
HOUSE BILL 1415

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59th Legislature

2005 Regular Session

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

Read first time 01/24/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to impacts of commercial passenger vessels on the
2 marine waters of Washington; amending RCW 90.48.020 and 90.48.144;
3 adding new sections to chapter 90.48 RCW; prescribing penalties; and
4 providing an expiration date.

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

6 **Sec. 1.** RCW 90.48.020 and 2002 c 161 s 4 are each amended to read
7 as follows:

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

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

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

1 (~~Whenever the word~~) (3) "Pollution" (~~(is used in this chapter, it~~
2 ~~shall be construed to)~~) means such contamination, or other alteration
3 of the physical, chemical, or biological properties, of any waters of
4 the state, including change in temperature, taste, color, turbidity, or
5 odor of the waters, or such discharge of any liquid, gaseous, solid,
6 radioactive, or other substance into any waters of the state as will or
7 is likely to create a nuisance or render such waters harmful,
8 detrimental, or injurious to the public health, safety, or welfare, or
9 to domestic, commercial, industrial, agricultural, recreational, or
10 other legitimate beneficial uses, or to livestock, wild animals, birds,
11 fish, or other aquatic life.

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

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

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

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

25 (8) "Blackwater" means treated or untreated sewage wastewater from
26 the toilets, urinals, and similar facilities on commercial passenger
27 vessels.

28 (9) "Biomedical waste" has the same meaning provided in RCW
29 70.95K.010.

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

34 (11) "Graywater" means galley, dishwater, bath, laundry, and other
35 nonsewage wastewaters from a commercial passenger vessel that are
36 treated or untreated. The term includes graywater that is stored in or
37 transferred to a ballast tank or other holding area on the vessel that

1 may not be customarily used for storing graywater. Mixtures of
2 graywater and blackwater, regardless of concentrations, shall be
3 treated under this chapter as graywater.

4 (12) "Hazardous waste" has the same meaning given to both the terms
5 "hazardous substances" and "hazardous waste" in RCW 70.105.010.

6 (13) "Oily bilge water" includes bilge water that contains used
7 lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,
8 used fuel and fuel filters, and oily waste.

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

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

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

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

19 (18) "Vessel-accessible waters" means the entirety of the Puget
20 Sound, the Strait of Juan de Fuca from the Washington coast to the
21 Canadian border, coastal waters out to three miles from the Washington
22 coast, and all fresh water bodies within which a commercial passenger
23 vessel can navigate.

24 NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW
25 to read as follows:

26 (1) Except as otherwise provided in this section, a person may not,
27 regardless of intent, release sewage sludge, oily bilge water, solid
28 waste, biomedical waste, hazardous waste, graywater, or untreated
29 blackwater from a commercial passenger vessel into any vessel-
30 accessible waters.

31 (2) This section does not apply to releases made for the purpose of
32 securing the safety of a commercial passenger vessel or saving life at
33 sea if all reasonable precautions have been taken to prevent or
34 minimize the release.

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

1 (1) Except as provided in this section, a person may not release
2 blackwater into any vessel-accessible waters from a commercial
3 passenger vessel that calls on a public port in Washington unless the
4 owner or operator of the commercial passenger vessel has been approved
5 for blackwater releases by the department for the vessel in question
6 and satisfies the requirements of section 4 of this act.

7 (2)(a) The department shall approve blackwater releases from a
8 commercial passenger vessel if the owner or operator of the commercial
9 passenger vessel:

10 (i) Can demonstrate to the department's satisfaction that the
11 blackwater to be released from the vessel will receive an adequate
12 level of treatment to protect the quality of the water receiving the
13 release; and

14 (ii) Has paid the mandatory annual operating fee established in
15 section 6 of this act.

16 (b) The department shall presume that the level of treatment given
17 to blackwater releases from a vessel is adequate if the owner or
18 operator of a large commercial vessel provides documentation to the
19 department that the wastewater treatment system on the vessel in
20 question has been certified by the United States coast guard for
21 continuous discharge of blackwater in the state of Alaska. If the
22 mandatory annual operating fee established in section 6 of this act has
23 been satisfied, the approval for blackwater release may be presumed by
24 the owner or operator of a commercial passenger vessel providing such
25 documentation if the department has not provided notification to the
26 contrary or a request for further documentation within sixty days of
27 submitting the original documentation.

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

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

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

3 (1) A person may release treated blackwater from a commercial
4 passenger vessel that has been approved for releases under section 3 of
5 this act and is at least more than one nautical mile from its berth at
6 a public port in Washington and is traveling at least six knots if the
7 owner or operator of the commercial passenger vessel agrees with the
8 department to do all of the following:

9 (a) Sample the quality of the treated blackwater released from the
10 commercial passenger vessel while at berth at a Washington public port
11 at least once during each month that the commercial passenger vessel
12 calls on a public port in Washington. The sample must be analyzed by
13 a department-approved laboratory for, at a minimum, the following five
14 parameters: pH, biochemical oxygen demand, fecal coliform, total
15 suspended solids, and residual chlorine;

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

18 (c) Conduct a whole effluent toxicity test, or WET test, unless the
19 department notifies that such testing is unnecessary;

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

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

26 (f) Allow the department to conduct a minimum of one inspection of
27 the commercial passenger vessel, if requested, to verify the operating
28 conditions of the wastewater treatment system; and

29 (g) Notify the department if material changes are made to the
30 wastewater treatment system approved under section 3 of this act.

31 (2) A person may release treated blackwater from a commercial
32 passenger vessel that has been approved for releases under section 3 of
33 this act if the vessel is at or within one nautical mile of its berth
34 at a public port in Washington if the owner or operator of the
35 commercial passenger vessel agrees with the department to do all of the
36 following:

37 (a) Comply with the requirements set forth in subsection (1)(a)
38 through (f) of this section;

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

5 (c) Provide documentation to the department that all treated
6 blackwater will receive a final treatment with ultraviolet light
7 immediately before discharge;

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

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

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

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

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

23 **Sec. 5.** RCW 90.48.144 and 1995 c 403 s 636 are each amended to
24 read as follows:

25 Except as provided in RCW 43.05.060 through 43.05.080 and
26 43.05.150, every person who:

27 (1) Violates the terms or conditions of a waste discharge permit
28 issued pursuant to RCW 90.48.180 or 90.48.260 through 90.48.262, or

29 (2) Conducts a commercial or industrial operation or other point
30 source discharge operation without a waste discharge permit as required
31 by RCW 90.48.160 or 90.48.260 through 90.48.262, or

32 (3) Violates the provisions of RCW 90.48.080, or other sections of
33 this chapter or chapter 90.56 RCW or rules or orders adopted or issued
34 pursuant to either of those chapters, shall incur, in addition to any
35 other penalty as provided by law, a penalty in an amount of up to ten
36 thousand dollars a day for every such violation, except that violations
37 of section 2 or 3 of this act may be penalized in an amount up to

1 twenty-five thousand dollars for each violation. Each and every such
2 violation shall be a separate and distinct offense, and in case of a
3 continuing violation, every day's continuance shall be and be deemed to
4 be a separate and distinct violation. Every act of commission or
5 omission which procures, aids or abets in the violation shall be
6 considered a violation under the provisions of this section and subject
7 to the penalty herein provided for. The penalty amount shall be set in
8 consideration of the previous history of the violator and the severity
9 of the violation's impact on public health and/or the environment in
10 addition to other relevant factors. The penalty herein provided for
11 shall be imposed pursuant to the procedures set forth in RCW
12 43.21B.300.

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

15 (1) Before releasing treated blackwater under section 4 of this
16 act, the owner or operator of a commercial passenger vessel must remit
17 to the department an annual operating fee in an amount set by the
18 department.

19 (2) The department shall set the per-vessel annual operating fee so
20 that the total estimated receipts equal the estimated annual costs in
21 implementing sections 2, 3, and 4 of this act. If actual revenues do
22 not match actual costs, the underestimate or overestimate may be
23 reflected in the fee level set for the subsequent year.

24 (3) The department may enter into agreements with a public port to
25 collect the annual operations fee from the owner or operators of the
26 commercial passenger vessels calling on that port.

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

29 (1) By November 30, 2007, the department shall submit to the
30 appropriate committees of the legislature a report that concludes if
31 the limitations on the release of treated blackwater from commercial
32 passenger vessels under this chapter are adequate for protecting water
33 quality. At a minimum, the report must make findings as to whether
34 commercial passenger vessels are releasing treated blackwater in the
35 same locations, and if so, whether the cumulative effects of these
36 releases degrade the water quality in those areas.

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

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

9 NEW SECTION. **Sec. 9.** Section 7 of this act expires January 1,
10 2011.

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