

---

HOUSE BILL 2553

---

State of Washington

53rd Legislature

1994 Regular Session

By Representative Rust; by request of Department of Ecology and Office of Marine Safety

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

1 AN ACT Relating to oil spill response accounts; amending RCW  
2 82.23B.020, 90.56.500, and 90.56.510; and providing an effective date.

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

4 **Sec. 1.** RCW 82.23B.020 and 1992 c 73 s 7 are each amended to read  
5 as follows:

6 (1) An oil spill response tax is imposed on the privilege of  
7 receiving crude oil or petroleum products at a marine terminal within  
8 this state from a waterborne vessel or barge operating on the navigable  
9 waters of this state. The tax imposed in this section is levied upon  
10 the owner of the crude oil or petroleum products immediately after  
11 receipt of the same into the storage tanks of a marine terminal from a  
12 waterborne vessel or barge at the rate of two cents per barrel of crude  
13 oil or petroleum product received.

14 (2) In addition to the tax imposed in subsection (1) of this  
15 section, an oil spill administration tax is imposed on the privilege of  
16 receiving crude oil or petroleum products at a marine terminal within  
17 this state from a waterborne vessel or barge operating on the navigable  
18 waters of this state. The tax imposed in this section is levied upon  
19 the owner of the crude oil or petroleum products immediately after

1 receipt of the same into the storage tanks of a marine terminal from a  
2 waterborne vessel or barge at the rate of three cents per barrel of  
3 crude oil or petroleum product.

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

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

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

28 (6) The taxes shall be due from the marine terminal operator, along  
29 with reports and returns on forms prescribed by the department, within  
30 twenty-five days after the end of the month in which the taxable  
31 activity occurs.

32 (7) The amount of taxes, until paid by the taxpayer to the marine  
33 terminal operator or to the department, shall constitute a debt from  
34 the taxpayer to the marine terminal operator. Any person required to  
35 collect the taxes under this chapter who, with intent to violate the  
36 provisions of this chapter, fails or refuses to do so as required and  
37 any taxpayer who refuses to pay any taxes due under this chapter, shall  
38 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

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

12 (9) All receipts from the tax imposed in subsection (1) of this  
13 section shall be deposited into the state oil spill response account.  
14 All receipts from the tax imposed in subsection (2) of this section  
15 shall be deposited into the ((state)) oil spill administration account.

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

26 (a) Tax was imposed under subsection (1) of this section during the  
27 immediately preceding calendar quarter, and the most recent quarterly  
28 balance is more than ((twenty-five)) twenty million dollars; or

29 (b) Tax was not imposed under subsection (1) of this section during  
30 the immediately preceding calendar quarter, and the most recent  
31 quarterly balance is more than fifteen million dollars.

32 (11) The office of marine safety, the department of revenue, and  
33 the department of community, trade, and economic development shall  
34 study tax credits for taxpayers employing vessels with the best  
35 achievable technology and the best available protection to reduce the  
36 risk of oil spills to the navigable waters of the state and submit the  
37 study to the appropriate standing committees of the legislature by  
38 December 1, 1992.

1       **Sec. 2.** RCW 90.56.500 and 1991 c 200 s 805 are each amended to  
2 read as follows:

3       The state oil spill response account is created in the state  
4 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in  
5 the account. All costs reimbursed to the state by a responsible party  
6 or any other person for responding to a spill of oil shall also be  
7 deposited in the account. Moneys in the account shall be spent only  
8 after appropriation. The account is subject to allotment procedures  
9 under chapter 43.88 RCW. The account shall be used exclusively to pay  
10 for the costs associated with the response to spills of crude oil or  
11 petroleum products into the navigable waters of the state. (~~Payment~~  
12 ~~of response costs under this section shall be limited to spills which~~  
13 ~~the director has determined are likely to exceed fifty thousand~~  
14 ~~dollars.)) Before expending moneys from the account, the director  
15 shall make reasonable efforts to obtain funding for response costs from  
16 the person responsible for the spill and from other sources, including  
17 the federal government. Reimbursement for response costs shall be  
18 allowed only for costs which are not covered by funds appropriated to  
19 the agencies responsible for response activities. Costs associated  
20 with the response to spills of crude oil or petroleum products shall  
21 include:~~

- 22       (1) Natural resource damage assessment and related activities;  
23       (2) Spill related response, containment, wildlife rescue, cleanup,  
24 disposal, and associated costs;  
25       (3) Interagency coordination and public information related to a  
26 response; and  
27       (4) Appropriate travel, goods and services, contracts, and  
28 equipment.

29       **Sec. 3.** RCW 90.56.510 and 1993 c 162 s 2 are each amended to read  
30 as follows:

31       (1) The oil spill administration account is created in the state  
32 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in  
33 the account. Moneys from the account may be spent only after  
34 appropriation. The account is subject to allotment procedures under  
35 chapter 43.88 RCW. On July 1 of each odd-numbered year, if receipts  
36 deposited in the account from the tax imposed by RCW 82.23B.020(2) for  
37 the previous fiscal biennium exceed the amount appropriated from the  
38 account for the previous fiscal biennium, the state treasurer shall

1 transfer the amount of receipts exceeding the appropriation to the oil  
2 spill response account. If, on the first day of any calendar month,  
3 the balance of the oil spill response account is greater than twenty((-  
4 five)) million dollars and the balance of the oil spill administration  
5 account exceeds the unexpended appropriation for the current biennium,  
6 then the tax under RCW 82.23B.020(2) shall be suspended on the first  
7 day of the next calendar month until the beginning of the following  
8 biennium, provided that the tax shall not be suspended during the last  
9 six months of the biennium. If the tax imposed under RCW 82.23B.020(2)  
10 is suspended during two consecutive biennia, the department shall by  
11 November 1st after the end of the second biennium, recommend to the  
12 appropriate standing committees an adjustment in the tax rate. ((~~For~~  
13 ~~the period 1991-93~~)) The state treasurer may transfer funds from the  
14 oil spill response account to the oil spill administration account in  
15 amounts necessary to support appropriations made from the oil spill  
16 administration account in the omnibus appropriations act. The  
17 treasurer may transfer up to that amount necessary to fund the current  
18 authorized level and essential requirements level of expenditures of  
19 those agency programs, as determined by the director of financial  
20 management, funded as of July 1, 1994.

21 (2) Expenditures from the oil spill administration account shall be  
22 used exclusively for the administrative costs related to the purposes  
23 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting  
24 with the 1995-1997 biennium, the legislature shall give activities of  
25 state agencies related to prevention of oil spills priority in funding  
26 from the oil spill administration account. Costs of administration  
27 include the costs of:

- 28 (a) Routine responses not covered under RCW 90.56.500;
- 29 (b) Management and staff development activities;
- 30 (c) Development of rules and policies and the state-wide plan  
31 provided for in RCW 90.56.060;
- 32 (d) Facility and vessel plan review and approval, drills,  
33 inspections, investigations, enforcement, and litigation;
- 34 (e) Interagency coordination and public outreach and education;
- 35 (f) Collection and administration of the tax provided for in  
36 chapter 82.23B RCW; and
- 37 (g) Appropriate travel, goods and services, contracts, and  
38 equipment.

1      NEW SECTION.    **Sec. 4.**    This act shall take effect July 1, 1994.

--- END ---