
HOUSE BILL 2731

State of Washington

53rd Legislature

1994 Regular Session

By Representative Rust

Read first time 01/21/94. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to the creation of a fee on covered vessels;
2 amending RCW 82.23010; adding a new section to chapter 88.46 RCW;
3 creating a new section; prescribing penalties; and providing an
4 effective date.

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

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

16 The legislature also finds that a vessel's size and frequency of
17 travel through Washington's navigable waters are significant factors in
18 establishing the risk a vessel poses to the state's marine environment.

1 The potential severity of a vessel oil spill increases with the amount
2 of oil carried as cargo or fuel, or both.

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

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

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

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

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

20 (3) "Covered vessel" has the same meaning as set forth in RCW
21 88.46.010.

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

25 ((+3)) (5) "Department" means the department of revenue.

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

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

32 ((+6)) (8) "Person" has the meaning provided in RCW 82.04.030.

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

1 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
2 petroleum.

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

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

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

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

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

1 of the fee by the vessel owner or operator to owner or operator of the
2 cargo terminal shall relieve the covered vessel owner from further
3 liability for the fee.

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

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

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

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

29 (7) Upon prior approval of the department, the cargo vessel owner
30 may pay the fees imposed by this section directly to the department.
31 The department shall give its approval for direct payment under this
32 subsection whenever it appears, in the department's judgment, that
33 direct payment will enhance the administration of the fee imposed under
34 this section. The department shall provide by rule for the issuance of
35 a direct payment certificate to any cargo vessel owner or operator
36 qualifying for direct payment of the fees. Good faith acceptance of a
37 direct payment certificate by a cargo terminal operator relieves the
38 terminal operator from any liability for the collection or payment of
39 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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