
SENATE BILL 6582

State of Washington

63rd Legislature

2014 Regular Session

By Senators Baumgartner, Ericksen, and Braun

Read first time 03/08/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to the safety of the transport of liquid bulk crude
2 oil; amending RCW 82.23B.010, 82.23B.020, 82.23B.030, and 82.23B.040;
3 adding new sections to chapter 90.56 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The state of Washington has a long
6 history of leading in efforts to protect our natural environment while
7 encouraging economic opportunities. Public safety, protection of the
8 natural environment, and economic opportunities are goals shared by all
9 Washingtonians.

10 (2) Liquid bulk crude oil spill prevention and response programs in
11 Washington state, created through thoughtful cooperation and
12 coordination between industry and the communities they serve, is a
13 model to the rest of the nation and a model to the world. As modes of
14 transport for various types of liquid bulk crude oil change and as the
15 volume of liquid bulk crude oil transported through Washington changes,
16 it is important that proactive steps are taken to ensure public safety
17 and protection of natural resources.

18 (3) This act is intended to build upon strong and prudent plans

1 currently in effect, identify areas that need further protections, and
2 invest taxpayer funds today to increase safety and prevent spills.

3 (4) Prevention of crude oil spills is a top priority of the
4 legislature. Providing first responders, local communities, and
5 impacted parties with the tools to respond when spills do occur is in
6 the vital interest of the citizens of Washington state.

7 NEW SECTION. **Sec. 2.** (1) The department of ecology, in
8 consultation with the utilities and transportation commission, the
9 federal railroad administration, and industry representatives, shall
10 conduct a study on the safety of transporting crude oil in liquid bulk
11 form by rail. The study must include:

12 (a) A review of:

13 (i) The federal, state, and local emergency response and prevention
14 programs and activities for spills from tank cars transporting liquid
15 bulk crude oil with a focus on high hazard areas where emergency
16 response equipment can be strategically placed for use by federal,
17 state, regional, or local governments or other emergency responders;

18 (ii) The capacity of local jurisdictions to prevent and respond to
19 liquid bulk crude oil spills;

20 (iii) The identification of weaknesses or gaps in federal, state,
21 and local liquid bulk crude oil spill prevention and response; and

22 (iv) Federal regulations governing liquid bulk crude oil spill
23 prevention and response for transport by rail;

24 (b) A survey of:

25 (i) Local government funding for emergency liquid bulk crude oil
26 spill prevention and response programs;

27 (ii) Sources of funding, entities assessed, or contributions
28 required by participants of emergency liquid bulk crude oil spill
29 prevention and response programs; and

30 (iii) Regional or countywide cooperative agreements implementing
31 liquid bulk crude oil spill prevention and response programs;

32 (c) Recommendations for legislative consideration on the following:

33 (i) Levels of funding and sources of funding for emergency liquid
34 bulk crude oil spill prevention and response programs;

35 (ii) Participants that should be included in an emergency liquid
36 bulk crude oil spill prevention and response program and the amount
37 these participants should be assessed;

1 (iii) Appropriate use of funds such as: Liquid bulk crude oil
2 spill response, equipment, training, or other benefits to those who are
3 assessed;

4 (iv) Cooperative regional or countywide agreements to meet
5 emergency liquid bulk crude oil spill prevention and response program
6 needs, while maintaining an individual organization's distinct purpose;
7 and

8 (v) Methods to increase cooperation and coordination among
9 organizations responding to liquid bulk crude oil spills, including:

10 (A) Sharing resources or mutual aide between terrestrial and on-
11 water liquid bulk crude oil spill emergencies; and

12 (B) Communication to ensure a common understanding of the potential
13 threat from liquid bulk crude oil spills; and

14 (d) A report on the status and progress of federal rule making for
15 tank car safety requirements including model, age, modifications, and
16 upgrades.

17 (2) The department of ecology must provide: (a) A preliminary
18 evaluation on the status of the safety of transporting liquid bulk
19 crude oil by rail in the state and include recommendations for near-
20 term legislative action to address needs identified in the review as
21 required under subsection (1)(a)(i) of this section, to the relevant
22 policy and fiscal committees of the senate and house of representatives
23 by December 31, 2014; and (b) using the study and reviews conducted
24 under this section, a final report regarding the safety of the
25 transport of liquid bulk crude oil by rail, as well as recommendations
26 for policy, budget needs, or legislation to the relevant policy and
27 fiscal committees of the senate and house of representatives by
28 December 31, 2015.

29 NEW SECTION. **Sec. 3.** The department of ecology shall provide an
30 analysis on the safety of transporting liquid bulk crude oil on waters
31 of the state.

32 (1) The analysis must include:

33 (a) The capacity to address risks posed by liquid bulk crude oil;

34 (b) Weaknesses or gaps in liquid bulk crude oil spill prevention
35 and response programs, including identification of programs that are
36 not complete or need to be more robust, with a focus on Grays Harbor
37 and the Columbia river; and

1 (c) Barge and tug operations within the state related to the
2 movement of liquid bulk crude oil; and

3 (d) A status report on the federal, state, and local waterborne
4 liquid bulk crude oil spill prevention and preparedness.

5 (2) The department of ecology must provide to the relevant policy
6 and fiscal committees of the senate and house of representatives by
7 December 31, 2014, a status report on waterborne liquid bulk crude oil
8 spill prevention and preparedness; recommendations for Grays Harbor and
9 the Columbia river crude oil spill prevention and preparedness; an
10 analysis of barge and tug liquid bulk crude oil operations; and safety
11 gaps or weaknesses in liquid bulk crude oil spill prevention and
12 response programs.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.56 RCW
14 to read as follows:

15 (1) The department must provide to the relevant policy and fiscal
16 committees of the senate and house of representatives:

17 (a) A review of all state and federal geographic response plans as
18 needed in contingency plans required under RCW 90.56.210 and 88.46.060
19 by December 31, 2014; and

20 (b) Annual updates, beginning December 31, 2015, and ending
21 December 31, 2021, as required under RCW 43.01.036, as to the progress
22 made in completing state and federal geographic response plans as
23 needed in contingency plans required under RCW 90.56.060, 90.56.210,
24 and 88.46.060.

25 (2) The department must contract, if practicable, with eligible
26 independent third parties to ensure completion by December 1, 2016, of
27 at least fifty percent of the geographic response plans as needed in
28 contingency plans required under RCW 90.56.210 and 88.46.060 for the
29 state.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.56 RCW
31 to read as follows:

32 (1) The owner or operator for each facility other than a
33 transmission pipeline shall submit to the department data and
34 information on the volume and type of crude oil that arrived at and
35 departed from the facility each month, including the state, province,

1 or country of origin of the crude oil, the mode of arrival and
2 departure at the facility including, but not limited to, arrival by
3 vessel, rail, or pipeline.

4 (2)(a) Any person required to present information to the department
5 pursuant to subsection (1) of this section may request that specific
6 information be held in confidence. Information requested to be held in
7 confidence is presumed to be confidential.

8 (b) Information presented to the department pursuant to subsection
9 (1) of this section must be held in confidence by the department or
10 aggregated to the extent necessary to ensure confidentiality if public
11 disclosure of the specific information or data would result in an
12 unfair competitive disadvantage to the person supplying the
13 information.

14 (c)(i) Whenever the department receives a request to publicly
15 disclose unaggregated information or otherwise proposes to publicly
16 disclose information submitted pursuant to subsection (1) of this
17 section, notice of the request or proposal must be provided to the
18 person submitting the information. The notice must indicate the form
19 in which the information is to be released. Upon receipt of notice,
20 the person submitting the information has ten working days in which to
21 respond to the notice to justify the claim of confidentiality on each
22 specific item of information covered by the notice on the basis that
23 public disclosure of the specific information would result in an unfair
24 competitive disadvantage to the person supplying the information.

25 (ii) The department shall consider the respondent's submittal in
26 determining whether to publicly disclose the information submitted to
27 it to which a claim of confidentiality is made. The department shall
28 issue a written decision that sets forth its reasons for making the
29 determination whether each item of information for which a claim of
30 confidentiality is made remains confidential or must be publicly
31 disclosed.

32 (iii) The department shall not publicly disclose information
33 submitted to it pursuant to subsection (1) of this section within ten
34 working days after the department has issued its written decision
35 required in (c)(ii) of this subsection.

36 (iv) No information submitted to the department pursuant to
37 subsection (1) of this section may be deemed confidential if the person
38 submitting the information or data has made it public.

1 (v) With respect to information provided under subsection (1) of
2 this section, neither the department nor any employee of the department
3 may do any of the following:

4 (A) Use the information for any purpose other than the statistical
5 purposes for which it is supplied;

6 (B) Make any publication whereby the information furnished by any
7 particular establishment or individual can be identified; or

8 (C) Permit anyone other than department employees to examine the
9 individual reports provided under subsection (1) of this section.

10 (d) Any confidential information pertinent to the responsibilities
11 of the department that is obtained by another state agency must be
12 available to the department and must be treated in a confidential
13 manner.

14 NEW SECTION. **Sec. 6.** The department of ecology and the utilities
15 and transportation commission shall jointly hold a symposium on
16 emergency prevention and response activities for liquid bulk crude oil
17 transported in the Pacific Northwest region. The department of ecology
18 and the utilities and transportation commission must invite state
19 representatives from the Pacific Northwest economic region authorized
20 under chapter 43.147 RCW and representatives from affected tribes,
21 local governments, the United States government, provinces, Canada, and
22 other appropriate stakeholders. The symposium must at a minimum
23 address:

24 (1) Cooperative emergency prevention and response activities
25 between the shared international and state borders;

26 (2) Expected risks posed by increased transport of Canadian crude
27 oil or liquid bulk crude oil throughout the Pacific Northwest region
28 within the next three to five years;

29 (3) Changes in methods for transporting liquid bulk crude oil and
30 associated risks;

31 (4) Identification of responsible agencies and corresponding
32 activities that can be taken to address expected risks; and

33 (5) Consideration of new or emerging technologies to make transport
34 of Canadian crude oil or liquid bulk crude oil safer.

35 NEW SECTION. **Sec. 7.** (1) The department of ecology shall provide

1 grants to emergency responders to assist with oil spill response and
2 firefighting equipment and resources needed to meet the requirements of
3 this act.

4 (2) The department of ecology, in consultation with emergency first
5 responders, representatives from oil and rail industries, and
6 businesses that are recipients of liquid bulk crude oil shall review
7 grant applications.

8 (a) The application review must include an evaluation of equipment
9 and resource requests, funding requirements, and coordination with
10 existing equipment and resources in the area.

11 (b) Funding must be prioritized for applicants from areas where
12 liquid bulk crude oil is transferred from one mode of transportation to
13 another.

14 (c) Grants must be coordinated to maximize currently existing
15 equipment and resources that have been put in place by first responders
16 and industry.

17 **Sec. 8.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read
18 as follows:

19 ~~((Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.))~~ The definitions in this
21 section apply throughout this chapter unless the context clearly
22 requires otherwise.

23 (1) "Barrel" means a unit of measurement of volume equal to forty-
24 two United States gallons of crude oil or petroleum product.

25 (2) "Bulk oil terminal" means a facility of any kind, other than a
26 waterborne vessel, that is used for transferring crude oil from a tank
27 car.

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

31 ~~((+3))~~ (4) "Department" means the department of revenue.

32 ~~((+4))~~ (5) "Marine terminal" means a facility of any kind, other
33 than a waterborne vessel, that is used for transferring crude oil or
34 petroleum products to or from a waterborne vessel or barge.

35 ~~((+5))~~ (6) "Navigable waters" means those waters of the state and
36 their adjoining shorelines that are subject to the ebb and flow of the
37 tide, including the Columbia and Snake rivers.

1 ((+6)) (7) "Person" has the meaning provided in RCW 82.04.030.

2 ((+7)) (8) "Petroleum product" means any liquid hydrocarbons at
3 atmospheric temperature and pressure that are the product of the
4 fractionation, distillation, or other refining or processing of crude
5 oil, and that are used as, useable as, or may be refined as a fuel or
6 fuel blendstock, including but not limited to, gasoline, diesel fuel,
7 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
8 petroleum.

9 ((+8)) (9) "Tank car" means a rail car, the body of which consists
10 of a tank for transporting liquids.

11 (10) "Taxpayer" means the person owning crude oil or petroleum
12 products immediately after receipt of the same into the storage tanks
13 of a marine or bulk oil terminal in this state (~~from a waterborne~~
14 ~~vessel or barge~~) and who is liable for the taxes imposed by this
15 chapter.

16 ((+9)) (11) "Waterborne vessel or barge" means any ship, barge, or
17 other watercraft capable of travelling on the navigable waters of this
18 state and capable of transporting any crude oil or petroleum product in
19 quantities of ten thousand gallons or more for purposes other than
20 providing fuel for its motor or engine.

21 **Sec. 9.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to read
22 as follows:

23 (1) An oil spill response tax is imposed on the privilege of
24 receiving: (a) Crude oil or petroleum products at a marine terminal
25 within this state from a waterborne vessel or barge operating on the
26 navigable waters of this state; and (b) crude oil at a bulk oil
27 terminal within this state from a tank car. The tax imposed in this
28 section is levied upon the owner of the crude oil or petroleum products
29 immediately after receipt of the same into the storage tanks of a
30 marine or bulk oil terminal from a tank car or waterborne vessel or
31 barge at the rate of one cent per barrel of crude oil or petroleum
32 product received.

33 (2) In addition to the tax imposed in subsection (1) of this
34 section, an oil spill administration tax is imposed on the privilege of
35 receiving: (a) Crude oil or petroleum products at a marine terminal
36 within this state from a waterborne vessel or barge operating on the
37 navigable waters of this state; and (b) crude oil at a bulk oil

1 terminal within this state from a tank car. The tax imposed in this
2 section is levied upon the owner of the crude oil or petroleum products
3 immediately after receipt of the same into the storage tanks of a
4 marine or bulk oil terminal from a tank car or waterborne vessel or
5 barge at the rate of four cents per barrel of crude oil or petroleum
6 product.

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

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

27 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
28 the person charged with collection of the taxes and the person charged
29 with collection fails to pay the taxes to the department, the
30 department may, in its discretion, proceed directly against the
31 taxpayer for collection of the taxes.

32 (6) The taxes (~~shall be~~) are due from the marine or bulk oil
33 terminal operator, along with reports and returns on forms prescribed
34 by the department, within twenty-five days after the end of the month
35 in which the taxable activity occurs.

36 (7) The amount of taxes, until paid by the taxpayer to the marine
37 or bulk oil terminal operator or to the department, (~~shall~~)
38 constitute a debt from the taxpayer to the marine or bulk oil terminal

1 operator. Any person required to collect the taxes under this chapter
2 who, with intent to violate the provisions of this chapter, fails or
3 refuses to do so as required and any taxpayer who refuses to pay any
4 taxes due under this chapter(~~(, shall be)~~) is guilty of a misdemeanor
5 as provided in chapter 9A.20 RCW.

6 (8) Upon prior approval of the department, the taxpayer may pay the
7 taxes imposed by this chapter directly to the department. The
8 department (~~(shall)~~) must give its approval for direct payment under
9 this section whenever it appears, in the department's judgment, that
10 direct payment will enhance the administration of the taxes imposed
11 under this chapter. The department (~~(shall)~~) must provide by rule for
12 the issuance of a direct payment certificate to any taxpayer qualifying
13 for direct payment of the taxes. Good faith acceptance of a direct
14 payment certificate by a terminal operator (~~(shall)~~) must relieve the
15 marine or bulk oil terminal operator from any liability for the
16 collection or payment of the taxes imposed under this chapter.

17 (9) All receipts from the tax imposed in subsection (1) of this
18 section (~~(shall)~~) must be deposited into the state oil spill response
19 account. All receipts from the tax imposed in subsection (2) of this
20 section shall be deposited into the oil spill prevention account.

21 (10) Within forty-five days after the end of each calendar quarter,
22 the office of financial management (~~(shall)~~) must determine the balance
23 of the oil spill response account as of the last day of that calendar
24 quarter. Balance determinations by the office of financial management
25 under this section are final and (~~(shall)~~) may not be used to challenge
26 the validity of any tax imposed under this chapter. The office of
27 financial management (~~(shall)~~) must promptly notify the departments of
28 revenue and ecology of the account balance once a determination is
29 made. For each subsequent calendar quarter, the tax imposed by
30 subsection (1) of this section shall be imposed during the entire
31 calendar quarter unless:

32 (a) Tax was imposed under subsection (1) of this section during the
33 immediately preceding calendar quarter, and the most recent quarterly
34 balance is more than nine million dollars; or

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

1 **Sec. 10.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read
2 as follows:

3 The taxes imposed under this chapter (~~shall~~) only apply to the
4 first receipt of crude oil or petroleum products at a marine or bulk
5 oil terminal in this state and not to the later transporting and
6 subsequent receipt of the same oil or petroleum product, whether in the
7 form originally received at a marine or bulk oil terminal in this state
8 or after refining or other processing.

9 **Sec. 11.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to
10 read as follows:

11 Credit (~~shall~~) must be allowed against the taxes imposed under
12 this chapter for any crude oil or petroleum products received at a
13 marine or bulk oil terminal and subsequently exported from or sold for
14 export from the state.

15 NEW SECTION. **Sec. 12.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 13.** This act may be known and cited as the
20 spill prevention and response act.

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