
SECOND SUBSTITUTE HOUSE BILL 1415

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, B. Sullivan, Dunshee, Williams, Hunt, Eickmeyer, Chase, Sells and Hasegawa)

READ FIRST TIME 03/08/05.

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 (1) The legislature finds that large vessels specifically designed
9 for 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 (2) It is the intent of the legislature to ensure that the
16 blackwater, graywater, and other wastes eventually released by the
17 owners and operators of commercial passenger vessels satisfies the
18 state's 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 (3) It is the intent of the legislature for the department to fund
5 the implementation of the commercial passenger vessel program created
6 in sections 2 through 11 of this act exclusively through appropriations
7 provided from the commercial passenger vessel enforcement account
8 created in section 9 of this act.

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

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

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

17 ~~((Wherever the words))~~ (2) "Waters of the state" ~~((shall be used in~~
18 ~~this chapter, they shall be construed to))~~ includes lakes, rivers,
19 ponds, streams, inland waters, underground waters, salt waters, and all
20 other surface waters and watercourses within the jurisdiction of the
21 state of Washington.

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

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

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

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

4 ~~((Whenever the words))~~ (7) "General sewer plan" ~~((are used in this~~
5 ~~chapter they shall be construed to))~~ includes all sewerage general
6 plans, sewer general comprehensive plans, plans for a system of
7 sewerage, and other plans for sewer systems adopted by a local
8 government entity including but not limited to cities, towns, public
9 utility districts, and water-sewer districts.

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

13 (9) "Biomedical waste" has the same meaning provided in RCW
14 70.95K.010.

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

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

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

24 (13) "Oily bilge water" includes bilge water that contains used
25 lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,
26 used fuel and fuel filters, and oily waste.

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

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

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

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

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 (1) Except as otherwise provided in this section or section 10 of
4 this act, a person may not, regardless of intent, release sewage
5 sludge, solid waste, biomedical waste, dangerous waste, untreated
6 graywater, or untreated blackwater from a commercial passenger vessel
7 into any waters of the state.

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

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

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

17 (1) Except as provided in this section or section 10 of this act,
18 a person may not release blackwater into any waters of the state from
19 a commercial passenger vessel that calls on a public port in Washington
20 unless the owner or operator of the commercial passenger vessel has
21 been approved for blackwater releases by the department for the vessel
22 in question.

23 (2)(a) The department shall approve blackwater releases from a
24 commercial passenger vessel if the owner or operator of the commercial
25 passenger vessel:

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

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

33 (b) The department shall presume that the level of treatment given
34 to blackwater releases from a vessel is adequate if the owner or
35 operator of a commercial passenger vessel satisfies the requirements of
36 section 5 of this act and provides documentation to the department
37 about the type of wastewater treatment system in use on the vessel, and

1 documentation that the wastewater treatment system on the vessel in
2 question has been certified by the United States coast guard for
3 continuous discharge of blackwater in the state of Alaska. If the
4 mandatory annual operating fee established in section 8 of this act has
5 been satisfied, the approval for blackwater release may be presumed by
6 the owner or operator of a commercial passenger vessel providing such
7 documentation if the department has not provided notification in
8 writing to the contrary or a request in writing for further
9 documentation to demonstrate coast guard approval within sixty days of
10 submitting the original documentation.

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

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

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

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

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

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

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

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

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

12 (f) Immediately report to the department any unauthorized
13 discharges;

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

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

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

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

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

31 (c) Provide documentation to the department that all treated
32 blackwater will receive adequate disinfection immediately before
33 discharge;

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

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

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

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

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

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

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

19 (2)(a) The department shall approve graywater releases from a
20 commercial passenger vessel if the owner or operator of the commercial
21 passenger vessel:

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

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

29 (b) The department shall presume that the level of treatment given
30 to graywater releases from a vessel is adequate if the owner or
31 operator of a commercial passenger vessel satisfies the requirements of
32 section 7 of this act and provides documentation to the department
33 about the type of wastewater treatment system in use on the vessel, and
34 documentation that the wastewater treatment system on the vessel in
35 question has been certified by the United States coast guard for
36 continuous discharge of graywater in the state of Alaska. If the
37 mandatory annual operating fee established in section 8 of this act has

1 been satisfied, the approval for graywater release may be presumed by
2 the owner or operator of a commercial passenger vessel providing such
3 documentation if the department has not provided notification in
4 writing to the contrary or a request in writing for further
5 documentation to demonstrate coast guard approval within sixty days of
6 submitting the original documentation.

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

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

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

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

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

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

36 (c) Conduct a whole effluent toxicity test, or WET test, at least

1 once every two years unless the department provides notification in
2 writing that such testing is unnecessary;

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

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

9 (f) Immediately report to the department any unauthorized
10 discharges;

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

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

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

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

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

28 (c) Provide documentation to the department that all treated
29 graywater will receive adequate disinfection immediately before
30 discharge;

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

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

36 (i) That the system can be either automatically shut down or that
37 there are operational procedures in place to ensure an immediate shut

1 down of the system if effluent monitoring reveals that the wastewater
2 treatment system is malfunctioning;

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

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

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

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

15 (2)(a) The department shall establish the fee schedule necessary to
16 implement this section so that the total estimated receipts equal the
17 estimated annual costs in implementing sections 3 through 11 of this
18 act.

19 (b) The actual fee charged to an individual commercial passenger
20 vessel under this section shall be based on the number of passengers
21 for hire that can be provided with overnight accommodation on the
22 vessel; however, in no event may the annual fee for a commercial
23 passenger vessel under this section exceed four thousand dollars per
24 vessel per year.

25 (3) Fees collected under this section must be deposited into the
26 commercial passenger vessel enforcement account created in section 9 of
27 this act.

28 (4) The department may enter into agreements to collect the annual
29 operations fee from the owner or operators of the commercial passenger
30 vessels calling on a port.

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

33 The commercial passenger vessel enforcement account is created in
34 the state treasury. All receipts from annual operating fees paid by
35 the owner or operator of a commercial passenger vessel must be

1 deposited into the account. Moneys in the account may only be used for
2 administering and enforcing the provisions of sections 3 through 11 of
3 this act.

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

6 (1) Upon the written application from the owner or operator of a
7 commercial passenger vessel that provides overnight accommodations for
8 less than two hundred fifty passengers for hire, the director of the
9 department shall exempt specific commercial passenger vessels from the
10 requirements of sections 3, 4, and 6 of this act.

11 (2) The owner or operator applying to the director for the
12 exemption allowed in this section has the responsibility to provide the
13 director with the necessary information about his or her specific
14 vessel; however, to streamline the application process for owners and
15 operators, trade associations may submit to the department lists of
16 individual vessels that qualify for an exemption under this section.

17 (3) This exemption in this section expires on December 31, 2009.
18 The director in 2008 shall investigate the state of technologies
19 available to small commercial passenger vessels with the small cruise
20 ship industry and report back to the legislature on January 12, 2009,
21 on whether the exemption should be extended or modified.

22 (4) Vessels that qualify for an exemption under this section are
23 not required to pay the annual operating fee under section 8 of this
24 act.

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

27 (1) By November 30, 2007, the department shall submit to the
28 appropriate committees of the legislature a report describing how the
29 management and releases of treated blackwater and graywater from
30 commercial passenger vessels under this chapter are or are not adequate
31 for protecting water quality and public health. At a minimum, the
32 report must make findings as to whether commercial passenger vessels
33 are releasing treated blackwater and graywater in the same locations,
34 and if so, whether the cumulative effects of these releases degrade the
35 water quality in those areas. The report must also address the

1 dilution and dispersion of viruses in the treated blackwater and the
2 impact on shellfish for human consumption.

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

8 NEW SECTION. **Sec. 12.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 13.** Section 11 of this act expires January 1,
13 2011.

14 NEW SECTION. **Sec. 14.** This act takes effect January 1, 2006.

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