

HOUSE BILL ANALYSIS

HB 2466

Title: An act relating to ballast water management.

Brief Description: Creating a ballast water monitoring program.

Sponsors: Representatives Regala, Ericksen, Buck, Linville, Anderson, Barlean and Mitchell.

HOUSE COMMITTEE ON NATURAL RESOURCES

Meeting Date: January 21, 2000.

Bill Analysis Prepared by: Andrea Leder, Policy Intern (786-7093); Bill Lynch, Counsel (786-7092)

Background: In 1998, the Zebra Mussel and European Green Crab Task Force presented recommendations regarding the introduction of aquatic nuisance species in Washington State. The task force focused on four ways aquatic nuisance species may be introduced. One way the task force studied is through ballast water. In its final report, the task force included recommendations addressing introduction of aquatic nuisance species through ballast water.

At the national level, a new U.S. Coast Guard interim rule relating to ballast water and aquatic nuisance species went into effect this past summer. The rule established voluntary ballast water management guidelines that apply to vessels with ballast tanks operating in all United States waters. Along with other voluntary provisions, vessels operating beyond the 200-mile-wide Exclusive Economic Zone (EEZ) are asked to use at least one of five ballast water management practices provided in the rule. These five management practices include: exchanging ballast water beyond the EEZ; retaining ballast water on board the vessel; using an alternative environmentally sound method of ballast water exchange that has been approved by the Coast Guard; discharging ballast water to an approved reception facility; and, under extraordinary conditions, conducting a ballast water exchange within an area agreed to by the captain of the port at the time of request. If the safety of the vessel, its crew, or its passengers are at risk, the rule provides for an exemption to conducting these practices.

The rule's mandatory reporting requirements apply to vessels carrying ballast water into U.S. waters after operating beyond the EEZ. Limited vessel exceptions are provided. The rule details the specific information vessels must submit and when it must be submitted. This information is then entered into the National Ballast Water Information Clearinghouse database.

Under the rule, the captain of the port may take samples of ballast water and sediment, examine documents, and "make other appropriate inquiries" to assess compliance of any vessel subject to the voluntary and mandatory requirements. If participation levels in this program are found to be inadequate, the National Invasive Species Act of 1996 requires the U.S. Secretary of Transportation to mandate the ballast water management guidelines.

To maintain nationwide consistency and avoid potential conflicts and duplication, the Coast Guard has asked any political entity looking at the ballast water issue to first consider its rule prior to taking action. However, this regulation is not intended to preempt any state, regional, or local efforts that exceed, but do not conflict, with the standards detailed in the rule.

Summary of Bill:

Ballast water management and monitoring guidelines are established for vessels entering Washington State waters. These guidelines apply to all vessels carrying ballast water into state waters except for:

- military and Coast Guard vessels;
- vessels discharging ballast water or sediments only at the location where the ballast water or sediments originated, so long as there is no mixture with ballast water or sediments from areas other than mid-ocean waters;
- vessels traversing the internal waters of Washington in the Strait of Juan de Fuca, bound for a port in Canada, and not entering or departing a U.S. port; or
- vessels on innocent passage. Innocent passage involves a foreign vessel traversing the territorial sea of the United States and not entering or departing a U.S. port, or not navigating the internal waters of the United States.

The discharge of oil or noxious liquid substances in a manner prohibited by state, federal, or international laws or regulations is not authorized. Ballast water containing oil, noxious liquid substances, or any other pollutant must be discharged in accordance with the applicable requirements.

At least one of two conditions must be met before nonexempt vessels are allowed to discharge ballast water into state waters. These conditions,

however, do not apply to vessels discharging ballast water or sediments originating solely within the waters of Washington State, the Columbia River, or the straits of Georgia or Juan de Fuca.

The first condition involves an open sea exchange of ballast water in compliance with methodologies recognized by the U.S. Coast Guard. Under this condition, ballast water must be exchanged a minimum of 50 miles offshore. An exemption is provided if, in the opinion of the vessel's master, such an exchange would threaten the safety of the vessel or its crew, or extraordinary conditions exist, such as vessel design limitations or equipment failure.

Beginning on January 1, 2002, in lieu of an open sea exchange of ballast water, a vessel may treat its ballast water in such a manner that either the Department of Fish and Wildlife or the U.S. Coast Guard certifies the ballast water is a minimal threat to introduce a non-indigenous species or pathogen into state waters. The department is directed to develop and adopt a discharge standard for vessel ballast water.

All vessels must provide the Department of Fish and Wildlife with the ballast water management information required by the U.S. Coast Guard. Vessels may rely on a recognized maritime trade organization (RMTO) to forward this information to the department.

To monitor the effectiveness of national and international efforts to prevent the introduction of invasive species, all nonexempt vessels must submit monitoring data describing any nonnative species that might be present in the vessel's ballast. Vessels may contract with an RMTO to randomly sample vessels within that organization's membership and provide aggregate data to the department. Vessels that do not belong to an RMTO must submit individual ballast tank sample data to the department for each voyage. The Department of Fish and Wildlife must develop and adopt ballast sampling and testing protocols for use by vessels or their contractors in reporting data. Guidance is given to the department on the development of these protocols.

Civil penalties are provided and may be imposed by the director of the Department of Fish and Wildlife or the director's designee. The penalties address general violations, as well as specific violations, including failure to comply with reporting requirements and knowingly falsifying a ballast water control report form. The department, in cooperation with members of the U.S. Coast Guard acting as ex officio officers, may enforce the requirements.

The exotic species control account is created in the custody of the state treasurer. All penalties and payments collected for violations must be

deposited into this account. These moneys may only be used for funding state or regional projects that improve the state's ability to prevent or control the accidental or unauthorized introduction of exotic species into state waters. Only the director of the Department of Fish and Wildlife or the director's designee may authorize expenditures from this account. The account is subject to allotment procedures, but an appropriation is not required for expenditures.

The Department of Fish and Wildlife is required to submit a report to the Legislature summarizing results of the state's ballast water management program and making recommendations to improve it. The report is due on or before November 1, 2002.

Appropriation: None.

Fiscal Note: Requested January 14, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Rulemaking Authority: Washington Department of Fish and Wildlife.