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SENATE BILL 5425

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State of Washington

65th Legislature

2017 Regular Session

By Senators Carlyle, Rolfes, McCoy, Chase, Frockt, Ranker, Keiser, Hunt, Kuderer, and Saldaña; by request of Department of Ecology

Read first time 01/24/17. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to strengthening funding for oil spill programs  
2 in Washington by increasing revenue to the oil spill prevention  
3 account; amending RCW 82.23B.020 and 90.56.510; creating a new  
4 section; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that changes in  
7 oil transport throughout the state and its transboundary environments  
8 poses new and evolving spill risks that require state agencies to  
9 perform essential ongoing activities, including those activities  
10 directed by the oil transportation safety act (chapter 274, Laws of  
11 2015), in order to prevent oil spills and prepare for a rapid,  
12 aggressive, and well-coordinated response when spills occur.

13 (2) The legislature further finds that existing funding sources  
14 for oil spill prevention and preparedness-related activities,  
15 including the barrel tax as described in RCW 82.23B.020, are not  
16 currently adequate to carry out these essential ongoing activities.

17 (3) It is the intent of the legislature that the state's  
18 essential ongoing oil spill prevention and preparedness activities  
19 have an adequate funding source to protect public health and safety  
20 and the environment from the risks posed by the changing oil  
21 transport picture.

1       **Sec. 2.** RCW 82.23B.020 and 2015 c 274 s 14 are each amended to  
2 read as follows:

3       (1) An oil spill response tax is imposed on the privilege of  
4 receiving: (a) Crude oil or petroleum products at a marine terminal  
5 within this state from a waterborne vessel or barge operating on the  
6 navigable waters of this state; or (b) crude oil or petroleum  
7 products at a bulk oil terminal within this state from a tank car.  
8 The tax imposed in this section is levied upon the owner of the crude  
9 oil or petroleum products immediately after receipt of the same into  
10 the storage tanks of a marine or bulk oil terminal from a tank car or  
11 waterborne vessel or barge at the rate of one cent per barrel of  
12 crude oil or petroleum product received.

13       (2) In addition to the tax imposed in subsection (1) of this  
14 section, an oil spill administration tax is imposed on the privilege  
15 of receiving: (a) Crude oil or petroleum products at a marine  
16 terminal within this state from a waterborne vessel or barge  
17 operating on the navigable waters of this state; or (b) crude oil or  
18 petroleum products at a bulk oil terminal within this state from a  
19 tank car. The tax imposed in this section is levied upon the owner of  
20 the crude oil or petroleum products immediately after receipt of the  
21 same into the storage tanks of a marine or bulk oil terminal from a  
22 tank car or waterborne vessel or barge at the rate of (~~four~~) six  
23 and one-half cents per barrel of crude oil or petroleum product.

24       (3) The taxes imposed by this chapter must be collected by the  
25 marine or bulk oil terminal operator from the taxpayer. If any person  
26 charged with collecting the taxes fails to bill the taxpayer for the  
27 taxes, or in the alternative has not notified the taxpayer in writing  
28 of the taxes imposed, or having collected the taxes, fails to pay  
29 them to the department in the manner prescribed by this chapter,  
30 whether such failure is the result of the person's own acts or the  
31 result of acts or conditions beyond the person's control, he or she,  
32 nevertheless, is personally liable to the state for the amount of the  
33 taxes. Payment of the taxes by the owner to a marine or bulk oil  
34 terminal operator relieves the owner from further liability for the  
35 taxes.

36       (4) Taxes collected under this chapter must be held in trust  
37 until paid to the department. Any person collecting the taxes who  
38 appropriates or converts the taxes collected is guilty of a gross  
39 misdemeanor if the money required to be collected is not available  
40 for payment on the date payment is due. The taxes required by this

1 chapter to be collected must be stated separately from other charges  
2 made by the marine or bulk oil terminal operator in any invoice or  
3 other statement of account provided to the taxpayer.

4 (5) If a taxpayer fails to pay the taxes imposed by this chapter  
5 to the person charged with collection of the taxes and the person  
6 charged with collection fails to pay the taxes to the department, the  
7 department may, in its discretion, proceed directly against the  
8 taxpayer for collection of the taxes.

9 (6) The taxes are due from the marine or bulk oil terminal  
10 operator, along with reports and returns on forms prescribed by the  
11 department, within twenty-five days after the end of the month in  
12 which the taxable activity occurs.

13 (7) The amount of taxes, until paid by the taxpayer to the marine  
14 or bulk oil terminal operator or to the department, constitutes a  
15 debt from the taxpayer to the marine or bulk oil terminal operator.  
16 Any person required to collect the taxes under this chapter who, with  
17 intent to violate the provisions of this chapter, fails or refuses to  
18 do so as required and any taxpayer who refuses to pay any taxes due  
19 under this chapter, is guilty of a misdemeanor as provided in chapter  
20 9A.20 RCW.

21 (8) Upon prior approval of the department, the taxpayer may pay  
22 the taxes imposed by this chapter directly to the department. The  
23 department must give its approval for direct payment under this  
24 section whenever it appears, in the department's judgment, that  
25 direct payment will enhance the administration of the taxes imposed  
26 under this chapter. The department must provide by rule for the  
27 issuance of a direct payment certificate to any taxpayer qualifying  
28 for direct payment of the taxes. Good faith acceptance of a direct  
29 payment certificate by a terminal operator relieves the marine or  
30 bulk oil terminal operator from any liability for the collection or  
31 payment of the taxes imposed under this chapter.

32 (9) All receipts from the tax imposed in subsection (1) of this  
33 section must be deposited into the state oil spill response account.  
34 All receipts from the tax imposed in subsection (2) of this section  
35 shall be deposited into the oil spill prevention account.

36 (10) Within forty-five days after the end of each calendar  
37 quarter, the office of financial management must determine the  
38 balance of the oil spill response account as of the last day of that  
39 calendar quarter. Balance determinations by the office of financial  
40 management under this section are final and may not be used to

1 challenge the validity of any tax imposed under this chapter. The  
2 office of financial management must promptly notify the departments  
3 of revenue and ecology of the account balance once a determination is  
4 made. For each subsequent calendar quarter, the tax imposed by  
5 subsection (1) of this section shall be imposed during the entire  
6 calendar quarter unless:

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

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

13 **Sec. 3.** RCW 90.56.510 and 2015 c 274 s 7 are each amended to  
14 read as follows:

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

36 (2) Expenditures from the oil spill prevention account ~~((shall))~~  
37 must be used exclusively for the administrative costs related to the  
38 purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW.  
39 In addition, until June 30, 2019, expenditures from the oil spill

1 prevention account may be used, subject to amounts appropriated  
2 specifically for this purpose, for the development and annual review  
3 of local emergency planning committee emergency response plans in RCW  
4 38.52.040(3). Starting with the 1995-1997 biennium, the legislature  
5 shall give activities of state agencies related to prevention of oil  
6 spills priority in funding from the oil spill prevention account.  
7 Costs of prevention include the costs of:

8 (a) Routine responses not covered under RCW 90.56.500;

9 (b) Management and staff development activities;

10 (c) Development of rules and policies and the statewide plan  
11 provided for in RCW 90.56.060;

12 (d) Facility and vessel plan review and approval, drills,  
13 inspections, investigations, enforcement, and litigation;

14 (e) Interagency coordination and public outreach and education;

15 (f) Collection and administration of the tax provided for in  
16 chapter 82.23B RCW; and

17 (g) Appropriate travel, goods and services, contracts, and  
18 equipment.

19 (3) Before expending moneys from the account for a response under  
20 subsection (2)(a) of this section, but without delaying response  
21 activities, the director (~~shall~~) must make reasonable efforts to  
22 obtain funding for response costs under this section from the person  
23 responsible for the spill and from other sources, including the  
24 federal government.

25 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of  
27 the state government and its existing public institutions, and takes  
28 effect July 1, 2017.

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