navigable waters of the state and submit the
17 study to the appropriate standing committees of the legislature by
18 December 1, 1992.))~~

19 **Sec. 3.** RCW 90.56.510 and 1995 2nd sp.s. c 14 s 525 are each
20 amended to read as follows:

21 (1) The oil spill administration account is created in the state
22 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
23 the account. Moneys from the account may be spent only after
24 appropriation. The account is subject to allotment procedures under
25 chapter 43.88 RCW. ~~((On July 1 of each odd-numbered year, if receipts
26 deposited in the account from the tax imposed by RCW 82.23B.020(2) for
27 the previous fiscal biennium exceed the amount appropriated from the
28 account for the previous fiscal biennium, the state treasurer shall
29 transfer the amount of receipts exceeding the appropriation to the oil
30 spill response account.))~~ If, on the first day of any calendar month,
31 the balance of the oil spill response account is greater than ~~((twenty-
32 five))~~ ten million dollars and the balance of the oil spill
33 administration account exceeds the unexpended appropriation for the
34 current biennium, then the tax under RCW 82.23B.020(2) shall be
35 suspended on the first day of the next calendar month until the
36 beginning of the following biennium, provided that the tax shall not be
37 suspended during the last six months of the biennium. If the tax
38 imposed under RCW 82.23B.020(2) is suspended during two consecutive

1 biennia, the department shall by November 1st after the end of the
2 second biennium, recommend to the appropriate standing committees an
3 adjustment in the tax rate. For the biennium ending June 30, 1997, the
4 state treasurer may transfer up to \$1,718,000 from the oil spill
5 response account to the oil spill administration account to support
6 appropriations made from the oil spill administration account in the
7 omnibus and transportation appropriations acts adopted not later than
8 June 30, 1997.

9 (2) Expenditures from the oil spill administration account shall be
10 used exclusively for the administrative costs related to the purposes
11 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting
12 with the 1995-1997 biennium, the legislature shall give activities of
13 state agencies related to prevention of oil spills priority in funding
14 from the oil spill administration account. Costs of administration
15 include the costs of:

- 16 (a) Routine responses not covered under RCW 90.56.500;
- 17 (b) Management and staff development activities;
- 18 (c) Development of rules and policies and the state-wide plan
19 provided for in RCW 90.56.060;
- 20 (d) Facility and vessel plan review and approval, drills,
21 inspections, investigations, enforcement, and litigation;
- 22 (e) Interagency coordination and public outreach and education;
- 23 (f) Collection and administration of the tax provided for in
24 chapter 82.23B RCW; and
- 25 (g) Appropriate travel, goods and services, contracts, and
26 equipment.

27 NEW SECTION. **Sec. 4.** All employees of the office of marine safety
28 are transferred to the jurisdiction of the department of ecology. All
29 employees classified under chapter 41.06 RCW, the state civil service
30 law, are assigned to the department of ecology to perform their usual
31 duties upon the same terms as formerly, without any loss of rights,
32 subject to any action that may be appropriate thereafter in accordance
33 with the laws and rules governing state civil service.

34 NEW SECTION. **Sec. 5.** (1) An oil spill prevention and response
35 advisory committee is created within the department of ecology. The
36 committee shall consist of eleven members as follows: Four
37 legislators, one from each caucus; one member each to represent pilots

1 licensed under chapter 88.16 RCW, the marine oil transportation
2 industry, the marine cargo transportation industry, the fishing
3 industry, the shellfish industry, an environmental organization, and
4 the department of ecology. The member representing the department of
5 ecology shall be an ex-officio member. Legislative members shall be
6 appointed by the speaker of the house of representatives or the
7 president of the senate, as appropriate. The director of the
8 department of ecology shall appoint all other members.

9 (2) By December 1, 1998, the committee shall submit a report to the
10 appropriate standing committees of the legislature evaluating the
11 merger of the functions of the office of marine safety into the
12 department of ecology.

13 (3) This section expires June 30, 1999.

14 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 1997.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.