
HOUSE BILL 2005

State of Washington

55th Legislature

1997 Regular Session

By Representatives Cooper, Grant, Regala, Linville, Kastama, Anderson, Chopp, Blalock, Morris, Poulsen, Constantine, Reams, Dunshee, Butler, Lantz, Cooke, Dickerson, Keiser, Tokuda, Costa and Doumit

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1 AN ACT Relating to the office of marine safety; amending RCW
2 88.46.030, 88.46.060, 88.46.080, 88.46.090, 82.23B.020, and 90.56.510;
3 adding a new section to chapter 88.46 RCW; adding a new section to
4 chapter 43.21I RCW; creating new sections; repealing RCW 43.21I.020,
5 88.46.920, 88.46.921, 88.46.922, 88.46.923, 88.46.924, 88.46.925,
6 88.46.926, and 88.46.927; repealing 1995 2nd sp.s. c 14 s 521 and 1991
7 c 200 s 1120 (uncodified); repealing 1995 2nd sp.s. c 14 s 522 and 1993
8 c 281 s 73 (uncodified); repealing 1995 2nd sp.s. c 14 s 524
9 (uncodified); providing an effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that thousands of
12 northwest businesses are dependent upon clean waters and that
13 Washington's shores and coastlines are of significant value to and
14 belong to the five million citizens of this state. The legislature
15 finds that in order to protect the needs of Washington businesses and
16 citizens who are dependent upon and enjoy clean waters, the people of
17 this state deserve an agency solely dedicated to the mission of oil
18 spill prevention. Since the office of marine safety has proven itself
19 a worthy servant for the people of the state of Washington in its

1 efforts to protect state waters, the legislature seeks to reauthorize
2 the office of marine safety's existence as an independent agency.

3 **Sec. 2.** RCW 88.46.030 and 1991 c 200 s 416 are each amended to
4 read as follows:

5 (1) All tank vessels entering the navigable waters of the state
6 shall be subject to inspection to assure that they comply with all
7 applicable federal and state standards.

8 (2) The office shall periodically review the tank vessel inspection
9 programs conducted by the United States coast guard and other federal
10 agencies to determine if the programs as actually operated by those
11 agencies provide the best achievable protection to the waters of the
12 state. If the office determines that the tank vessel inspection
13 programs conducted by these agencies are not adequate to protect the
14 state's waters, it shall adopt rules for a state tank vessel inspection
15 program. (~~The office shall adopt rules providing for a random review
16 of individual tank vessel inspections conducted by federal agencies.~~)
17 The office may accept a tank vessel inspection report issued by another
18 state if that state's tank vessel inspection program is determined by
19 the office to be at least as protective of the public health and the
20 environment as the program adopted by the office.

21 (3) The state tank vessel inspection program shall ensure that all
22 tank vessels entering state waters are inspected at least annually.
23 (~~To the maximum extent feasible, the state program shall consist of
24 the monitoring of existing tank vessel inspection programs conducted by
25 the federal government.~~) The office shall consult with the coast
26 guard regarding the tank vessel inspection program. Any tank vessel
27 inspection conducted pursuant to this section shall be performed during
28 the vessel's scheduled stay in port.

29 (4) Any violation of coast guard or other federal regulations
30 uncovered during a state tank vessel inspection shall be immediately
31 reported to the appropriate agency.

32 **Sec. 3.** RCW 88.46.060 and 1995 c 148 s 3 are each amended to read
33 as follows:

34 (1) Each covered vessel shall have a contingency plan for the
35 containment and cleanup of oil spills from the covered vessel into the
36 waters of the state and for the protection of fisheries and wildlife,
37 natural resources, and public and private property from such spills.

1 The ((office)) department shall by rule adopt and periodically revise
2 standards for the preparation of contingency plans. The ((office))
3 department shall require contingency plans, at a minimum, to meet the
4 following standards:

5 (a) Include full details of the method of response to spills of
6 various sizes from any vessel which is covered by the plan;

7 (b) Be designed to be capable in terms of personnel, materials, and
8 equipment, of promptly and properly, to the maximum extent practicable,
9 as defined by the office, removing oil and minimizing any damage to the
10 environment resulting from a worst case spill;

11 (c) Provide a clear, precise, and detailed description of how the
12 plan relates to and is integrated into relevant contingency plans which
13 have been prepared by cooperatives, ports, regional entities, the
14 state, and the federal government;

15 (d) Provide procedures for early detection of spills and timely
16 notification of such spills to appropriate federal, state, and local
17 authorities under applicable state and federal law;

18 (e) State the number, training preparedness, and fitness of all
19 dedicated, prepositioned personnel assigned to direct and implement the
20 plan;

21 (f) Incorporate periodic training and drill programs to evaluate
22 whether personnel and equipment provided under the plan are in a state
23 of operational readiness at all times;

24 (g) Describe important features of the surrounding environment,
25 including fish and wildlife habitat, environmentally and
26 archaeologically sensitive areas, and public facilities. The
27 departments of ((ecology,)) fish and wildlife((,)) and natural
28 resources, the office of marine safety, and the office of archaeology
29 and historic preservation, upon request, shall provide information that
30 they have available to assist in preparing this description. If the
31 office has adopted rules for contingency plans prior to July 1, 1992,
32 the description of archaeologically sensitive areas shall only be
33 required when the ((office)) department revises the rules for
34 contingency plans after July 1, ((1992)) 1997. The description of
35 archaeologically sensitive areas shall not be required to be included
36 in a contingency plan until it is reviewed and updated pursuant to
37 subsection (9) of this section;

38 (h) State the means of protecting and mitigating effects on the
39 environment, including fish, marine mammals, and other wildlife, and

1 ensure that implementation of the plan does not pose unacceptable risks
2 to the public or the environment;

3 (i) Establish guidelines for the use of equipment by the crew of a
4 vessel to minimize vessel damage, stop or reduce any spilling from the
5 vessel, and, only when appropriate and only when vessel safety is
6 assured, contain and clean up the spilled oil;

7 (j) Provide arrangements for the repositioning of spill
8 containment and cleanup equipment and trained personnel at strategic
9 locations from which they can be deployed to the spill site to promptly
10 and properly remove the spilled oil;

11 (k) Provide arrangements for enlisting the use of qualified and
12 trained cleanup personnel to implement the plan;

13 (l) Provide for disposal of recovered spilled oil in accordance
14 with local, state, and federal laws;

15 (m) Until a spill prevention plan has been submitted pursuant to
16 RCW 88.46.040, state the measures that have been taken to reduce the
17 likelihood that a spill will occur, including but not limited to,
18 design and operation of a vessel, training of personnel, number of
19 personnel, and backup systems designed to prevent a spill;

20 (n) State the amount and type of equipment available to respond to
21 a spill, where the equipment is located, and the extent to which other
22 contingency plans rely on the same equipment; and

23 (o) If the department of ecology has adopted rules permitting the
24 use of dispersants, the circumstances, if any, and the manner for the
25 application of the dispersants in conformance with the department's
26 rules.

27 (2)(a) The owner or operator of a tank vessel of three thousand
28 gross tons or more shall submit a contingency plan to the ((office))
29 department within six months after the ((office)) department adopts
30 rules establishing standards for contingency plans under subsection (1)
31 of this section.

32 (b) Contingency plans for all other covered vessels shall be
33 submitted to the ((office)) department within eighteen months after the
34 ((office)) department has adopted rules under subsection (1) of this
35 section. The ((office)) department may adopt a schedule for submission
36 of plans within the eighteen-month period.

37 (3)(a) The owner or operator of a tank vessel or of the facilities
38 at which the vessel will be unloading its cargo, or a Washington state
39 nonprofit corporation established for the purpose of oil spill response

1 and contingency plan coverage and of which the owner or operator is a
2 member, shall submit the contingency plan for the tank vessel. Subject
3 to conditions imposed by the ((office)) department, the owner or
4 operator of a facility may submit a single contingency plan for tank
5 vessels of a particular class that will be unloading cargo at the
6 facility.

7 (b) The contingency plan for a cargo vessel or passenger vessel may
8 be submitted by the owner or operator of the cargo vessel or passenger
9 vessel, by the agent for the vessel resident in this state, or by a
10 Washington state nonprofit corporation established for the purpose of
11 oil spill response and contingency plan coverage and of which the owner
12 or operator is a member. Subject to conditions imposed by the
13 ((office)) department, the owner, operator, or agent may submit a
14 single contingency plan for cargo vessels or passenger vessels of a
15 particular class.

16 (c) A person who has contracted with a covered vessel to provide
17 containment and cleanup services and who meets the standards
18 established pursuant to RCW 90.56.240, may submit the plan for any
19 covered vessel for which the person is contractually obligated to
20 provide services. Subject to conditions imposed by the ((office))
21 department, the person may submit a single plan for more than one
22 covered vessel.

23 (4) A contingency plan prepared for an agency of the federal
24 government or another state that satisfies the requirements of this
25 section and rules adopted by the ((office)) department may be accepted
26 by the ((office)) department as a contingency plan under this section.
27 The ((office)) department shall assure that to the greatest extent
28 possible, requirements for contingency plans under this section are
29 consistent with the requirements for contingency plans under federal
30 law.

31 (5) In reviewing the contingency plans required by this section,
32 the ((office)) department shall consider at least the following
33 factors:

34 (a) The adequacy of containment and cleanup equipment, personnel,
35 communications equipment, notification procedures and call down lists,
36 response time, and logistical arrangements for coordination and
37 implementation of response efforts to remove oil spills promptly and
38 properly and to protect the environment;

1 (b) The nature and amount of vessel traffic within the area covered
2 by the plan;

3 (c) The volume and type of oil being transported within the area
4 covered by the plan;

5 (d) The existence of navigational hazards within the area covered
6 by the plan;

7 (e) The history and circumstances surrounding prior spills of oil
8 within the area covered by the plan;

9 (f) The sensitivity of fisheries and wildlife and other natural
10 resources within the area covered by the plan;

11 (g) Relevant information on previous spills contained in on-scene
12 coordinator reports prepared by the director; and

13 (h) The extent to which reasonable, cost-effective measures to
14 prevent a likelihood that a spill will occur have been incorporated
15 into the plan.

16 (6) The ((office)) department shall approve a contingency plan only
17 if it determines that the plan meets the requirements of this section
18 and that, if implemented, the plan is capable, in terms of personnel,
19 materials, and equipment, of removing oil promptly and properly and
20 minimizing any damage to the environment.

21 (7) The approval of the contingency plan shall be valid for five
22 years. Upon approval of a contingency plan, the ((office)) department
23 shall provide to the person submitting the plan a statement indicating
24 that the plan has been approved, the vessels covered by the plan, and
25 other information the ((office)) department determines should be
26 included.

27 (8) An owner or operator of a covered vessel shall notify the
28 ((office)) department in writing immediately of any significant change
29 of which it is aware affecting its contingency plan, including changes
30 in any factor set forth in this section or in rules adopted by the
31 ((office)) department. The ((office)) department may require the owner
32 or operator to update a contingency plan as a result of these changes.

33 (9) The ((office)) department by rule shall require contingency
34 plans to be reviewed, updated, if necessary, and resubmitted to the
35 ((office)) department at least once every five years.

36 (10) Approval of a contingency plan by the ((office)) department
37 does not constitute an express assurance regarding the adequacy of the
38 plan nor constitute a defense to liability imposed under this chapter
39 or other state law.

1 **Sec. 4.** RCW 88.46.080 and 1992 c 73 s 22 are each amended to read
2 as follows:

3 (1) Except as provided in subsection (2) of this section, it shall
4 be unlawful for the owner or operator to knowingly and intentionally
5 operate in this state or on the waters of this state a covered vessel
6 without an approved contingency plan or an approved prevention plan as
7 required by this chapter, or financial responsibility in compliance
8 with chapter 88.40 RCW and the federal oil pollution act of 1990. The
9 first conviction under this section shall be a gross misdemeanor under
10 chapter 9A.20 RCW. A second or subsequent conviction shall be a class
11 C felony under chapter 9A.20 RCW.

12 (2) It shall not be unlawful for the owner or operator to operate
13 a covered vessel if:

14 (a) The covered vessel is not required to have a contingency plan,
15 spill prevention plan, or financial responsibility;

16 (b) All required plans have been submitted (~~to the office~~) as
17 required by this chapter and by adopted rules (~~adopted by the~~
18 ~~office~~), and the department or the office is reviewing the plan and
19 has not denied approval; or

20 (c) The covered vessel has entered state waters after the United
21 States coast guard has determined that the vessel is in distress.

22 (3) A person may rely on a copy of the statement issued by the
23 department or the office pursuant to RCW 88.46.060 as evidence that a
24 vessel has an approved contingency plan and the statement issued
25 pursuant to RCW 88.46.040 that a vessel has an approved prevention
26 plan.

27 (4) Any person found guilty of willfully violating any of the
28 provisions of this chapter, or any final written orders or directive of
29 the administrator or a court in pursuance thereof shall be deemed
30 guilty of a gross misdemeanor, as provided in chapter 9A.20 RCW, and
31 upon conviction thereof shall be punished by a fine of up to ten
32 thousand dollars and costs of prosecution, or by imprisonment in the
33 county jail for not more than one year, or by both such fine and
34 imprisonment in the discretion of the court. Each day upon which a
35 willful violation of the provisions of this chapter occurs may be
36 deemed a separate and additional violation.

37 **Sec. 5.** RCW 88.46.090 and 1992 c 73 s 23 are each amended to read
38 as follows:

1 (1) Except as provided in subsection (4) of this section, it shall
2 be unlawful for a covered vessel to enter the waters of the state
3 without an approved contingency plan required by RCW 88.46.060, a spill
4 prevention plan required by RCW 88.46.040, or financial responsibility
5 in compliance with chapter 88.40 RCW and the federal oil pollution act
6 of 1990. The office may deny entry onto the waters of the state to any
7 covered vessel that does not have a required contingency or spill
8 prevention plan or financial responsibility.

9 (2) Except as provided in subsection (4) of this section, it shall
10 be unlawful for a covered vessel to transfer oil to or from an onshore
11 or offshore facility that does not have an approved contingency plan
12 required under RCW 90.56.210, a spill prevention plan required by RCW
13 90.56.200, or financial responsibility in compliance with chapter 88.40
14 RCW and the federal oil pollution act of 1990.

15 (3) The administrator may assess a civil penalty of up to one
16 hundred thousand dollars against the owner or operator of a vessel who
17 is in violation of subsection (1) or (2) of this section. Each day
18 that the owner or operator of a covered vessel is in violation of this
19 section shall be considered a separate violation.

20 (4) It shall not be unlawful for a covered vessel to operate on the
21 waters of the state if:

22 (a) A contingency plan, a prevention plan, or financial
23 responsibility is not required for the covered vessel;

24 (b) A contingency plan and prevention plan has been submitted (~~to~~
25 ~~the office~~) as required by this chapter and by adopted rules (~~adopted~~
26 ~~by the office~~), and the department or the office is reviewing the plan
27 and has not denied approval; or

28 (c) The covered vessel has entered state waters after the United
29 States coast guard has determined that the vessel is in distress.

30 (5) Any person may rely on a copy of the statement issued by the
31 (~~office~~) department to RCW 88.46.060 as evidence that the vessel has
32 an approved contingency plan and the statement issued by the office
33 pursuant to RCW 88.46.040 as evidence that the vessel has an approved
34 spill prevention plan.

35 (6) Except for violations of subsection (1) or (2) of this section,
36 any person who violates the provisions of this chapter or rules or
37 orders adopted or issued pursuant thereto, shall incur, in addition to
38 any other penalty as provided by law, a penalty in an amount of up to
39 ten thousand dollars a day for each violation. Each violation is a

1 separate offense, and in case of a continuing violation, every day's
2 continuance is a separate violation. Every act of commission or
3 omission which procures, aids, or abets in the violation shall be
4 considered a violation under the provisions of this subsection and
5 subject to penalty. The penalty amount shall be set in consideration
6 of the previous history of the violator and the severity of the
7 violation's impact on public health and the environment in addition to
8 other relevant factors. The penalty shall be imposed pursuant to the
9 procedures set forth in RCW 43.21B.300.

10 NEW SECTION. **Sec. 6.** It is the intent of the legislature that the
11 office of marine safety protect Washington waters from oil spills
12 resulting from the transportation of oil on state waters. The state's
13 oil spill prevention program is intended to complement and is not to
14 duplicate the federal coast guard program unnecessarily. In carrying
15 out its responsibilities, the office of marine safety shall establish
16 a cooperative and productive relationship with the shipping industry
17 and federal maritime regulators.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 88.46 RCW
19 to read as follows:

20 A regulatory advisory committee is created to review proposed rules
21 and for consultation on program initiatives. Membership shall be
22 appointed by the administrator and comprised of representatives of the
23 shipping, towing, oil, and fishing industries and representatives from
24 pilots, environmental organizations, tribes, the department, and the
25 United States coast guard.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.21I RCW
27 to read as follows:

28 The executive head and appointing authority of the office shall be
29 the administrator of marine safety. The administrator shall be
30 appointed by, and serve at the pleasure of, the governor. The
31 administrator shall be paid a salary to be fixed by the governor in
32 accordance with RCW 43.03.040.

33 **Sec. 9.** RCW 82.23B.020 and 1995 c 399 s 214 are each amended to
34 read as follows:

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

9 (2) In addition to the tax imposed in subsection (1) of this
10 section, an oil spill administration tax is imposed on the privilege of
11 receiving crude oil or petroleum products at a marine terminal within
12 this state from a waterborne vessel or barge operating on the navigable
13 waters of this state. The tax imposed in this section is levied upon
14 the owner of the crude oil or petroleum products immediately after
15 receipt of the same into the storage tanks of a marine terminal from a
16 waterborne vessel or barge at the rate of (~~three~~) four cents per
17 barrel of crude oil or petroleum product.

18 (3) The taxes imposed by this chapter shall be collected by the
19 marine terminal operator from the taxpayer. If any person charged with
20 collecting the taxes fails to bill the taxpayer for the taxes, or in
21 the alternative has not notified the taxpayer in writing of the
22 imposition of the taxes, or having collected the taxes, fails to pay
23 them to the department in the manner prescribed by this chapter,
24 whether such failure is the result of the person's own acts or the
25 result of acts or conditions beyond the person's control, he or she
26 shall, nevertheless, be personally liable to the state for the amount
27 of the taxes. Payment of the taxes by the owner to a marine terminal
28 operator shall relieve the owner from further liability for the taxes.

29 (4) Taxes collected under this chapter shall be held in trust until
30 paid to the department. Any person collecting the taxes who
31 appropriates or converts the taxes collected shall be guilty of a gross
32 misdemeanor if the money required to be collected is not available for
33 payment on the date payment is due. The taxes required by this chapter
34 to be collected shall be stated separately from other charges made by
35 the marine terminal operator in any invoice or other statement of
36 account provided to the taxpayer.

37 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
38 the person charged with collection of the taxes and the person charged
39 with collection fails to pay the taxes to the department, the

1 department may, in its discretion, proceed directly against the
2 taxpayer for collection of the taxes.

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

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

14 (8) Upon prior approval of the department, the taxpayer may pay the
15 taxes imposed by this chapter directly to the department. The
16 department shall give its approval for direct payment under this
17 section whenever it appears, in the department's judgment, that direct
18 payment will enhance the administration of the taxes imposed under this
19 chapter. The department shall provide by rule for the issuance of a
20 direct payment certificate to any taxpayer qualifying for direct
21 payment of the taxes. Good faith acceptance of a direct payment
22 certificate by a terminal operator shall relieve the marine terminal
23 operator from any liability for the collection or payment of the taxes
24 imposed under this chapter.

25 (9) All receipts from the tax imposed in subsection (1) of this
26 section shall be deposited into the state oil spill response account.
27 All receipts from the tax imposed in subsection (2) of this section
28 shall be deposited into the oil spill administration account.

29 (10) Within forty-five days after the end of each calendar quarter,
30 the office of financial management shall determine the balance of the
31 oil spill response account as of the last day of that calendar quarter.
32 Balance determinations by the office of financial management under this
33 section are final and shall not be used to challenge the validity of
34 any tax imposed under this chapter. The office of financial management
35 shall promptly notify the departments of revenue and ecology of the
36 account balance once a determination is made. For each subsequent
37 calendar quarter, the tax imposed by subsection (1) of this section
38 shall be imposed during the entire calendar quarter unless((÷

1 (a)) tax was imposed under subsection (1) of this section during
2 the immediately preceding calendar quarter, and the most recent
3 quarterly balance is more than (~~twenty-five~~) ten million dollars(~~+~~
4 or

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

8 (11) The office of marine safety, the department of revenue, and
9 the department of community, trade, and economic development shall
10 study tax credits for taxpayers employing vessels with the best
11 achievable technology and the best available protection to reduce the
12 risk of oil spills to the navigable waters of the state and submit the
13 study to the appropriate standing committees of the legislature by
14 December 1, 1992.

15 **Sec. 10.** RCW 90.56.510 and 1995 2nd sp.s. c 14 s 525 are each
16 amended to read as follows:

17 (1) The oil spill administration account is created in the state
18 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
19 the account. Moneys from the account may be spent only after
20 appropriation. The account is subject to allotment procedures under
21 chapter 43.88 RCW. On July 1 of each odd-numbered year, if receipts
22 deposited in the account from the tax imposed by RCW 82.23B.020(2) for
23 the previous fiscal biennium exceed the amount appropriated from the
24 account for the previous fiscal biennium, the state treasurer shall
25 transfer the amount of receipts exceeding the appropriation to the oil
26 spill response account. If, on the first day of any calendar month,
27 the balance of the oil spill response account is greater than (~~twenty-~~
28 ~~five~~) ten million dollars and the balance of the oil spill
29 administration account exceeds the unexpended appropriation for the
30 current biennium, then the tax under RCW 82.23B.020(2) shall be
31 suspended on the first day of the next calendar month until the
32 beginning of the following biennium, provided that the tax shall not be
33 suspended during the last six months of the biennium. If the tax
34 imposed under RCW 82.23B.020(2) is suspended during two consecutive
35 biennia, the department shall by November 1st after the end of the
36 second biennium, recommend to the appropriate standing committees an
37 adjustment in the tax rate. For the biennium ending June 30, 1997, the
38 state treasurer may transfer up to \$1,718,000 from the oil spill

1 response account to the oil spill administration account to support
2 appropriations made from the oil spill administration account in the
3 omnibus and transportation appropriations acts adopted not later than
4 June 30, 1997.

5 (2) Expenditures from the oil spill administration account shall be
6 used exclusively for the administrative costs related to the purposes
7 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting
8 with the 1995-1997 biennium, the legislature shall give activities of
9 state agencies related to prevention of oil spills priority in funding
10 from the oil spill administration account. Costs of administration
11 include the costs of:

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

13 (b) Management and staff development activities;

14 (c) Development of rules and policies and the state-wide plan
15 provided for in RCW 90.56.060;

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

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

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

21 (g) Appropriate travel, goods and services, contracts, and
22 equipment.

23 NEW SECTION. **Sec. 11.** (1) All powers, duties, and functions of
24 the office of marine safety pertaining to vessel contingency plan
25 requirements and approval are transferred to the department of ecology.

26 (2)(a) All reports, documents, surveys, books, records, files,
27 papers, or written material in the possession of the office of marine
28 safety pertaining to the powers, functions, and duties transferred
29 shall be delivered to the custody of the department of ecology. All
30 cabinets, furniture, office equipment, motor vehicles, and other
31 tangible property employed by the office of marine safety in carrying
32 out the powers, functions, and duties transferred shall be made
33 available to the department of ecology. All funds, credits, or other
34 assets held in connection with the powers, functions, and duties
35 transferred shall be assigned to the department of ecology.

36 (b) Any appropriations made to the office of marine safety for
37 carrying out the powers, functions, and duties transferred shall, on

1 the effective date of this section, be transferred and credited to the
2 department of ecology.

3 (c) Whenever any question arises as to the transfer of any
4 personnel, funds, books, documents, records, papers, files, equipment,
5 or other tangible property used or held in the exercise of the powers
6 and the performance of the duties and functions transferred, the
7 director of financial management shall make a determination as to the
8 proper allocation and certify the same to the state agencies concerned.

9 (3) All employees of the office of marine safety engaged in
10 performing the powers, functions, and duties transferred are
11 transferred to the jurisdiction of the department of ecology. All
12 employees classified under chapter 41.06 RCW, the state civil service
13 law, are assigned to the department of ecology to perform their usual
14 duties upon the same terms as formerly, without any loss of rights,
15 subject to any action that may be appropriate thereafter in accordance
16 with the laws and rules governing state civil service.

17 (4) All rules and all pending business before the office of marine
18 safety pertaining to the powers, functions, and duties transferred
19 shall be continued and acted upon by the department of ecology. All
20 existing contracts and obligations shall remain in full force and shall
21 be performed by the department of ecology.

22 (5) The transfer of the powers, duties, functions, and personnel of
23 the office of marine safety shall not affect the validity of any act
24 performed before the effective date of this section.

25 (6) If apportionments of budgeted funds are required because of the
26 transfers directed by this section, the director of financial
27 management shall certify the apportionments to the agencies affected,
28 the state auditor, and the state treasurer. Each of these shall make
29 the appropriate transfer and adjustments in funds and appropriation
30 accounts and equipment records in accordance with the certification.

31 (7) Nothing contained in this section may be construed to alter any
32 existing collective bargaining unit or the provisions of any existing
33 collective bargaining agreement until the agreement has expired or
34 until the bargaining unit has been modified by action of the personnel
35 board as provided by law.

36 NEW SECTION. **Sec. 12.** (1) The 1995 legislature enacted the
37 biennial transportation budget for the 1995-1997 biennium with
38 provisions transferring the functions of the office of marine safety to

1 the department of ecology effective January 1, 1996. Although the
2 budget bill was effective July 1, 1995, a subsequent decision by the
3 Thurston county superior court (People for Puget Sound v. Department of
4 Ecology, No. 95-2-02622-0) found the transfer provisions in violation
5 of Article II, section 19 of the state Constitution and therefore
6 invalid. The decision was not appealed.

7 (2) Section 13 of this act repeals the provisions of the 1995
8 transportation budget that were declared unconstitutional by the
9 Thurston county superior court. It also repeals the sections of
10 chapter 200, Laws of 1991 that transfer the functions of the office of
11 marine safety to the department of ecology.

12 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
13 each repealed:

- 14 (1) 1995 2nd sp.s. c 14 s 521 & 1991 c 200 s 1120 (uncodified);
- 15 (2) 1995 2nd sp.s. c 14 s 522 & 1993 c 281 s 73 (uncodified);
- 16 (3) 1995 2nd sp.s. c 14 s 524 (uncodified);
- 17 (4) RCW 43.21I.020 and 1992 c 73 s 5 & 1991 c 200 s 403;
- 18 (5) RCW 88.46.920 and 1991 c 200 s 429;
- 19 (6) RCW 88.46.921 and 1991 c 200 s 430;
- 20 (7) RCW 88.46.922 and 1995 2nd sp.s. c 14 s 518 & 1991 c 200 s 431;
- 21 (8) RCW 88.46.923 and 1991 c 200 s 432;
- 22 (9) RCW 88.46.924 and 1991 c 200 s 433;
- 23 (10) RCW 88.46.925 and 1995 2nd sp.s. c 14 s 519 & 1991 c 200 s
24 434;
- 25 (11) RCW 88.46.926 and 1991 c 200 s 435; and
- 26 (12) RCW 88.46.927 and 1993 c 281 s 67 & 1991 c 200 s 436.

27 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 1997.

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