

# SENATE BILL REPORT

## SB 5748

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, February 28, 2007

**Title:** An act relating to ballast water management.

**Brief Description:** Regarding ballast water management.

**Sponsors:** Senator Jacobsen.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/14/07, 2/28/07 [DPS-WM].  
Ways & Means:

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 5748 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

**Staff:** Kim Johnson (786-7346)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Kirstan Arestad (786-7708)

**Background:** In 2002, the Legislature required the Department of Fish and Wildlife to establish a Ballast Water Work Group (work group). The work group was directed to study ballast water technology, including exchange and treatment methods and the associated costs, services needed by the industry and the state to protect the marine environment, and funding methods for implementing the ballast water program. The work group was required to submit a report to the Legislature by December 15, 2006, and is scheduled to expire in June of 2007.

Under current law, 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 under 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 a ship's 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.

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*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.*

Beginning July 1, 2007, the discharge of improperly exchanged or treated ballast water into Washington waters is prohibited. A vessel that discharges improperly exchanged or treated ballast water without a valid exemption may result in a fine of up to \$5,000.

Currently, 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 per violation. Falsifying a ballast report may result in both a civil and criminal penalty.

**Summary of Bill:** The Ballast Water Work Group expiration date is repealed.

The duties of the Ballast Water Work Group (work group) are changed to include: (1) working with Oregon to develop a consistent ballast water management program for the Columbia River; (2) providing assistance to the Department of Fish and Wildlife (DFW) with the implementation of the ballast water management program and with various research and evaluations regarding the program; and (3) working with the U.S. Coast Guard and the Department of Ecology to improve coordination and integration of vessel inspection procedures among agencies that board and inspect vessels.

The DFW, in consultation with the work group, must collect data and maintain an inventory on nonindigenous plant and animal species found in coastal and estuarine state waters. In addition, the DFW and the work group must assess the controls implemented in ballast management and report to the Legislature every three years on the effectiveness of the programs.

The DFW, in consultation with the work group and the U.S. Coast Guard, must develop a program to manage non-ballast water ship vectors. Non-ballast water ship vectors include hull fouling (when organisms like barnacles, mussels, sponges, algae, and sea squirts attach themselves to the hulls of ships), sea chests (the intake areas for ballast water in the hulls of large ships), equipment (such as the anchor, anchor chain, and storage locker), and vessels equipped with ballast tanks that carry no ballast on board. The DFW will report to the Legislature in 2011 on the status of the program.

If a vessel discharges untreated or exchanged ballast water into state waters, regardless of circumstances, there may be a penalty imposed. The penalty must not exceed \$27,500 per day of continuing violation. The failure to comply with reporting requirements is also subject to a penalty.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation):** DFW in conjunction with the ballast water work group is directed to adopt standards for the discharge of ballast water into the waters of the state and the implementation timelines. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species.

The safety exemption to require, prior to discharge, that the ballast water must be chemically treated is modified. Additionally, documentation must be filed, a fee not to exceed \$5,000 must be paid, and the department is authorized to adopt rules for defining exemption conditions, compliance plans, and recommended chemical dose concentrations for treatment prior to discharge under the safety exemption.

The requirement that DFW collect data necessary to establish and maintain an inventory of the location and geographic range of nonindigenous plant and animal populations in the coastal and estuarine waters of the state is removed.

The requirement that DFW develop a program to address and manage nonballast water ship vectors as a source of nonindigenous species is removed.

One representative from the cruise ship industry and one representative from the Department of Ecology are added to the Ballast Water Work Group.

DFW may set a fee schedule for fees collected under the safety exemption. DFW may also set a graduated penalty schedule for penalties associated with unauthorized discharge and reporting requirements under the ballast water management program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Ballast water released in Puget Sound is a significant source of pollution and is a very serious issue. We cannot do too much to safeguard our waters. Once an invasive species is released, you cannot unring the bell. We are in favor of maintaining the safety exemption. The Ballast Water Work Group continues to move forward. We are still negotiating, but are very close.

OTHER: Treatment technologies are still being worked on and are not quite ready for mass deploy. Exchange has been working very well and should be maintained as a proper method. The safety exemption must be preserved.

We'd like an amendment to identify Alaska waters as Washington waters to allow for cruise ships to discharge ballast water taken up in certain areas in Alaska. The cruise industry should be added to the Ballast Water Work Group.

**Persons Testifying:** PRO: Morris Barker, DFW; Melodie Selby, Department of Ecology, Gerald Joyce, Seattle Audubon; Bruce Wishart, People for Puget Sound; Ron Shultz, Puget Sound Action Team; Bill Robinson, Nature Conservancy.

OTHER: Joe Daniels, Holland America Line; Randy Ray, Pacific Merchant Shipping Association.