

HOUSE BILL REPORT

SJM 8002

*As Reported By House Committee on:
Fisheries & Wildlife*

Brief Description: Requesting that the coast guard prohibit dumping of ballast water in United States waters.

Sponsor(s): Senators Metcalf, Conner and Roach.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 27, 1992, DP.

**HOUSE COMMITTEE ON
FISHERIES & WILDLIFE**

Majority Report: *Do pass.* Signed by 9 members:
Representatives R. King, Chair; Morris, Vice Chair; Wilson,
Ranking Minority Member; Fuhrman, Assistant Ranking Minority
Member; Basich; G. Cole; Hochstatter; Padden; and Spanel.

Staff: Keitlyn Watson (786-7310).

Background: Ballast water is used to manipulate the trim and stability of a vessel. Tankers and freight vessels typically take on ballast water at ports of origin, either from the open sea, or, more frequently, from an estuary at the mouth of a river. The ballast water is discharged prior to loading cargo for the return journey. The quantity of water that is discharged can be up to 20,000 metric tons per vessel.

Ballast water contains flora and fauna from the port of origin, that can compete with native flora and fauna where the water is discharged. There have been specific instances where this has occurred. The best known case is in the Great Lakes, in which the zebra mussel was accidentally imported from the Caspian Sea. The mussel has fouled water systems, caused billions of dollars of damage, and is spreading throughout the Great Lakes. Closure of shellfish harvest due to contamination by toxic organisms from ballast water has occurred in Australia, and cholera bacteria are present in ballast water of some vessels at U.S. ports.

One of the techniques that can be used to minimize the potential problems of exotic marine aquatic organisms is open ocean exchange of ballast water.

Current Federal Law

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 requires that the secretary of transportation issue regulations and voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes. The act also initiates a task force to study the need for controls on vessels entering U.S. waters and to recommend appropriate regulations. The task force is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic nuisance species. Where the task force identifies that problems exist, they shall carry out cooperative efforts with regional, state and local entities to minimize the risk of such introductions. The law also allows each state to submit a comprehensive management plan to the task force for approval which identifies existing state and local programs for prevention and control of aquatic nuisance species, identifies federal activities and funding that may be required for such prevention and control, and provides a schedule of plan implementation. Once approved by the task force, the states may receive grants for plan implementation.

General Regulatory Authority of the State

Generally, the state has the power to regulate and control the navigable or public water within its boundaries. The regulatory power of the state over navigable waters of the United States is limited by federal regulation of interstate and foreign commerce. State action that does not interfere with interstate or foreign commerce, however, is permissible.

Except for any right of control granted to the United States, control over the sea adjacent to the coast remains with the state.

Current Statutory Provisions

At least two provisions of existing state law regulate the discharge of material into state waters. Chapter 90.48, the state Clean Water Act, prohibits polluting the waters in any manner and it specifically prohibits the discharge of oil into the water. RCW 88.28.060 prohibits the discharge of ballast into waters of less than 20 fathoms. The provision dates back to the late 1800s. The statute is intended primarily to preserve navigability of the waterways.

Summary of Bill: The Legislature petitions the president of the United States and Congress to require that the U.S. Coast Guard adopt regulations prohibiting the dumping of ballast water originating in foreign ports in all waters of

the United States and in the water under their jurisdictions within the states. Any such ballast water should be dumped at sea and exchanged for open ocean water prior to entry into waters of the state.

Fiscal Note: Not requested.

Testimony For: This issue needs to be thoroughly addressed through an interim study to develop model legislation applicable to the four coastal states.

Testimony Against: None.

Witnesses: Tara Larson, AEQUUS.