
SUBSTITUTE HOUSE BILL 1415

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Dickerson, B. Sullivan, Dunshee, Williams, Hunt, Eickmeyer, Chase, Sells and Hasegawa)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to impacts of commercial passenger vessels on the
2 marine waters of Washington; amending RCW 90.48.020; adding new
3 sections to chapter 90.48 RCW; prescribing penalties; providing an
4 effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48 RCW
7 to read as follows:

8 The legislature finds that large vessels specifically designed for
9 the housing of people upon the seas, unlike vessels designed to
10 transport cargo or petroleum that carry crew as an ancillary function
11 of cargo transport, function primarily as a temporary residential
12 facility, especially while these vessels are stationary at their port
13 of call. The primary function of these vessels is more akin to a
14 floating hotel or a houseboat than it is to a transportation vessel.

15 It is the intent of the legislature to ensure that the blackwater,
16 graywater, and other wastes eventually released by the owners and
17 operators of commercial passenger vessels satisfies the state's
18 standards for protecting the quality of its waters. It is the
19 traditional and long-standing role of the state to ensure that any

1 substances being released into its waters will not, given the unique
2 nature of the state's local waters, adversely impact either the state's
3 economic or environmental interests.

4 **Sec. 2.** RCW 90.48.020 and 2002 c 161 s 4 are each amended to read
5 as follows:

6 ~~((Whenever the word))~~ The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Person" ~~((is used in this chapter, it shall be construed to))~~
9 includes any political subdivision, government agency, municipality,
10 industry, public or private corporation, copartnership, association,
11 firm, individual, or any other entity whatsoever.

12 ~~((Wherever the words))~~ (2) "Waters of the state" ~~((shall be used in~~
13 ~~this chapter, they shall be construed to))~~ includes lakes, rivers,
14 ponds, streams, inland waters, underground waters, salt waters, and all
15 other surface waters and watercourses within the jurisdiction of the
16 state of Washington.

17 ~~((Whenever the word))~~ (3) "Pollution" ~~((is used in this chapter, it~~
18 ~~shall be construed to))~~ means such contamination, or other alteration
19 of the physical, chemical, or biological properties, of any waters of
20 the state, including change in temperature, taste, color, turbidity, or
21 odor of the waters, or such discharge of any liquid, gaseous, solid,
22 radioactive, or other substance into any waters of the state as will or
23 is likely to create a nuisance or render such waters harmful,
24 detrimental, or injurious to the public health, safety, or welfare, or
25 to domestic, commercial, industrial, agricultural, recreational, or
26 other legitimate beneficial uses, or to livestock, wild animals, birds,
27 fish, or other aquatic life.

28 ~~((Wherever the word))~~ (4) "Department" ~~((is used in this chapter it~~
29 ~~shall))~~ means the department of ecology.

30 ~~((Whenever the word))~~ (5) "Director" ~~((is used in this chapter it~~
31 ~~shall))~~ means the director of ecology.

32 ~~((Whenever the words))~~ (6) "Aquatic noxious weed" ~~((are used in~~
33 ~~this chapter, they have))~~ has the meaning ~~((prescribed under))~~ provided
34 in RCW 17.26.020.

35 ~~((Whenever the words))~~ (7) "General sewer plan" ~~((are used in this~~
36 ~~chapter they shall be construed to))~~ includes all sewerage general
37 plans, sewer general comprehensive plans, plans for a system of

1 sewerage, and other plans for sewer systems adopted by a local
2 government entity including but not limited to cities, towns, public
3 utility districts, and water-sewer districts.

4 (8) "Blackwater" means treated or untreated sewage wastewater from
5 the toilets, urinals, medical sinks, and similar facilities on
6 commercial passenger vessels.

7 (9) "Biomedical waste" has the same meaning provided in RCW
8 70.95K.010.

9 (10) "Commercial passenger vessel" means a vessel not owned by the
10 government of the United States or a foreign nation that is authorized
11 and capable of providing overnight accommodations for at least fifty
12 passengers for hire.

13 (11) "Dangerous waste" has the meaning provided in RCW 70.105.010.

14 (12) "Graywater" means treated or untreated galley, dishwater,
15 bath, and laundry wastewaters from a commercial passenger vessel.
16 Mixtures of graywater and blackwater, regardless of concentrations,
17 shall be treated under this chapter as graywater.

18 (13) "Oily bilge water" includes bilge water that contains used
19 lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,
20 used fuel and fuel filters, and oily waste.

21 (14) "Passengers for hire" means vessel passengers that are
22 required to contribute some form of consideration as a condition of
23 carriage on the vessel, whether that consideration flows directly or
24 indirectly to the owner, charterer, operator, agent, or other person
25 having an interest in the vessel.

26 (15) "Release" means any discharge, however caused, from a
27 commercial passenger vessel, and includes any escape, disposal,
28 spilling, leaking, pumping, emitting, or emptying.

29 (16) "Sewage sludge" has the meaning provided in RCW 70.95.030.

30 (17) "Solid waste" has the meaning provided in RCW 70.95.030.

31 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
32 to read as follows:

33 (1) Except as otherwise provided in this section or section 9 of
34 this act, a person may not, regardless of intent, release sewage
35 sludge, solid waste, biomedical waste, dangerous waste, untreated
36 graywater, or untreated blackwater from a commercial passenger vessel
37 into any waters of the state.

1 (2) Except as otherwise provided in this section, a person may not,
2 regardless of intent, release oily bilge water into any waters of the
3 state if not in compliance with applicable federal law.

4 (3) This section does not apply to releases made for the purpose of
5 securing the safety of a commercial passenger vessel or saving life at
6 sea if all reasonable precautions have been taken to prevent or
7 minimize the release.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48 RCW
9 to read as follows:

10 (1) Except as provided in this section or section 9 of this act, a
11 person may not release blackwater into any waters of the state from a
12 commercial passenger vessel that calls on a public port in Washington
13 unless the owner or operator of the commercial passenger vessel has
14 been approved for blackwater releases by the department for the vessel
15 in question.

16 (2)(a) The department shall approve blackwater releases from a
17 commercial passenger vessel if the owner or operator of the commercial
18 passenger vessel:

19 (i) Can demonstrate to the department's satisfaction, based on
20 effluent limits and requirements for sampling and reporting established
21 by the department, that the blackwater to be released from the vessel
22 will receive an adequate level of treatment to protect the quality of
23 the water receiving the release; and

24 (ii) Has paid the mandatory annual operating fee established in
25 section 8 of this act.

26 (b) The department shall presume that the level of treatment given
27 to blackwater releases from a vessel is adequate if the owner or
28 operator of a commercial passenger vessel satisfies the requirements of
29 section 5 of this act and provides documentation to the department
30 about the type of wastewater treatment system in use on the vessel, and
31 documentation that the wastewater treatment system on the vessel in
32 question has been certified by the United States coast guard for
33 continuous discharge of blackwater in the state of Alaska. If the
34 mandatory annual operating fee established in section 8 of this act has
35 been satisfied, the approval for blackwater release may be presumed by
36 the owner or operator of a commercial passenger vessel providing such
37 documentation if the department has not provided notification in

1 writing to the contrary or a request in writing for further
2 documentation to demonstrate coast guard approval within sixty days of
3 submitting the original documentation.

4 (3) Approvals granted by the department under this section remain
5 in effect until January 1st following the approval and may be rescinded
6 if substantial changes are made to the approved wastewater treatment
7 system or if a violation of section 5 of this act is discovered.

8 (4) This section does not apply to releases made for the purpose of
9 securing the safety of a commercial passenger vessel or saving life at
10 sea if all reasonable precautions have been taken to prevent or
11 minimize the release.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.48 RCW
13 to read as follows:

14 (1) The owner or operator of a commercial passenger vessel that is
15 operating under the presumption of adequate blackwater treatment
16 granted in section 4 of this act may only maintain the presumption of
17 adequacy if the owner or operator agrees with the department to do all
18 of the following when the vessel is at least more than one nautical
19 mile from its berth at a public port in Washington and is traveling at
20 least six knots or more:

21 (a) Sample the quality of the treated blackwater released from the
22 commercial passenger vessel while at berth at a Washington public port
23 at least once during each month that the commercial passenger vessel
24 calls on a public port in Washington. The sample must be analyzed by
25 a department-approved laboratory for all parameters required to be
26 tested in order to obtain the necessary United States coast guard
27 certification referenced by section 4 of this act for continuous
28 discharge of blackwater in the state of Alaska, and must include, at a
29 minimum, the following five parameters: pH, biochemical oxygen demand,
30 fecal coliform, total suspended solids, and residual chlorine;

31 (b) Share all effluent samples with the department, when requested
32 in writing, for all samples taken in waters of the state;

33 (c) Conduct a whole effluent toxicity test, or WET test, at least
34 once every two years unless the department provides notification in
35 writing that such testing is unnecessary;

36 (d) Provide the department, when requested in writing, with

1 duplicate results of tests performed on the commercial passenger
2 vessel's wastewater treatment system in other jurisdictions;

3 (e) Notify the department at least one week before sampling in
4 waters of the state is to occur, and allow department staff to observe
5 the sampling events when requested;

6 (f) Immediately report to the department any unauthorized
7 discharges;

8 (g) Allow the department to conduct a minimum of one inspection of
9 the commercial passenger vessel, if requested in writing, to verify the
10 operating conditions of the wastewater treatment system; and

11 (h) Notify the department if material changes are made to the
12 wastewater treatment system approved under section 4 of this act.

13 (2) The owner or operator of a commercial passenger vessel that is
14 operating under the presumption of adequate blackwater treatment
15 granted in section 4 of this act may only maintain the presumption of
16 adequacy if the owner or operator agrees with the department to do all
17 of the following when the vessel is at or within one nautical mile of
18 its berth at a public port in Washington:

19 (a) Comply with the requirements set forth in subsection (1)(a)
20 through (h) of this section;

21 (b) Provide twenty-four hour continuous monitoring of the turbidity
22 of any released blackwater, or an equivalent to turbidity monitoring
23 agreed to by the department that judges the effluent released by the
24 wastewater treatment system of a commercial passenger vessel;

25 (c) Provide documentation to the department that all treated
26 blackwater will receive adequate disinfection immediately before
27 discharge;

28 (d) Provide copies of any water quality tests taken from the
29 effluent of the commercial passenger vessel during the six months
30 preceding the approved release; and

31 (e) Provide documentation of the commercial passenger vessel's
32 wastewater treatment system design that demonstrates:

33 (i) That the system can be either automatically shut down or that
34 there are operational procedures in place to ensure an immediate shut
35 down of the system if effluent monitoring reveals that the wastewater
36 treatment system is malfunctioning;

37 (ii) A plan has been adopted that describes protocols for notifying

1 the department if the wastewater treatment system malfunctions or is
2 shut down while in the waters of the state; and

3 (iii) How blackwater will be stored, including the capacity of any
4 holding tanks to be used, until the wastewater treatment system is
5 repaired and operating.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.48 RCW
7 to read as follows:

8 (1) Except as provided in this section or section 9 of this act, a
9 person may not release graywater into any waters of the state from a
10 commercial passenger vessel that calls on a public port in Washington
11 unless the owner or operator of the commercial passenger vessel has
12 been approved for graywater releases by the department for the vessel
13 in question.

14 (2)(a) The department shall approve graywater releases from a
15 commercial passenger vessel if the owner or operator of the commercial
16 passenger vessel:

17 (i) Can demonstrate to the department's satisfaction, based on
18 effluent limits and requirements for sampling and reporting established
19 by the department, that the graywater to be released from the vessel
20 will receive an adequate level of treatment to protect the quality of
21 the water receiving the release; and

22 (ii) Has paid the mandatory annual operating fee established in
23 section 8 of this act.

24 (b) The department shall presume that the level of treatment given
25 to graywater releases from a vessel is adequate if the owner or
26 operator of a commercial passenger vessel satisfies the requirements of
27 section 7 of this act and provides documentation to the department
28 about the type of wastewater treatment system in use on the vessel, and
29 documentation that the wastewater treatment system on the vessel in
30 question has been certified by the United States coast guard for
31 continuous discharge of graywater in the state of Alaska. If the
32 mandatory annual operating fee established in section 8 of this act has
33 been satisfied, the approval for graywater release may be presumed by
34 the owner or operator of a commercial passenger vessel providing such
35 documentation if the department has not provided notification in
36 writing to the contrary or a request in writing for further

1 documentation to demonstrate coast guard approval within sixty days of
2 submitting the original documentation.

3 (3) Approvals granted by the department under this section remain
4 in effect until January 1st following the approval and may be rescinded
5 if substantial changes are made to the approved wastewater treatment
6 system or if a violation of section 7 of this act is discovered.

7 (4) This section does not apply to releases made for the purpose of
8 securing the safety of a commercial passenger vessel or saving life at
9 sea if all reasonable precautions have been taken to prevent or
10 minimize the release.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.48 RCW
12 to read as follows:

13 (1) The owner or operator of a commercial passenger vessel that is
14 operating under the presumption of adequate graywater treatment granted
15 in section 6 of this act may only maintain the presumption of adequacy
16 if the owner or operator agrees with the department to do all of the
17 following when the vessel is at least more than one nautical mile from
18 its berth at a public port in Washington and is traveling at least six
19 knots or more:

20 (a) Sample the quality of the treated graywater released from the
21 commercial passenger vessel while at berth at a Washington public port
22 at least once during each month that the commercial passenger vessel
23 calls on a public port in Washington. The sample must be analyzed by
24 a department-approved laboratory for all parameters required to be
25 tested in order to obtain the necessary United States coast guard
26 certification referenced by section 6 of this act for continuous
27 discharge of graywater in the state of Alaska, and must include, at a
28 minimum, the following five parameters: pH, biochemical oxygen demand,
29 fecal coliform, total suspended solids, and residual chlorine;

30 (b) Share all effluent samples with the department, when requested
31 in writing, for all samples taken in waters of the state;

32 (c) Conduct a whole effluent toxicity test, or WET test, at least
33 once every two years unless the department provides notification in
34 writing that such testing is unnecessary;

35 (d) Provide the department, when requested in writing, with
36 duplicate results of tests performed on the commercial passenger
37 vessel's wastewater treatment system in other jurisdictions;

1 (e) Notify the department at least one week before sampling in
2 waters of the state is to occur, and allow department staff to observe
3 the sampling events when requested;

4 (f) Immediately report to the department any unauthorized
5 discharges;

6 (g) Allow the department to conduct a minimum of one inspection of
7 the commercial passenger vessel, if requested in writing, to verify the
8 operating conditions of the wastewater treatment system; and

9 (h) Notify the department if material changes are made to the
10 wastewater treatment system approved under section 6 of this act.

11 (2) The owner or operator of a commercial passenger vessel that is
12 operating under the presumption of adequate graywater treatment granted
13 in section 6 of this act may only maintain the presumption of adequacy
14 if the owner or operator agrees with the department to do all of the
15 following when the vessel is at or within one nautical mile of its
16 berth at a public port in Washington:

17 (a) Comply with the requirements set forth in subsection (1)(a)
18 through (h) of this section;

19 (b) Provide twenty-four hour continuous monitoring of the turbidity
20 of any released graywater, or an equivalent to turbidity monitoring
21 agreed to by the department that judges the effluent released by the
22 wastewater treatment system of a commercial passenger vessel;

23 (c) Provide documentation to the department that all treated
24 graywater will receive adequate disinfection immediately before
25 discharge;

26 (d) Provide copies of any water quality tests taken from the
27 effluent of the commercial passenger vessel during the six months
28 preceding the approved release; and

29 (e) Provide documentation of the commercial passenger vessel's
30 wastewater treatment system design that demonstrates:

31 (i) That the system can be either automatically shut down or that
32 there are operational procedures in place to ensure an immediate shut
33 down of the system if effluent monitoring reveals that the wastewater
34 treatment system is malfunctioning;

35 (ii) A plan has been adopted that describes protocols for notifying
36 the department if the wastewater treatment system malfunctions or is
37 shut down while in the waters of the state; and

1 (iii) How graywater will be stored, including the capacity of any
2 holding tanks to be used, until the wastewater treatment system is
3 repaired and operating.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.48 RCW
5 to read as follows:

6 (1) Before releasing treated blackwater under section 4 of this act
7 or treated graywater under section 6 of this act, the owner or operator
8 of a commercial passenger vessel must remit to the department an annual
9 operating fee in an amount set by the department.

10 (2) The department shall set the per-vessel annual operating fee so
11 that the total estimated receipts equal the estimated annual costs in
12 implementing sections 3 through 7 of this act. If actual revenues do
13 not match actual costs, the underestimate or overestimate shall be
14 reflected in the fee level set for the subsequent year. The actual fee
15 charged to an individual commercial passenger vessel shall be based on
16 the number of passengers for hire that can be provided with overnight
17 accommodation on the vessel.

18 (3) The department may enter into agreements to collect the annual
19 operations fee from the owner or operators of the commercial passenger
20 vessels calling on a port.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.48 RCW
22 to read as follows:

23 (1) Upon the written application from the owner or operator of a
24 commercial passenger vessel, the director of the department has the
25 discretionary authority to, on a vessel-by-vessel basis, exempt
26 specific commercial passenger vessels from all of or a part of the
27 requirements of sections 3, 4, and 6 of this act if the owner or
28 operator of the commercial passenger vessel can document to the
29 director that the technology is not available to satisfy the
30 requirements of sections 3, 4, and 6 of this act based on the
31 specifications of the vessel owned or operated by the applicant.

32 (2) The owner or operator applying to the director for the
33 exemption allowed in this section has the responsibility to provide the
34 director with the necessary information about his or her specific
35 vessel.

1 (3) Any exemptions granted by the director under this section must
2 be revisited no later than five years after the granting of the
3 exemption so that the director can review the granted exemption in
4 light of new maritime wastewater technologies.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.48 RCW
6 to read as follows:

7 (1) By November 30, 2007, the department shall submit to the
8 appropriate committees of the legislature a report describing how the
9 management and releases of treated blackwater and graywater from
10 commercial passenger vessels under this chapter are or are not adequate
11 for protecting water quality and public health. At a minimum, the
12 report must make findings as to whether commercial passenger vessels
13 are releasing treated blackwater and graywater in the same locations,
14 and if so, whether the cumulative effects of these releases degrade the
15 water quality in those areas. The report must also address the
16 dilution and dispersion of viruses in the treated blackwater and the
17 impact on shellfish for human consumption.

18 (2) For each year from 2005 until 2010, the department shall
19 analyze all water quality data received from commercial passenger
20 vessels and make available to the public, using the agency's web site,
21 by December 31st of each year a report that summarizes all data
22 collected in lay terms.

23 NEW SECTION. **Sec. 11.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 12.** Section 10 of this act expires January 1,
28 2011.

29 NEW SECTION. **Sec. 13.** This act takes effect January 1, 2006.

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