
HOUSE BILL 2515

State of Washington

53rd Legislature

1994 Regular Session

By Representative Rust

Read first time 01/17/94. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to the creation of a fee on cargo vessels; amending
2 RCW 82.23B.010; adding a new section to chapter 88.46 RCW; creating a
3 new section; prescribing penalties; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the state's
6 economy is dependent on a healthy environment. Further, the
7 legislature finds that marine environments are at risk due to the high
8 volume of oil transported in state waters. Safe marine transportation
9 is essential to prevent oil spills, provide a healthy environment and
10 economy for the state, and reduce the risk of liability of vessel
11 owners and operators under state and federal law for costs and damages
12 associated with an oil spill. Past experience demonstrates that
13 despite the tremendous cost of oil spill response and cleanup, rarely
14 is more than fifteen percent of oil spilled on water recovered.

15 The legislature also finds that a vessel's size and frequency of
16 travel through Washington's navigable waters are significant factors in
17 establishing the risk a vessel poses to the state's marine environment.
18 The potential severity of a vessel oil spill increases with the amount
19 of oil carried as cargo or fuel, or both.

1 The legislature also finds that taxes on oil imported by the oil
2 industry into the state are currently supporting the majority of the
3 existing state programs related to the prevention and response to oil
4 spills, but the vast majority of vessel transits on state marine waters
5 involve cargo vessels. It is the intent of the legislature to ensure
6 that cargo vessels pay for that portion of the costs of the oil spill
7 prevention and response program that is due to their activities.

8 **Sec. 2.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

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

14 (2) "Cargo terminal" means a facility of any kind, other than a
15 waterborne vessel, that is used for transferring cargo or passengers to
16 or from a covered vessel. "Cargo terminal" does not include a marine
17 terminal.

18 (3) "Covered vessel" has the same meaning as set forth in RCW
19 88.46.010.

20 (4) "Crude oil" means any naturally occurring liquid hydrocarbons
21 at atmospheric temperature and pressure coming from the earth,
22 including condensate and natural gasoline.

23 ((+3)) (5) "Department" means the department of revenue.

24 ((+4)) (6) "Marine terminal" means a facility of any kind, other
25 than a waterborne vessel, that is used for transferring crude oil or
26 petroleum products to or from a waterborne vessel or barge.

27 ((+5)) (7) "Navigable waters" means those waters of the state and
28 their adjoining shorelines that are subject to the ebb and flow of the
29 tide, including the Columbia and Snake rivers.

30 ((+6)) (8) "Person" has the meaning provided in RCW 82.04.030.

31 ((+7)) (9) "Petroleum product" means any liquid hydrocarbons at
32 atmospheric temperature and pressure that are the product of the
33 fractionation, distillation, or other refining or processing of crude
34 oil, and that are used as, useable as, or may be refined as a fuel or
35 fuel blendstock, including but not limited to, gasoline, diesel fuel,
36 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
37 petroleum.

1 (~~(8)~~) (10) "Taxpayer" means the person owning crude oil or
2 petroleum products immediately after receipt of the same into the
3 storage tanks of a marine terminal in this state from a waterborne
4 vessel or barge and who is liable for the taxes imposed by this
5 chapter.

6 (~~(9)~~) (11) "Waterborne vessel or barge" means any ship, barge, or
7 other watercraft capable of travelling on the navigable waters of this
8 state and capable of transporting any crude oil or petroleum product in
9 quantities of ten thousand gallons or more for purposes other than
10 providing fuel for its motor or engine.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.46 RCW
12 to read as follows:

13 (1) Except as otherwise provided in subsection (9) of this section,
14 there is levied an assessment on all covered vessels subject to RCW
15 88.46.040, 88.46.050, and 88.46.060. The assessment is due and payable
16 after a cargo vessel enters Washington waters and first moors or docks
17 at a cargo terminal in Washington's waters. The administrator shall by
18 rule set rates for each covered vessel transit based on annual vessel
19 traffic forecasts generated by the office. The fee shall be calculated
20 by the department to generate one million five hundred thousand dollars
21 per fiscal year. If the assessment generates more than one million
22 five hundred thousand dollars in a fiscal year, the amount in excess of
23 one million five hundred thousand dollars shall be transferred by the
24 treasurer from the oil spill administration account to the oil spill
25 response account.

26 (2) The fee imposed by this section shall be collected by the owner
27 of the cargo terminal at which the vessel first docks in this state.
28 If the owner of the cargo terminal leases or rents the cargo terminal
29 to another person, the responsibility for collecting the fee shall be
30 with the person leasing or renting the terminal. If any person charged
31 with collecting the fee fails to bill the vessel owner or operator for
32 the fee, or having collected the fee, fails to pay the fee to the
33 department in the manner prescribed by this chapter, whether such
34 failure is the result of the person's own acts or the result of acts or
35 conditions beyond the person's control, he or she shall, nevertheless,
36 be personally liable to the state for the amount of the fee. Payment
37 of the fee by the vessel owner or operator to owner or operator of the

1 cargo terminal shall relieve the covered vessel owner from further
2 liability for the fee.

3 (3) Fees collected under this section shall be held in trust until
4 paid to the department. Any person collecting the fee who appropriates
5 or converts the fee collected shall be guilty of a gross misdemeanor as
6 provided in chapter 9A.20 RCW if the money required to be collected is
7 not available for payment on the date payment is due. The fee required
8 by this section to be collected shall be stated separately from other
9 charges made by the cargo terminal in any invoice or other statement of
10 account provided to the covered vessel owner or operator.

11 (4) If the owner of a covered vessel fails to pay the fee imposed
12 by this chapter to the person charged with collection of the fee and
13 the person charged with collection fails to pay the fee to the
14 department, the department may, in its discretion, proceed directly
15 against the owner of the covered vessel for collection of the fee.

16 (5) The fees shall be due from the cargo terminal operator, along
17 with reports and returns on forms prescribed by the department, within
18 twenty-five days after the end of the month in which the fee-generating
19 activity occurs.

20 (6) The amount of fee, until paid by the owner of the covered
21 vessel to the marine terminal operator or to the department, shall
22 constitute a debt from the covered vessel owner to the cargo terminal
23 operator. Any person required to collect the fee under this section
24 who, with intent to violate the provisions of this chapter, fails or
25 refuses to do so as required and any cargo vessel owner who refuses to
26 pay any fees due under this section, shall be guilty of a misdemeanor
27 as provided in chapter 9A.20 RCW.

28 (7) Upon prior approval of the department, the cargo vessel owner
29 may pay the fees imposed by this section directly to the department.
30 The department shall give its approval for direct payment under this
31 subsection whenever it appears, in the department's judgment, that
32 direct payment will enhance the administration of the fee imposed under
33 this section. The department shall provide by rule for the issuance of
34 a direct payment certificate to any cargo vessel owner or operator
35 qualifying for direct payment of the fees. Good faith acceptance of a
36 direct payment certificate by a cargo terminal operator relieves the
37 terminal operator from any liability for the collection or payment of
38 the fee imposed under this section.

1 (8) All receipts from the fee imposed by this section shall be
2 deposited into the state oil spill administration account.

3 (9) A tank vessel is exempt from the fee established by this
4 section if:

5 (a) The state is prohibited from assessing the vessel under the
6 United States Constitution; or

7 (b) The vessel's owner or operator is subject to the taxes imposed
8 by RCW 82.23B.020.

9 NEW SECTION. **Sec. 4.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 5.** This act shall take effect July 1, 1994.

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