
**Natural Resources, Ecology &
Parks Committee**

HB 1415

Brief Description: Managing impacts of commercial passenger vessels on marine waters.

Sponsors: Representatives Dickerson, B. Sullivan, Dunshee, Williams, Hunt, Eickmeyer, Chase, Sells and Hasegawa.

Brief Summary of Bill

- Prohibits the release of certain wastewaters from commercial passenger vessels.
- Establishes a system for regulating the release of treated blackwater from commercial passenger vessels.
- Requires the operators of commercial passenger vessels to pay an annual operating fee to the Department of Ecology.

Hearing Date: 2/4/05

Staff: Jason Callahan (786-7117).

Background:

Water quality laws

The Department of Ecology (Ecology) is the primary state entity responsible for regulating discharges into state waters. This regulation includes a requirement that any person disposing of liquid or solid waste into state waters is required to first obtain a permit from Ecology, for which Ecology is authorized to charge an annual fee.

A violation of the state water pollution laws can be enforced both by the Attorney General, and by Ecology. The Attorney General is authorized to bring any appropriate action, including an action for injunctive relief. Ecology has the authority to levy fines of up to \$10,000 per day for each violation. In addition, criminal charges can be brought against a person found guilty of violating the state's water quality laws. Civil penalties assessed by Ecology may be appealed to the Pollution Control Hearings Board

Ecology is required to first notify a person violating the state's water quality laws in writing if the situation does not require immediate action. Once the notice is received, the violator has thirty

days to file a report with Ecology outlining the control measures that will be taken. If immediate action is deemed necessary by Ecology, then an order or directive may be issued.

Memorandum of understanding

Prior to the 2004 cruise ship season, Ecology entered into a memorandum of understanding (MOU) with the Port of Seattle and the Northwest Cruise Ship Association. The latter signatory is a private organization that counts as members various cruise ship operators. The 2004 cruise season was the first year that the MOU was in effect, and it applied to cruise ship traffic calling on Washington ports from April 21st until October 3rd. The MOU applied anytime a vessel that is operated by a member of the Northwest Cruise Ship Association is physically located in certain waterways.

The MOU establishes industry oversight in three areas: wastewater management, solid waste management, and hazardous waste management. The bulk of the document, however, deals with wastewater management. Cruise ship operators have agreed in the MOU to not discharge any *untreated* wastewater or solid waste within waters subject to the MOU. In addition, the operators are prohibited from discharging sludge, which is the term given to residual solids that result from wastewater treatment, anywhere inside Puget Sound, along the American side of the Strait of Juan de Fuca, within twelve miles of the Pacific coast, or within a specified area to be avoided along the Olympic Coast National Marine Sanctuary. Cruise ships are allowed to discharge both blackwater and graywater in Washington waters as long as it is treated by an Advanced Wastewater Treatment System (AWTS), and certain conditions are met.

Some of the conditions that must be satisfied in order to discharge wastewater treated by an AWTS apply to all discharges in Washington waters, while other conditions depend on where the ship is located in relation to its port of call. Vessels not satisfying these requirements are expected to hold all graywater and blackwater in on-board tanks until the vessel leaves the waters subject to the MOU.

The MOU does not have an established expiration or sunset date. The current MOU was in place for the 2004 cruise season, and will remain in place for future cruise seasons unless either the State of Washington or the Northwest Cruise Ship Association decide to cancel its participation, and amendments to the MOU must be agreed to by all parties. The MOU signatories have agreed to meet at least once annually to discuss potential changes and to review the effectiveness of the MOU.

Summary of Bill:

Prohibited discharges

Commercial passenger vessels, which is defined as vessels capable of providing overnight accommodations for at least fifty passengers for hire, are prohibited from releasing the following substances into the Puget Sound, the Strait of Juan de Fuca, or within three miles from Washington's ocean coastline:

- Sewage sludge
- Oily bilge water
- Solid waste
- Biomedical waste

- Hazardous waste
- *Untreated* blackwater (sewage)
- Graywater (non-sewage wastewater), including graywater mixed with blackwater

Treated blackwater state approval for release

The operator of a commercial passenger vessel may release *treated* blackwater into waters where the activity would be otherwise prohibited if the vessel has been approved for the release by Ecology. Ecology is required to approve blackwater releases from commercial passenger vessels if the vessel has paid a mandatory annual operating fee and can demonstrate that the released blackwater will receive an adequate level of treatment prior to release. Each commercial passenger vessel is required to be re-approved for blackwater releases annually.

The operators of commercial passenger vessels that are certified by the United States Coast Guard for the continuous discharge of blackwater in Alaska are presumed to treat the blackwater released from the vessel at adequate levels. If Ecology does not notify the owner of a commercial passenger vessel certified for discharge in Alaska that their approval for discharge is denied within sixty days of the vessel operator submitting documentation, then the operator may presume permission to release treated blackwater in Washington.

Treated blackwater requirements for release away from port

Commercial passenger vessels approved for blackwater releases by Ecology are required to satisfy a number of conditions. These conditions vary depending on the vessel's proximity to its port. Operators of commercial passenger vessels that are moving at least six knots and are located at least one nautical mile from port may only release treated blackwater when complying with the following requirements:

- Once monthly samples are conducted of blackwater released from the vessel, the results of which are shared with Ecology.
- A whole effluent toxicity test on the released blackwater has been conducted.
- Test results required in other jurisdictions are shared with Ecology.
- Ecology staff is allowed to witness sampling events.
- Ecology staff is permitted to conduct an annual inspection of the wastewater treatment system on the vessel.
- Ecology is notified if material changes are made of the wastewater system.

Treated blackwater requirements for release while berthed at port

When a commercial passenger vessel is at berth in port, or within one mile of its port, additional requirements must be satisfied before blackwater can be lawfully released. In addition to satisfying the requirements for release away from port, the operator of the vessel must also comply with the following:

- Twenty-four hour continuous monitoring of the turbidity of the release is conducted.
- Documentation is provided to Ecology that all releases were treated with ultraviolet light.
- Copies of all water quality tests are provided to Ecology for the six months preceding the release.

- Documentation is provided to Ecology regarding the vessel's capability to monitor releases and shut down releases if the system malfunctions.

Emergency situations

Commercial passenger vessels are permitted to release any substances, including graywater and blackwater, if the release is done to secure the safety of the vessel or to protect a life at sea.

Annual operating fee

The operator of a commercial passenger vessel is required to pay an annual operating fee prior to releasing treated blackwater. The amount of the fee is established each year by Ecology, and must represent the actual annual costs to Ecology for implementing the approval and monitoring of releases from commercial passenger vessels. Ecology is permitted to enter into agreements with public ports for the collection of the annual fees from the commercial passenger vessel operators.

Enforcement

Enforcement of the commercial passenger vessel regulations is carried out through the existing enforcement scheme for other water pollution violations, except that fines for commercial passenger vessels may be up to \$25,000 per day for each violation instead of the \$10,000 for other water quality violations.

Required reports

Ecology is required to submit annual reports from 2005 until 2010 that summarizes, in lay terms, completed analyses of all water quality data collected from commercial passenger vessels. In addition, Ecology must submit a report in 2007 that concludes if the limitations on blackwater releases by commercial passenger vessels are adequate to protect water quality.

Appropriation: None.

Fiscal Note: Requested on 1/25/05.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.