
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0050.1/21

ATTY/TYPIST: ML:lel

BRIEF DESCRIPTION: Concerning resilience for catastrophic oil
spills.

1 AN ACT Relating to resilience for catastrophic oil spills; and
2 amending RCW 82.23B.020, 90.56.500, and 90.56.510.

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

4 **Sec. 1.** RCW 82.23B.020 and 2018 c 262 s 103 are each amended to
5 read as follows:

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

16 (2) In addition to the tax imposed in subsection (1) of this
17 section, an oil spill administration tax is imposed on the privilege
18 of receiving: (a) Crude oil or petroleum products at a marine
19 terminal within this state from a waterborne vessel or barge
20 operating on the navigable waters of this state; or (b) crude oil or
21 petroleum products at a bulk oil terminal within this state from a

1 tank car or pipeline. The tax imposed in this section is levied upon
2 the owner of the crude oil or petroleum products immediately after
3 receipt of the same into the storage tanks of a marine or bulk oil
4 terminal from a tank car, pipeline, waterborne vessel, or barge at
5 the rate of four cents per barrel of crude oil or petroleum product.

6 (3) The taxes imposed by this chapter must be collected by the
7 marine or bulk oil terminal operator from the taxpayer. If any person
8 charged with collecting the taxes fails to bill the taxpayer for the
9 taxes, or in the alternative has not notified the taxpayer in writing
10 of the taxes imposed, or having collected the taxes, fails to pay
11 them to the department in the manner prescribed by this chapter,
12 whether such failure is the result of the person's own acts or the
13 result of acts or conditions beyond the person's control, he or she,
14 nevertheless, is personally liable to the state for the amount of the
15 taxes. Payment of the taxes by the owner to a marine or bulk oil
16 terminal operator relieves the owner from further liability for the
17 taxes.

18 (4) Taxes collected under this chapter must be held in trust
19 until paid to the department. Any person collecting the taxes who
20 appropriates or converts the taxes collected is guilty of a gross
21 misdemeanor if the money required to be collected is not available
22 for payment on the date payment is due. The taxes required by this
23 chapter to be collected must be stated separately from other charges
24 made by the marine or bulk oil terminal operator in any invoice or
25 other statement of account provided to the taxpayer.

26 (5) If a taxpayer fails to pay the taxes imposed by this chapter
27 to the person charged with collection of the taxes and the person
28 charged with collection fails to pay the taxes to the department, the
29 department may, in its discretion, proceed directly against the
30 taxpayer for collection of the taxes.

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

35 (7) The amount of taxes, until paid by the taxpayer to the marine
36 or bulk oil terminal operator or to the department, constitutes a
37 debt from the taxpayer to the marine or bulk oil terminal operator.
38 Any person required to collect the taxes under this chapter who, with
39 intent to violate the provisions of this chapter, fails or refuses to
40 do so as required and any taxpayer who refuses to pay any taxes due

1 under this chapter, is guilty of a misdemeanor as provided in chapter
2 9A.20 RCW.

3 (8) Upon prior approval of the department, the taxpayer may pay
4 the taxes imposed by this chapter directly to the department. The
5 department must give its approval for direct payment under this
6 section whenever it appears, in the department's judgment, that
7 direct payment will enhance the administration of the taxes imposed
8 under this chapter. The department must provide by rule for the
9 issuance of a direct payment certificate to any taxpayer qualifying
10 for direct payment of the taxes. Good faith acceptance of a direct
11 payment certificate by a terminal operator relieves the marine or
12 bulk oil terminal operator from any liability for the collection or
13 payment of the taxes imposed under this chapter.

14 (9)(a) All receipts from the tax imposed in subsection (1) of
15 this section must be deposited into the state oil spill response
16 account.

17 (b) Beginning in fiscal year 2019 and each fiscal year
18 thereafter, the first two hundred thousand dollars of receipts from
19 the tax imposed in subsection (2) of this section must be deposited
20 into the military department active state service account created in
21 RCW 38.40.220, and the remainder of the receipts from the tax imposed
22 in subsection (2) of this section must be deposited into the oil
23 spill prevention account.

24 (10) Within forty-five days after the end of each calendar
25 quarter, the office of financial management must determine the
26 balance of the oil spill response account as of the last day of that
27 calendar quarter. Balance determinations by the office of financial
28 management under this section are final and may not be used to
29 challenge the validity of any tax imposed under this chapter. The
30 office of financial management must promptly notify the departments
31 of revenue and ecology of the account balance once a determination is
32 made. For each subsequent calendar quarter, the tax imposed by
33 subsection (1) of this section shall be imposed during the entire
34 calendar quarter unless:

35 (a) Tax was imposed under subsection (1) of this section during
36 the immediately preceding calendar quarter, and the most recent
37 quarterly balance is more than (~~nine~~) twenty-five million dollars;
38 or

39 (b) Tax was not imposed under subsection (1) of this section
40 during the immediately preceding calendar quarter, and the most

1 recent quarterly balance is more than (~~eight~~) twenty-four million
2 dollars.

3 **Sec. 2.** RCW 90.56.500 and 2019 c 415 s 993 are each amended to
4 read as follows:

5 (1) The state oil spill response account is created in the state
6 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in
7 the account. All costs reimbursed to the state by a responsible party
8 or any other person for responding to a spill of oil shall also be
9 deposited in the account. Moneys in the account shall be spent only
10 after appropriation. The account is subject to allotment procedures
11 under chapter 43.88 RCW.

12 (2) (~~(a)~~) The account shall be used exclusively to pay for:

13 (~~(i)~~) (a) The costs associated with the response to spills or
14 imminent threats of spills of crude oil or petroleum products into
15 the waters of the state; and

16 (~~(ii)~~) (b) The costs associated with the department's use of an
17 emergency response towing vessel.

18 (~~(b) During the 2017-2019 fiscal biennium, the legislature may~~
19 ~~transfer up to four million seven hundred twenty-one thousand dollars~~
20 ~~from the account to the oil spill prevention account created in RCW~~
21 ~~90.56.510.~~

22 ~~(c) During the 2019-2021 fiscal biennium, the legislature may~~
23 ~~transfer up to one million forty thousand dollars from the account to~~
24 ~~the oil spill prevention account created in RCW 90.56.510.)~~

25 (3) Payment of response costs under subsection (2)(a)(i) of this
26 section shall be limited to spills which the director has determined
27 are likely to exceed one thousand dollars.

28 (4) Before expending moneys from the account, but without
29 delaying response activities, the director shall make reasonable
30 efforts to obtain funding for response costs under subsection (2) of
31 this section from the person responsible for the spill and from other
32 sources, including the federal government.

33 (5) Reimbursement for response costs from this account shall be
34 allowed only for costs which are not covered by funds appropriated to
35 the agencies responsible for response activities. Costs associated
36 with the response to spills of crude oil or petroleum products shall
37 include:

38 (a) Natural resource damage assessment and related activities;

1 (b) Spill related response, containment, wildlife rescue,
2 cleanup, disposal, and associated costs;

3 (c) Interagency coordination and public information related to a
4 response; and

5 (d) Appropriate travel, goods and services, contracts, and
6 equipment.

7 **Sec. 3.** RCW 90.56.510 and 2020 c 357 s 921 are each amended to
8 read as follows:

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

30 (2) Expenditures from the oil spill prevention account shall be
31 used exclusively for the administrative costs related to the purposes
32 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. ~~((In
33 addition, until June 30, 2021, expenditures from the oil spill
34 prevention account may be used, subject to amounts appropriated
35 specifically for this purpose, for the development and annual review
36 of local emergency planning committee emergency response plans in RCW
37 38.52.040(3).))~~ Starting with the 1995-1997 biennium, the legislature
38 shall give activities of state agencies related to prevention of oil

1 spills priority in funding from the oil spill prevention account.
2 Costs of prevention include the costs of:
3 (a) Routine responses not covered under RCW 90.56.500;
4 (b) Management and staff development activities;
5 (c) Development of rules and policies and the statewide plan
6 provided for in RCW 90.56.060;
7 (d) Facility and vessel plan review and approval, drills,
8 inspections, investigations, enforcement, and litigation;
9 (e) Interagency coordination and public outreach and education;
10 (f) Collection and administration of the tax provided for in
11 chapter 82.23B RCW; and
12 (g) Appropriate travel, goods and services, contracts, and
13 equipment.
14 (3) Before expending moneys from the account for a response under
15 subsection (2)(a) of this section, but without delaying response
16 activities, the director shall make reasonable efforts to obtain
17 funding for response costs under this section from the person
18 responsible for the spill and from other sources, including the
19 federal government.
20 (4) During the 2019-2021 fiscal biennium, the legislature may
21 appropriate moneys from the oil spill prevention account to the oil
22 spill response account.

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