
SENATE BILL 5425

State of Washington

65th Legislature

2017 Regular Session

By Senators Carlyle, Rolfes, McCoy, and Chase; by request of
Department of Ecology

1 AN ACT Relating to strengthening funding for oil spill programs
2 in Washington by increasing revenue to the oil spill prevention
3 account; amending RCW 82.23B.020 and 90.56.510; creating a new
4 section; 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.** (1) The legislature finds that changes in
7 oil transport throughout the state and its transboundary environments
8 poses new and evolving spill risks that require state agencies to
9 perform essential ongoing activities, including those activities
10 directed by the oil transportation safety act (chapter 274, Laws of
11 2015), in order to prevent oil spills and prepare for a rapid,
12 aggressive, and well-coordinated response when spills occur.

13 (2) The legislature further finds that existing funding sources
14 for oil spill prevention and preparedness-related activities,
15 including the barrel tax as described in RCW 82.23B.020, are not
16 currently adequate to carry out these essential ongoing activities.

17 (3) It is the intent of the legislature that the state's
18 essential ongoing oil spill prevention and preparedness activities
19 have an adequate funding source to protect public health and safety
20 and the environment from the risks posed by the changing oil
21 transport picture.

1 **Sec. 2.** RCW 82.23B.020 and 2015 c 274 s 14 are each amended to
2 read as follows:

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

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

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

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

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

4 (5) If a taxpayer fails to pay the taxes imposed by this chapter
5 to the person charged with collection of the taxes and the person
6 charged 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 are due from the marine or bulk oil terminal
10 operator, along with reports and returns on forms prescribed by the
11 department, within twenty-five days after the end of the month in
12 which the taxable activity occurs.

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

21 (8) Upon prior approval of the department, the taxpayer may pay
22 the taxes imposed by this chapter directly to the department. The
23 department must give its approval for direct payment under this
24 section whenever it appears, in the department's judgment, that
25 direct payment will enhance the administration of the taxes imposed
26 under this chapter. The department must provide by rule for the
27 issuance of a direct payment certificate to any taxpayer qualifying
28 for direct payment of the taxes. Good faith acceptance of a direct
29 payment certificate by a terminal operator relieves the marine or
30 bulk oil terminal operator from any liability for the collection or
31 payment of the taxes imposed under this chapter.

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

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

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

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

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

13 **Sec. 3.** RCW 90.56.510 and 2015 c 274 s 7 are each amended to
14 read as follows:

15 (1) The oil spill prevention account is created in the state
16 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
17 the account. Moneys from the account may be spent only after
18 appropriation. The account is subject to allotment procedures under
19 chapter 43.88 RCW. ~~((If, on the first day of any calendar month, the
20 balance of the oil spill response account is greater than nine
21 million dollars and the balance of the oil spill prevention account
22 exceeds the unexpended appropriation for the current biennium, then
23 the tax under RCW 82.23B.020(2) shall be suspended on the first day
24 of the next calendar month until the beginning of the following
25 biennium, provided that the tax shall not be suspended during the
26 last six months of the biennium. If the tax imposed under RCW
27 82.23B.020(2) is suspended during two consecutive biennia, the
28 department shall by November 1st after the end of the second
29 biennium, recommend to the appropriate standing committees an
30 adjustment in the tax rate. For the biennium ending June 30, 1999,
31 and the biennium ending June 30, 2001, the state treasurer may
32 transfer a total of up to one million dollars from the oil spill
33 response account to the oil spill prevention account to support
34 appropriations made from the oil spill prevention account in the
35 omnibus appropriations act adopted not later than June 30, 1999.))~~

36 (2) Expenditures from the oil spill prevention account ~~((shall))~~
37 must be used exclusively for the administrative costs related to the
38 purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW.
39 In addition, until June 30, 2019, expenditures from the oil spill

1 prevention account may be used, subject to amounts appropriated
2 specifically for this purpose, for the development and annual review
3 of local emergency planning committee emergency response plans in RCW
4 38.52.040(3). Starting with the 1995-1997 biennium, the legislature
5 shall give activities of state agencies related to prevention of oil
6 spills priority in funding from the oil spill prevention account.
7 Costs of prevention include the costs of:

8 (a) Routine responses not covered under RCW 90.56.500;

9 (b) Management and staff development activities;

10 (c) Development of rules and policies and the statewide plan
11 provided for in RCW 90.56.060;

12 (d) Facility and vessel plan review and approval, drills,
13 inspections, investigations, enforcement, and litigation;

14 (e) Interagency coordination and public outreach and education;

15 (f) Collection and administration of the tax provided for in
16 chapter 82.23B RCW; and

17 (g) Appropriate travel, goods and services, contracts, and
18 equipment.

19 (3) Before expending moneys from the account for a response under
20 subsection (2)(a) of this section, but without delaying response
21 activities, the director (~~shall~~) must make reasonable efforts to
22 obtain funding for response costs under this section from the person
23 responsible for the spill and from other sources, including the
24 federal government.

25 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect July 1, 2017.

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