

# SENATE BILL REPORT

## E2SHB 1415

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As Reported By Senate Committee On:  
Water, Energy & Environment, March 31, 2005  
Ways & Means, April 18, 2005

**Title:** An act relating to impacts of commercial passenger vessels on the marine waters of Washington.

**Brief Description:** Managing impacts of commercial passenger vessels on marine waters.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Dickerson, B. Sullivan, Dunshee, Williams, Hunt, Eickmeyer, Chase, Sells and Hasegawa).

**Brief History:** Passed House: 3/10/05, 94-0.

**Committee Activity:** Water, Energy & Environment: 3/23/05, 3/31/05 [DPA-WM].  
Ways & Means: 4/18/05, 4/18/05 [DPA, w/oRec].

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### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hewitt, Honeyford, Mulliken, Pridemore and Regala.

**Staff:** Richard Rodger (786-7461)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Fairley, Kohl-Welles, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Hewitt, Parlette, Roach and Schoesler.

**Staff:** Paula Faas (786-7449)

**Background:** The Department of Ecology (Department) is the primary state entity responsible for regulating discharges into state waters. This regulation includes a requirement that any person disposing of liquid or solid waste into state waters is required to first obtain a permit from the Department, for which the Department is authorized to charge an annual fee.

Prior to the 2004 cruise ship season, the Department entered into a memorandum of understanding (MOU) with the Port of Seattle, and the Northwest Cruise Ship Association. The MOU applied to Northwest Cruise Ship Association members calling on Washington

ports from April 21 until October 3 and when the ships were physically located in certain agreed-to waterways.

The MOU establishes industry oversight in three areas: wastewater management, solid waste management, and hazardous waste management. Cruise ship operators have agreed in the MOU to not discharge any untreated wastewater or solid waste within waters subject to the MOU. In addition, the operators are prohibited from discharging sludge anywhere inside Puget Sound, along the American side of the Strait of Juan de Fuca, within 12 miles of the Pacific coast, or within a specified area to be avoided along the Olympic Coast National Marine Sanctuary. Cruise ships are allowed to discharge both blackwater and graywater in Washington waters as long as it is treated by an Advanced Wastewater Treatment System (AWTS), and certain conditions are met.

Some of the conditions that must be satisfied in order to discharge wastewater treated by an AWTS apply to all discharges in Washington waters, while other conditions depend on where the ship is located in relation to its port of call. Vessels not satisfying these requirements are expected to hold all graywater and blackwater in on-board tanks until the vessel leaves the waters subject to the MOU.

The MOU does not have an established expiration or sunset date. The current MOU will remain in place for future cruise seasons unless either the State of Washington or the Northwest Cruise Ship Association decides to cancel its participation. Amendments to the MOU must be agreed to by all parties. The MOU signatories have agreed to meet at least once annually to discuss potential changes and to review the effectiveness of the MOU.

**Summary of Amended Bill: Prohibited discharges:** Commercial passenger vessels, defined as vessels capable of providing overnight accommodations for at least 50 passengers for hire, are prohibited from releasing the following substances into the waters of the state:

- sewage sludge;
- oily bilge water beyond federal standards;
- solid waste;
- biomedical waste;
- dangerous waste;
- untreated blackwater (sewage); and
- untreated graywater (non-sewage wastewater).

Treated wastewater-state approval for release: The operator of a commercial passenger vessel may release treated blackwater and treated graywater into waters, where the activity would be otherwise prohibited, if the vessel has been approved for the release by the Department and is in compliance with effluent limits and requirements for sampling and reporting. Clarifies that blackwater can be released even where sewage sludge can not.

The operators of commercial passenger vessels that are certified by the United States Coast Guard (USCG) for the continuous discharge of blackwater in Alaska are presumed to treat the wastewater released from the vessel at adequate levels if certain steps are taken by the vessel operator. If the Department does not notify the owner of a commercial passenger vessel certified for discharge in Alaska that their approval for discharge is not permitted in

Washington within 60 days of the vessel operator submitting documentation, then the operator may presume permission to release treated wastewater in Washington.

The Department is required to approve wastewater releases from commercial passenger vessels if the vessel has paid a mandatory annual operating fee and can demonstrate that the released waters receive an adequate level of treatment, or the vessel meets the presumption of compliance conditions. Each commercial passenger vessel is required to be re-approved for wastewater releases annually.

Treated wastewater-requirements to be presumed adequate for release away from port: In order for commercial passenger vessels to be presumed adequate for wastewater releases by the Department, the owner or operator of the vessel is required to satisfy a number of conditions. These conditions vary depending on the vessel's proximity to its port. Operators of commercial passenger vessels that are moving at least six knots and are located at least one nautical mile from port may only release treated wastewater when complying with the following requirements:

- once monthly samples are conducted of wastewater released from the vessel, the results of which are shared with the Department;
- a whole effluent toxicity test (WET) is conducted on the released wastewater;
- test results required in other jurisdictions are shared with the Department;
- the Department staff is allowed to witness sampling procedures;
- disinfection has been done, using ultraviolet lights or other approved method;
- the Department staff is permitted to conduct an annual inspection of the wastewater treatment system on the vessel; and
- the Department is notified if material changes are made of the wastewater system.

Treated wastewater-requirements to be presumed adequate for release while berthed at port: When a commercial passenger vessel is at berth in port, or within one mile of its port, additional requirements must be satisfied before adequate wastewater treatment can be presumed. In addition to satisfying the requirements for release away from port, the operator of the vessel must also comply with the following:

- twenty-four hour continuous monitoring of the turbidity of the release is conducted;
- documentation is provided to the Department that all releases were disinfected;
- copies of all water quality tests are provided to the Department for the six months preceding the release; and
- documentation is provided to the Department regarding the vessel's capability to monitor the release and shut down the release if the system malfunctions.

Emergency situations: Commercial passenger vessels are permitted to release any substances, including untreated graywater and blackwater, if the release is done to secure the safety of the vessel or to protect a life at sea.

Annual operating fee: The operator of a commercial passenger vessel is required to pay an annual operating fee prior to releasing treated wastewater. The amount of the fee is established each year by the Department, and may not exceed \$8,000 per vessel per year. The fee set by the Department must be based on the number of overnight accommodations

available on the vessel. All fees are deposited into the newly created Commercial Passenger Vessel Enforcement Account.

Exemptions: Commercial passenger vessels with less than 250 passengers, and any state-operated ferries that provide overnight accommodations for 600 or fewer passengers (such as Alaska's), receive an exemption from the Department until December 31, 2009, if the owners or operators file an annual report. The report must include the following information: The name of the vessel; the public ports in WA visited; the passenger capacity; and the contact name and address of the vessel's owner or operator. In 2008, the Department must investigate wastewater technologies and recommend whether the exemption should be extended or modified.

Required reports: The Department is required to submit annual reports from 2005 until 2010 that summarizes, in lay terms, completed analyses on all water quality data collected from commercial passenger vessels and study the impacts of released blackwater on shellfish. In addition, the Department must submit a report in 2007 that concludes if the limitations on blackwater releases by commercial passenger vessels are adequate to protect water quality.

**Amended Bill Compared to Original Bill:** The approval of the release of blackwater and graywater is made contingent upon the vessel being in compliance with effluent limits and requirements for sampling and reporting, or when the vessel is presumed to be in compliance by meeting other conditions. The Department may rely on previous engineering reviews in granting the subsequent annual system approvals. The sampling of treated blackwater and graywater occurs while the vessel is in Washington waters, versus at berth. Clarifies that blackwater can be released even where sewage sludge can not.

Raises the annual operating fee from \$4,000 to \$8,000.

Commercial passenger vessels with fewer than 250 accommodations do not have to apply for an exemption if they file an annual report. The exemption covering small commercial passenger vessels is extended to include state-operated ferries that provide overnight accommodations for 600 or fewer passengers for hire. The study of small commercial passenger vessels also includes state-operated ferry systems with accommodations for 600 passengers or fewer. The studies are split out into three sections.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on January 1, 2006.

**Testimony For (Water, Energy & Environment):** This bill is basically a codification of the Memorandum of Understanding that the Department of Ecology entered into with the U.S. Coast Guard, Port of Seattle, and the Northwest Cruise Ship Association. The bill provides certainty to all the parties, makes the agreement enforceable, and provides expanded coverage for vessels outside of the agreement.

**Other:** These vessels will potentially impact the shellfish industry and their discharges will still pose a health risk for raw shellfish. Washington's inland waters do not have a great

water-exchange rate and could become further polluted with these discharges. These discharges could cause the closure of shellfish beds in the Strait of Juan de Fuca. Department of Ecology exclusion zones would protect the shellfish beds better than this bill.

Small cruise ships with 250 passengers or less are Seattle-based and cruise the Puget Sound and the Columbia and Snake rivers. The problem is that the bill sets environmental standards that we cannot meet and when the exemption for those vessels expires in four years this bill could put them out of business. The small vessels were not part of the memorandum of understanding nor involved in the development of the bill. Alaska provided small vessels an exemption and so should Washington.

The fiscal impacts of the bill exceed the revenue generated by the fees allowed.

**Testimony Against (Water, Energy & Environment):** None.

**Who Testified (Water, Energy & Environment):** PRO: Representative Mary Lou Dickerson (prime sponsor); Joe Daniels, Holland America Line; Chris Wells, WashPIRG.

OTHER: Randy Ray, Lindblad Expeditions; David Fyfe, Northwest Indian Fisheries Commission; Bill Dewey, Pacific Coast Shellfish Association; Melodie Selby, Department of Ecology.

**Testimony For (Ways & Means):** This is an important policy to protect marine waters. The bill has been reworked to reduce implementation costs. The bill puts in place uniform standards that already apply in other ports of call. However, the Alaskan ferry system should not be exempted. Currently, the shellfish industry is shut down if the waters they are harvesting in does not meet Department of Health standards. This bill helps improve water quality.

OTHER: The Department of Ecology is concerned the cost of the legislation exceed the maximum amount of revenue allowed to be generated by the fees. The Department is in support of the bill if funding is provided throughout the biennium.

**Testimony Against (Ways & Means):** This bill places tremendous financial burden on small cruise ship lines. The technology required in the bill would require them to replace their cabins. The tax on cruise ships is doubled.

**Who Testified (Ways & Means):** PRO: Representative Mary Lou Dickerson (prime sponsor); Joe Daniels, Holland America Line; Jim Jessernig, Pacific Coast Shellfish Growers. OTHER: Melodi Selby, Ted Sturdevant, Department of Ecology.

CON: Randy Ray, Lindblad Expeditions.