

HOUSE BILL REPORT

HB 1738

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to ballast water management.

Brief Description: Regarding ballast water management.

Sponsors: Representatives B. Sullivan and Chase.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/29/07, 2/26/07 [DPS].

Brief Summary of Substitute Bill

- Provides exemptions for discharge of untreated or unexchanged ballast water in Washington waters.
- Creates new tasks for the Ballast Water Work Group, and invites the Department of Ecology and a representative of the cruise ship industry to be members on the Ballast Water Work Group.
- Creates a ballast water management account for the collection of appropriations, gifts, grants, donations, penalties, and mitigation fees to be used to support the ballast water management program and support research and monitoring.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Dickerson, Eickmeyer, Grant, Kagi, Lantz, McCoy, Strow and VanDeWege.

Minority Report: Do not pass. Signed by 5 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Hailey, Newhouse and Orcutt.

Staff: Jaclyn Ford (786-7339).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

All vessels involved in coastal traffic are required to exchange their ballast water at least 50 nautical miles offshore.

Vessels are allowed to discharge non-exchanged ballast water in three circumstances: (1) when it is not safe to perform open ocean exchange, or when design limitations of the vessel or equipment malfunctions prevent exchange; (2) when ships' ballast water originated in Washington and has not been mixed with water or sediments from outside designated areas; and (3) when an approved ballast water treatment system is utilized.

On July 1, 2007, the discharge of improperly exchanged or treated ballast water into Washington waters is prohibited. The safety and design exemption for exchange will no longer be valid unless the ballast water was first treated.

A vessel that discharges improperly exchanged or treated ballast water without a valid exemption may result in a fine of up to \$5,000.

All vessels of 300 gross tons or more, except military vessels, must file a ballast water reporting form. Vessel operators that fail to comply with the reporting requirements may be subject to a \$500 fine. Falsifying a ballast report may result in both a civil and criminal penalty.

Summary of Substitute Bill:

A vessel is defined as a floating craft of 300 gross tons or more capable of carrying ballast water into the coastal waters of the state. This definition is consistent with the United States Coast Guard and California definitions.

In order to qualify for an exemption, vessels must meet certain requirements for transiting through Washington waters. Otherwise, an exemption exists only when a vessel does not intend to stop at any Washington ports. A safety exemption is also valid when weather conditions make ballast water exchange or treatment unsafe for the vessel, passengers, or crew. However, the Washington Department of Fish and Wildlife (WDFW) may assess a fee for unexchanged or untreated ballast water when the safety exemption is claimed. The WDFW will issue rules for exemption conditions, requirements, compliance plans, and alternative ballast water management strategies. The WDFW will also consult with the Ballast Water Work Group (BWWG) or a similar collaborative forum when developing rules.

The BWWG has several responsibilities, including working with Oregon to develop a consistent ballast water management program for the Columbia River, and providing assistance to the WDFW in the implementation and research of the ballast water management program. Two new tasks are added to the BWWG: inventory of invasive species around marine facilities, and an evaluation of other ship vectors of invasive species to form a baseline of information on existing known marine invasive species. The Department of Ecology and one representative of the cruise ship industry will also be invited to work on the BWWG.

If a vessel discharges untreated or exchanged ballast water into state waters, regardless of circumstances, there may be a penalty imposed. The penalty is \$27,500 per day of continuing violation. The WDFW will establish a schedule for any penalty or fee allowed under this act. Schedules must be based on criteria established in WDFW rules.

A Ballast Water Management Account (Account) is created for the collection of appropriations, gifts, grants, donations, penalties, and mitigation fees. Funds deposited into the Account must be appropriated by the Legislature prior to expenditure. Expenditures may only be used to support the ballast water management program established by the WDFW and BWWG, or support the research and monitoring required from the ballast water management program. Penalties deposited into the Account may only be used, in consultation with the BWWG, to support research and provide education and outreach related to the ballast water management program.

Substitute Bill Compared to Original Bill:

This bill eliminates the sections proposing data collection and studies. This bill also exempts the exchange of ballast water for safety reasons, although it still attaches a possible penalty for the discharge. The cruise ship industry and the Department of Ecology are represented on the Ballast Water Work Group in this bill. The definition of a vessel also changed in this bill to include only those floating crafts 300 gross tons or more that are capable of carrying ballast water into coastal waters of the state.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 26, 2007.

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

Staff Summary of Public Testimony:

(In support) Invasive species are a serious issue in the Puget Sound. Discharge of untreated ballast water in Washington waters is declining. Ballast water is another form of water pollution. Effective treatment systems should be required in all vessels.

(With concerns) The safety exemption still needs to be included in this bill because ships need to be able to exchange ballast in Washington waters when they cannot exchange their ballast safely out in the open ocean. Stakeholders will continue to work to make House Bill 1738 better.

(Opposed) None.

Persons Testifying: (In support) Representative B. Sullivan, prime sponsor; Gerald Joyce, Seattle Audubon; Morris Barker, Department of Fish and Wildlife; Ron Schultz, Puget Sound Action Team; Steve Robinson, Northwest Indian Fisheries Commission; and Melodie Selby, Department of Ecology.

(With concerns) Joe Daniels, Holland America Line; Bruce Wishert, People for Puget Sound; Randy Ray, Pacific Merchant Shipping Association; Eric D. Johnson, Washington Public Ports Association; and Rick Wickman, Columbia River Steamship Operators.

Persons Signed In To Testify But Not Testifying: None.