
SUBSTITUTE HOUSE BILL 1488

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives B. Sullivan, Upthegrove, Appleton, Dunshee, Hunt, Dickerson, VanDeWege, Campbell, Kessler, Eickmeyer, McCoy, Chase, Green, Sells, Kenney, Ericks, Roberts, Lantz, Goodman, Wood, Kagi, Moeller and Rolfes)

READ FIRST TIME 03/12/07.

1 AN ACT Relating to protecting all of Washington's waters by
2 enhancing the state's oil spill program; amending RCW 82.23B.020,
3 82.23B.040, 90.56.500, 90.56.510, 79.100.100, 82.23B.010, 82.23B.030,
4 82.23B.045, 46.68.020, 90.56.330, and 90.48.144; adding new sections to
5 chapter 82.23B RCW; adding new sections to chapter 90.56 RCW; creating
6 new sections; decodifying RCW 82.23B.060; repealing RCW 90.56.335; and
7 providing an effective date.

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

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that the oil spill
10 advisory council was created by an act of the legislature in 2005.

11 (2) The legislature further finds that the oil spill advisory
12 council has successfully fulfilled its initial charge to deliver to the
13 governor and the legislature recommendations for the long-term funding
14 of the council's activities and for sustainable funding for oil spill
15 prevention, preparedness, and response activities.

16 (3) The intent of this act is to enact those recommendations of the
17 oil spill advisory council that require legislative action so that
18 Washington is in the best possible position to prevent and respond to
19 oil spills in all of Washington's waters, including the Columbia river,

1 the Pacific Ocean, the Strait of Juan de Fuca, and the Puget Sound.
2 Fully enacting the recommendations of the oil spill advisory council
3 requires the identification of revenue to support the state's oil spill
4 programs, which includes consistent and continued funding for a
5 contingency tug program, a permanent rescue tug at Neah Bay, the
6 activities of the permanent oil spill advisory council, and
7 contributions to the ongoing efforts to remove leaking derelict vessels
8 from Washington's treasured and valued waterways.

9 **Sec. 2.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to read
10 as follows:

11 (1) An oil spill response tax is imposed on the privilege of
12 receiving crude oil or petroleum products at a marine terminal within
13 this state from a waterborne vessel or barge operating on the navigable
14 waters of this state. The tax imposed in this section is levied upon
15 the owner of the crude oil or petroleum products immediately after
16 receipt of the same into the storage tanks of a marine terminal from a
17 waterborne vessel or barge ((at)). Except as provided in section 4 of
18 this act, the tax imposed in this subsection shall be at the rate of
19 one cent per barrel of crude oil or petroleum product received.

20 (2) In addition to the tax imposed in subsection (1) of this
21 section, an oil spill administration tax is imposed on the privilege of
22 receiving crude oil or petroleum products at a marine terminal within
23 this state from a waterborne vessel or barge operating on the navigable
24 waters of this state. The tax imposed in this section is levied upon
25 the owner of the crude oil or petroleum products immediately after
26 receipt of the same into the storage tanks of a marine terminal from a
27 waterborne vessel or barge ((at)). Except as provided in section 4 of
28 this act, the tax imposed in this subsection shall be at the rate of
29 four cents per barrel of crude oil or petroleum product received.

30 (3) The taxes imposed by this chapter shall be collected by the
31 marine terminal operator from the taxpayer. If any person charged with
32 collecting the taxes fails to bill the taxpayer for the taxes, or in
33 the alternative has not notified the taxpayer in writing of the
34 imposition of the taxes, or having collected the taxes, fails to pay
35 them to the department in the manner prescribed by this chapter,
36 whether such failure is the result of the person's own acts or the
37 result of acts or conditions beyond the person's control, he or she

1 shall, nevertheless, be personally liable to the state for the amount
2 of the taxes. Payment of the taxes by the owner to a marine terminal
3 operator shall relieve the owner from further liability for the taxes.

4 (4) Taxes collected under this chapter shall be held in trust until
5 paid to the department. Any person collecting the taxes who
6 appropriates or converts the taxes collected shall be guilty of a gross
7 misdemeanor if the money required to be collected is not available for
8 payment on the date payment is due. The taxes required by this chapter
9 to be collected shall be stated separately from other charges made by
10 the marine terminal operator in any invoice or other statement of
11 account provided to the taxpayer.

12 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
13 the person charged with collection of the taxes and the person charged
14 with collection fails to pay the taxes to the department, the
15 department may, in its discretion, proceed directly against the
16 taxpayer for collection of the taxes.

17 (6) The taxes shall be due from the marine terminal operator, along
18 with reports and returns on forms prescribed by the department, within
19 twenty-five days after the end of the month in which the taxable
20 activity occurs.

21 (7) The amount of taxes, until paid by the taxpayer to the marine
22 terminal operator or to the department, shall constitute a debt from
23 the taxpayer to the marine terminal operator. Any person required to
24 collect the taxes under this chapter who, with intent to violate the
25 provisions of this chapter, fails or refuses to do so as required and
26 any taxpayer who refuses to pay any taxes due under this chapter, shall
27 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

28 (8) Upon prior approval of the department, the taxpayer may pay the
29 taxes imposed by this chapter directly to the department. The
30 department shall give its approval for direct payment under this
31 section whenever it appears, in the department's judgment, that direct
32 payment will enhance the administration of the taxes imposed under this
33 chapter. The department shall provide by rule for the issuance of a
34 direct payment certificate to any taxpayer qualifying for direct
35 payment of the taxes. Good faith acceptance of a direct payment
36 certificate by a terminal operator shall relieve the marine terminal
37 operator from any liability for the collection or payment of the taxes
38 imposed under this chapter.

1 (9)(a) All receipts from the tax imposed in subsection (1) of this
2 section shall be deposited into the state oil spill response account
3 created in RCW 90.56.500.

4 (b) All receipts from the tax imposed in subsection (2) of this
5 section shall be deposited into the oil spill prevention account
6 created in RCW 90.56.510.

7 ~~((10) Within forty five days after the end of each calendar
8 quarter, the office of financial management shall determine the balance
9 of the oil spill response account as of the last day of that calendar
10 quarter. Balance determinations by the office of financial management
11 under this section are final and shall not be used to challenge the
12 validity of any tax imposed under this chapter. The office of
13 financial management shall promptly notify the departments of revenue
14 and ecology of the account balance once a determination is made. For
15 each subsequent calendar quarter, the tax imposed by subsection (1) of
16 this section shall be imposed during the entire calendar quarter
17 unless:~~

18 ~~(a) Tax was imposed under subsection (1) of this section during the
19 immediately preceding calendar quarter, and the most recent quarterly
20 balance is more than nine million dollars; or~~

21 ~~(b) Tax was not imposed under subsection (1) of this section during
22 the immediately preceding calendar quarter, and the most recent
23 quarterly balance is more than eight million dollars.))~~

24 NEW SECTION. Sec. 3. A new section is added to chapter 82.23B RCW
25 to read as follows:

26 (1) The department shall collect a risk-based oil spill prevention
27 and response service transfer tax each time any refined oil product is
28 transferred from or to a watercraft, as that term is defined in RCW
29 79A.25.010, on, over, or near the waters of the state, as that term is
30 defined in RCW 77.55.011.

31 (2) The risk-based oil spill prevention and response service
32 transfer tax shall be imposed on the transferor based on the volume of
33 refined oil product transferred by the transferor over an identified
34 reporting period established by the department.

35 (3)(a) Except as provided in section 4 of this act, the risk-based
36 oil spill prevention and response service transfer tax is to be

1 collected at a rate of five cents per barrel of refined oil product
2 transferred.

3 (b) The department may authorize the risk-based oil spill
4 prevention and response service transfer tax to be paid on a per gallon
5 basis if the director of the department concludes that a per gallon
6 collection creates administrative streamlining for the department or
7 for the transferor. If the department collects the fee on a per gallon
8 basis, then the per gallon amount must be proportional to the amount
9 established in (a) of this subsection.

10 (4) The risk-based oil spill prevention and response service
11 transfer tax collected under this section must be deposited into the
12 state oil spill prevention account created in RCW 90.56.510.

13 (5) In implementing this section, the department may require all
14 payments to be reported and paid electronically.

15 (6) To assist the department with the implementation of this
16 section, the department of ecology shall work with the department and
17 provide any information collected by the department of ecology relating
18 to the transfer of any petroleum products on the request of the
19 department.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.23B RCW
21 to read as follows:

22 On July 1, 2009, and on July 1st of each fiscal biennium
23 thereafter, the following taxes shall increase by a percentage that
24 equals the fiscal growth factor most recently calculated for the
25 purposes of chapter 43.135 RCW:

- 26 (1) The risk-based oil spill prevention and response service
27 transfer tax created in section 3 of this act;
- 28 (2) The oil spill response tax created in RCW 82.23B.020; and
- 29 (3) The oil spill administration tax created in RCW 82.23B.020.

30 **Sec. 5.** RCW 82.23B.040 and 1992 c 73 s 10 are each amended to read
31 as follows:

32 (1) If the federal government enacts law or policy that requires
33 the placement of a rescue tug at the mouth of the strait of Juan de
34 Fuca, then a credit shall be allowed against the taxes imposed under
35 ((this chapter)) RCW 82.23B.020 for any crude oil or petroleum products

1 received at a marine terminal and subsequently exported from or sold
2 for export from the state.

3 (2) The credit authorized by this section is only in effect during
4 the bienniums that the director of the office of financial management
5 affirms to the director that the necessary prerequisite established in
6 this section has been satisfied.

7 NEW SECTION. Sec. 6. A new section is added to chapter 90.56 RCW
8 to read as follows:

9 If funding from the oil spill prevention account created in RCW
10 90.56.510 or from another source allows, the department shall enter
11 into a contract or contracts that allow it to manage a contingency tug
12 program. The program must enable the department to periodically
13 authorize the placement of rescue or response tugs in strategic
14 locations as needed to protect Washington's waters.

15 NEW SECTION. Sec. 7. A new section is added to chapter 90.56 RCW
16 to read as follows:

17 (1) If funding from the oil spill prevention account created in RCW
18 90.56.510 or from another source allows, and the director determines
19 that federal funding or protection from federal mandates are
20 insufficient, the department shall enter into a contract or contracts
21 to provide for a permanently stationed, year-round rescue tug located
22 in the western Strait of Juan de Fuca. The tug shall have the primary
23 mission to stand by and, when needed, respond and provide towing
24 services to disabled or drifting vessels in order to prevent pollution
25 events.

26 (2) The department shall give contracting preference to vessels of
27 sufficient power, maneuverability, and deck configuration to enable it
28 to respond in a timely manner to any vessel located within the response
29 area in sea-state conditions up to and including extreme weather.
30 Additional contracting preference must be given to vessels that have
31 the capability to provide spill response, firefighting, and early
32 salvage activities.

33 **Sec. 8.** RCW 90.56.500 and 1991 c 200 s 805 are each amended to
34 read as follows:

1 (1) The state oil spill response account is created in the state
2 treasury. The following must be deposited into the account:

3 (a) All receipts from the oil spill response tax created in RCW
4 82.23B.020(1) (~~shall be deposited in the account.~~);

5 (b) All costs reimbursed to the state by a responsible party or any
6 other person for responding to a spill of oil (~~shall also be deposited~~
7 in the account).

8 (2) Moneys in the account shall be spent only after appropriation.
9 The account is subject to allotment procedures under chapter 43.88 RCW.

10 (3)(a) The account shall be used exclusively to pay for the costs
11 associated with the response to spills of crude oil or petroleum
12 products into the navigable waters of the state. Payment of response
13 costs under this section shall be limited to spills which the director
14 has determined are likely to exceed fifty thousand dollars. Before
15 expending moneys from the account, the director shall make reasonable
16 efforts to obtain funding for response costs from the person
17 responsible for the spill and from other sources, including the federal
18 government.

19 (b) Reimbursement for response costs shall be allowed only for
20 costs which are not covered by funds appropriated to the agencies
21 responsible for response activities. Costs associated with the
22 response to spills of crude oil or petroleum products shall include:

23 ~~((1))~~ (i) Natural resource damage assessment and related
24 activities;

25 ~~((2))~~ (ii) Spill related response, containment, wildlife rescue,
26 cleanup, disposal, and associated costs;

27 ~~((3))~~ (iii) Interagency coordination and public information
28 related to a response; and

29 ~~((4))~~ (iv) Appropriate travel, goods and services, contracts, and
30 equipment.

31 (4) Any funds available in the account above nine million dollars
32 at the end of any fiscal year must be transferred to the oil spill
33 prevention account created in RCW 90.56.510.

34 **Sec. 9.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to read
35 as follows:

36 (1) The oil spill prevention account is created in the state
37 treasury. The following must be deposited into the account:

1 (a) All receipts from the oil spill administration tax created in
2 RCW 82.23B.020(2) ((shall be deposited in the account.));

3 (b) All receipts from the risk-based oil spill prevention and
4 response service transfer tax created in section 3 of this act;

5 (c) Transfers by the state treasurer from the oil spill response
6 account under RCW 90.56.500;

7 (d) All receipts from fees collected under RCW 46.68.020(2)(a)(ii);

8 (e) All receipts from oil spill penalties assessed against ships
9 under RCW 90.56.330 and 90.48.144; and

10 (f) All direct legislative appropriations, grants, gifts, and
11 federal funds intended to fund Washington's oil spill prevention,
12 preparedness, and response program.

13 (2) Moneys from the account may be spent only after appropriation.
14 The account is subject to allotment procedures under chapter 43.88 RCW.
15 ((If, on the first day of any calendar month, the balance of the oil
16 spill response account is greater than nine million dollars and the
17 balance of the oil spill prevention account exceeds the unexpended
18 appropriation for the current biennium, then the tax under RCW
19 82.23B.020(2) shall be suspended on the first day of the next calendar
20 month until the beginning of the following biennium, provided that the
21 tax shall not be suspended during the last six months of the biennium.
22 If the tax imposed under RCW 82.23B.020(2) is suspended during two
23 consecutive biennia, the department shall by November 1st after the end
24 of the second biennium, recommend to the appropriate standing
25 committees an adjustment in the tax rate. For the biennium ending June
26 30, 1999, and the biennium ending June 30, 2001, the state treasurer
27 may transfer a total of up to one million dollars from the oil spill
28 response account to the oil spill prevention account to support
29 appropriations made from the oil spill prevention account in the
30 omnibus appropriations act adopted not later than June 30, 1999.

31 (2)) (3) Expenditures from the oil spill prevention account shall
32 be used exclusively for the following:

33 (a) To pay for the contingency tug requirements of section 6 of
34 this act;

35 (b) To pay for the rescue tug requirements of section 7 of this
36 act;

37 (c) To pay for the administration and operations of the oil spill
38 advisory council created in RCW 90.56.120;

1 (d) To pay for the removal of abandoned or derelict vessels
2 consistent with chapter 79.100 RCW through fund transfers to the
3 derelict vessel removal account created in RCW 79.100.100;

4 (e) To pay for the administrative costs related to the purposes of
5 this chapter, and chapters 90.48, 88.40, and 88.46 RCW~~((Starting~~
6 ~~with the 1995-1997 biennium, the legislature shall give activities of~~
7 ~~state agencies related to prevention of oil spills priority in funding~~
8 ~~from the oil spill prevention account.))~~; and

9 (f) To pay for the costs of other oil spill prevention ((include))
10 activities, including the costs of:

11 ((+a)) (i) Routine responses not covered under RCW 90.56.500;

12 ((+b)) (ii) Management and staff development activities;

13 ((+c)) (iii) Development of rules and policies and the statewide
14 plan provided for in RCW 90.56.060;

15 ((+d)) (iv) Facility and vessel plan review and approval, drills,
16 inspections, investigations, enforcement, and litigation;

17 ((+e)) (v) Interagency coordination and public outreach and
18 education;

19 ((+f)) (vi) Collection and administration of the tax provided for
20 in chapter 82.23B RCW; and

21 ((+g)) (vii) Appropriate travel, goods and services, contracts,
22 and equipment.

23 (4) The first one million dollars available in the oil spill
24 prevention account each biennium must be used for the purposes
25 authorized in subsection (3)(a) of this section.

26 **Sec. 10.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to
27 read as follows:

28 (1)(a) The derelict vessel removal account is created in the state
29 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
30 moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into
31 the account. The account is authorized to receive fund transfers from
32 the general fund or the oil spill prevention account created in RCW
33 90.56.510 as well as gifts, grants, and endowments from public or
34 private sources as may be made from time to time, in trust or
35 otherwise, for the use and benefit of the purposes of this chapter and
36 expend the same or any income according to the terms of the gifts,

1 grants, or endowments provided those terms do not conflict with any
2 provisions of this section or any guidelines developed to prioritize
3 reimbursement of removal projects associated with this chapter.

4 (b) Moneys in the account may only be spent after appropriation.
5 Expenditures from the account shall be used by the department to
6 reimburse authorized public entities for up to ninety percent of the
7 total reasonable and auditable administrative, removal, disposal, and
8 environmental damage costs of abandoned or derelict vessels when the
9 previous owner is either unknown after a reasonable search effort or
10 insolvent. Costs associated with removal and disposal of an abandoned
11 or derelict vessel under the authority granted in RCW 53.08.320 also
12 qualify for reimbursement from the derelict vessel removal account.

13 (c) In each biennium, up to twenty percent of the expenditures from
14 the account may be used for administrative expenses of the department
15 of licensing and department of natural resources in implementing this
16 chapter.

17 (2) If the balance of the account reaches one million dollars as of
18 March 1st of any year, exclusive of any fund transfers from the general
19 fund or the oil spill prevention account, the department must notify
20 the department of licensing and the collection of any fees associated
21 with this account must be suspended for the following fiscal year.

22 (3) Priority for use of this account is for the removal of derelict
23 and abandoned vessels that are in danger of sinking, breaking up, or
24 blocking navigation channels, or that present environmental risks such
25 as leaking fuel or other hazardous substances. The department must
26 develop criteria, in the form of informal guidelines, to prioritize
27 removal projects associated with this chapter, but may not consider
28 whether the applicant is a state or local entity when prioritizing.
29 The guidelines must also include guidance to the authorized public
30 entities as to what removal activities and associated costs are
31 reasonable and eligible for reimbursement.

32 (4) The department must keep all authorized public entities
33 apprized of the balance of the derelict vessel removal account and the
34 funds available for reimbursement. The guidelines developed by the
35 department must also be made available to the other authorized public
36 entities. This subsection (4) must be satisfied by utilizing the least
37 costly method, including maintaining the information on the
38 department's internet web site, or any other cost-effective method.

1 (5) An authorized public entity may contribute its ten percent of
2 costs that are not eligible for reimbursement by using in-kind
3 services, including the use of existing staff, equipment, and
4 volunteers.

5 (6) This chapter does not guarantee reimbursement for an authorized
6 public entity. Authorized public entities seeking certainty in
7 reimbursement prior to taking action under this chapter may first
8 notify the department of their proposed action and the estimated total
9 costs. Upon notification by an authorized public entity, the
10 department must make the authorized public entity aware of the status
11 of the fund and the likelihood of reimbursement being available. The
12 department may offer technical assistance and assure reimbursement for
13 up to two years following the removal action if an assurance is
14 appropriate given the balance of the fund and the details of the
15 proposed action.

16 **Sec. 11.** RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read
17 as follows:

18 (~~Unless the context clearly requires otherwise,~~) The definitions
19 in this section apply throughout this chapter unless the context
20 clearly requires otherwise.

21 (1) "Barrel" means a unit of measurement of volume equal to forty-
22 two United States gallons of crude oil or petroleum product.

23 (2) "Crude oil" means any naturally occurring liquid hydrocarbons
24 at atmospheric temperature and pressure coming from the earth,
25 including condensate and natural gasoline.

26 (3) "Department" means the department of revenue.

27 (4) "Marine terminal" means a facility of any kind, other than a
28 waterborne vessel, that is used for transferring crude oil or petroleum
29 products to or from a waterborne vessel or barge.

30 (5) "Navigable waters" means those waters of the state and their
31 adjoining shorelines that are subject to the ebb and flow of the tide,
32 including the Columbia and Snake rivers.

33 (6) "Person" has the meaning provided in RCW 82.04.030.

34 (7) "Petroleum product" means any liquid hydrocarbons at
35 atmospheric temperature and pressure that are the product of the
36 fractionation, distillation, or other refining or processing of crude
37 oil, and that are used as, useable as, or may be refined as a fuel or

1 fuel blendstock, including but not limited to, gasoline, diesel fuel,
2 aviation fuel, bunker fuel, and fuels containing a blend of alcohol and
3 petroleum.

4 (8) "Refined oil product" has the same meaning given to the term
5 "oil" in RCW 90.56.010, except that the term refined oil product does
6 not include crude oil that has not been subject to any processing or
7 refining.

8 (9) "Taxpayer" means the person owning crude oil or petroleum
9 products immediately after receipt of the same into the storage tanks
10 of a marine terminal in this state from a waterborne vessel or barge
11 and who is liable for the taxes imposed by this chapter.

12 ((+9)) (10) "Waterborne vessel or barge" means any ship, barge, or
13 other watercraft capable of travelling on the navigable waters of this
14 state and capable of transporting any crude oil or petroleum product in
15 quantities of ten thousand gallons or more for purposes other than
16 providing fuel for its motor or engine.

17 **Sec. 12.** RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read
18 as follows:

19 The taxes imposed under ((this chapter)) RCW 82.23B.020 shall only
20 apply to the first receipt of crude oil or petroleum products at a
21 marine terminal in this state and not to the later transporting and
22 subsequent receipt of the same oil or petroleum product, whether in the
23 form originally received at a marine terminal in this state or after
24 refining or other processing.

25 **Sec. 13.** RCW 82.23B.045 and 1992 c 73 s 8 are each amended to read
26 as follows:

27 (1) Any person having paid the tax imposed by ((this chapter)) RCW
28 82.23B.020 who uses petroleum products as a consumer, as that term is
29 defined in RCW 82.04.190, for a purpose other than as a fuel may claim
30 refund or credit against the tax imposed under ((this chapter)) RCW
31 82.23B.020. ((For this purpose, the term consumer shall be defined as
32 provided in RCW 82.04.190.))

33 (2) Any person having paid the tax imposed by ((this chapter)) RCW
34 82.23B.020 who uses petroleum products as a component or ingredient in
35 the manufacture of an item which is not a fuel may claim a refund or
36 credit against the tax imposed by ((this chapter)) RCW 82.23B.020.

1 (3) The amount of refund or credit claimed under this section may
2 not exceed the amount of tax paid by the person making such claim on
3 the petroleum products so consumed or used. The refund or credit
4 allowed by this section shall be claimed on such forms and subject to
5 such requirements as the department may prescribe by rule.

6 **Sec. 14.** RCW 46.68.020 and 2004 c 200 s 3 are each amended to read
7 as follows:

8 The director shall forward all fees for certificates of ownership
9 or other moneys accruing under the provisions of chapter 46.12 RCW to
10 the state treasurer, together with a proper identifying detailed
11 report. The state treasurer shall credit such moneys as follows:

12 (1) The fees collected under RCW 46.12.040(1) and 46.12.101(6)
13 shall be credited to the multimodal transportation account in RCW
14 47.66.070.

15 (2)(a) Beginning July 27, 2003, and until July 1, 2008, the fees
16 collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181
17 shall be credited as follows:

18 (i) 58.12 percent shall be credited to a segregated subaccount of
19 the air pollution control account in RCW 70.94.015;

20 (ii) 16.60 percent shall be credited to the ((~~vessel response~~)) oil
21 spill prevention account created in RCW ((~~90.56.335~~)) 90.56.510; and

22 (iii) The remainder shall be credited into the transportation 2003
23 account (nickel account).

24 (b) Beginning July 1, 2008, and thereafter, the fees collected
25 under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be
26 credited to the transportation 2003 account (nickel account).

27 (3) The fees collected under RCW 46.12.040(3) and 46.12.060 shall
28 be credited to the motor vehicle account.

29 **Sec. 15.** RCW 90.56.330 and 1992 c 73 s 36 are each amended to read
30 as follows:

31 (1) Except as otherwise provided in RCW 90.56.390, any person who
32 negligently discharges oil, or causes or permits the entry of the same,
33 shall incur, in addition to any other penalty as provided by law, a
34 penalty in an amount of up to twenty thousand dollars for every such
35 violation, and for each day the spill poses risks to the environment as
36 determined by the director. Any person who intentionally or recklessly

1 discharges or causes or permits the entry of oil into the waters of the
2 state shall incur, in addition to any other penalty authorized by law,
3 a penalty of up to one hundred thousand dollars for every such
4 violation and for each day the spill poses risks to the environment as
5 determined by the director.

6 (2) The amount of the penalty shall be determined by the director
7 after taking into consideration the gravity of the violation, the
8 previous record of the violator in complying, or failing to comply,
9 with the provisions of chapter 90.48 RCW, the speed and thoroughness of
10 the collection and removal of the oil, and such other considerations as
11 the director deems appropriate.

12 (3) Every act of commission or omission which procures, aids or
13 abets in the violation shall be considered a violation under the
14 provisions of this section and subject to the penalty herein provided
15 for. The penalty herein provided for shall be imposed pursuant to RCW
16 43.21B.300.

17 (4) All penalties collected under this section must be deposited
18 into the oil spill prevention account created in RCW 90.56.510.

19 **Sec. 16.** RCW 90.48.144 and 1995 c 403 s 636 are each amended to
20 read as follows:

21 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
22 43.05.150, every person who:

23 ~~((+1))~~ (a) Violates the terms or conditions of a waste discharge
24 permit issued pursuant to RCW 90.48.180 or 90.48.260 through 90.48.262,
25 or

26 ~~((+2))~~ (b) Conducts a commercial or industrial operation or other
27 point source discharge operation without a waste discharge permit as
28 required by RCW 90.48.160 or 90.48.260 through 90.48.262, or

29 ~~((+3))~~ (c) Violates the provisions of RCW 90.48.080, or other
30 sections of this chapter or chapter 90.56 RCW or rules or orders
31 adopted or issued pursuant to either of those chapters, shall incur, in
32 addition to any other penalty as provided by law, a penalty in an
33 amount of up to ten thousand dollars a day for every such violation.

34 (2) Each and every such violation shall be a separate and distinct
35 offense, and in case of a continuing violation, every day's continuance
36 shall be and be deemed to be a separate and distinct violation. Every

1 act of commission or omission which procures, aids or abets in the
2 violation shall be considered a violation under the provisions of this
3 section and subject to the penalty herein provided for.

4 (3) The penalty amount shall be set in consideration of the
5 previous history of the violator and the severity of the violation's
6 impact on public health and/or the environment in addition to other
7 relevant factors. The penalty herein provided for shall be imposed
8 pursuant to the procedures set forth in RCW 43.21B.300.

9 (4) All penalties collected under this section shall be deposited
10 into the oil spill prevention account created in RCW 90.56.510.

11 NEW SECTION. **Sec. 17.** The department of ecology and the
12 department of revenue may adopt rules necessary for its implementation
13 of this act.

14 NEW SECTION. **Sec. 18.** RCW 90.56.335 (Vessel response account--
15 Dedicated rescue tug) and 2003 c 264 s 3 are each repealed.

16 NEW SECTION. **Sec. 19.** This act does not affect any existing right
17 acquired or liability or obligation incurred under the sections amended
18 or repealed or under any rule or order adopted under those sections,
19 nor does it affect any proceeding instituted under those sections.

20 NEW SECTION. **Sec. 20.** RCW 82.23B.060 is decodified.

21 NEW SECTION. **Sec. 21.** This act takes effect October 1, 2007.

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