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SENATE BILL 5834

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Ranker, Rolfes, Nelson, Frockt, Kohl-Welles, and Conway

Read first time 02/05/15.            Referred to Committee on Energy,  
Environment & Telecommunications.

1            AN ACT Relating to oil transportation safety; amending RCW  
2 90.56.005, 90.56.010, 90.56.500, 90.56.510, 88.40.011, 88.40.025,  
3 88.40.030, 88.40.040, 88.16.170, 88.16.190, and 82.23B.020;  
4 reenacting and amending RCW 88.46.010 and 88.40.020; adding new  
5 sections to chapter 90.56 RCW; and providing an effective date.

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

7            **Sec. 1.** RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and  
8 amended to read as follows:

9            The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11            (1) "Best achievable protection" means the highest level of  
12 protection that can be achieved through the use of the best  
13 achievable technology and those staffing levels, training procedures,  
14 and operational methods that provide the greatest degree of  
15 protection achievable. The director's determination of best  
16 achievable protection shall be guided by the critical need to protect  
17 the state's natural resources and waters, while considering:

- 18            (a) The additional protection provided by the measures;  
19            (b) The technological achievability of the measures; and  
20            (c) The cost of the measures.

1 (2)(a) "Best achievable technology" means the technology that  
2 provides the greatest degree of protection taking into consideration:

3 (i) Processes that are being developed, or could feasibly be  
4 developed, given overall reasonable expenditures on research and  
5 development; and

6 (ii) Processes that are currently in use.

7 (b) In determining what is best achievable technology, the  
8 director shall consider the effectiveness, engineering feasibility,  
9 and commercial availability of the technology.

10 (3) "Bulk" means material that is stored or transported in a  
11 loose, unpackaged liquid, powder, or granular form capable of being  
12 conveyed by a pipe, bucket, chute, or belt system.

13 (4) "Cargo vessel" means a self-propelled ship in commerce, other  
14 than a tank vessel or a passenger vessel, of three hundred or more  
15 gross tons, including but not limited to, commercial fish processing  
16 vessels and freighters.

17 (5) "Covered vessel" means a tank vessel, cargo vessel, or  
18 passenger vessel.

19 (6) "Department" means the department of ecology.

20 (7) "Director" means the director of the department of ecology.

21 (8) "Discharge" means any spilling, leaking, pumping, pouring,  
22 emitting, emptying, or dumping.

23 (9)(a) "Facility" means any structure, group of structures,  
24 equipment, pipeline, or device, other than a vessel, located on or  
25 near the navigable waters of the state that transfers oil in bulk to  
26 or from a tank vessel or pipeline, that is used for producing,  
27 storing, handling, transferring, processing, or transporting oil in  
28 bulk.

29 (b) A facility does not include any: (i) Railroad car, motor  
30 vehicle, or other rolling stock while transporting oil over the  
31 highways or rail lines of this state; (ii) retail motor vehicle motor  
32 fuel outlet; (iii) facility that is operated as part of an exempt  
33 agricultural activity as provided in RCW 82.04.330; (iv) underground  
34 storage tank regulated by the department or a local government under  
35 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense  
36 more than three thousand gallons of fuel to a ship that is not a  
37 covered vessel, in a single transaction.

38 (10) "Marine facility" means any facility used for tank vessel  
39 wharfage or anchorage, including any equipment used for the purpose  
40 of handling or transferring oil in bulk to or from a tank vessel.

1 (11) "Navigable waters of the state" means those waters of the  
2 state, and their adjoining shorelines, that are subject to the ebb  
3 and flow of the tide and/or are presently used, have been used in the  
4 past, or may be susceptible for use to transport intrastate,  
5 interstate, or foreign commerce.

6 (12) "Offshore facility" means any facility located in, on, or  
7 under any of the navigable waters of the state, but does not include  
8 a facility any part of which is located in, on, or under any land of  
9 the state, other than submerged land. "Offshore facility" does not  
10 include a marine facility.

11 (13) "Oil" or "oils" means oil of any kind that is liquid at  
12 (~~atmospheric temperature~~) twenty-five degrees Celsius and one  
13 atmosphere of pressure and any fractionation thereof, including, but  
14 not limited to, crude oil, bitumen, synthetic crude oil, natural gas  
15 well condensate, petroleum, gasoline, fuel oil, diesel oil,  
16 biological oils and blends, oil sludge, oil refuse, and oil mixed  
17 with wastes other than dredged spoil. Oil does not include any  
18 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August  
19 14, 1989, under section (~~101(14)~~) 102(a) of the federal  
20 comprehensive environmental response, compensation, and liability act  
21 of 1980, as amended by P.L. 99-499.

22 (14) "Onshore facility" means any facility any part of which is  
23 located in, on, or under any land of the state, other than submerged  
24 land, that because of its location, could reasonably be expected to  
25 cause substantial harm to the environment by discharging oil into or  
26 on the navigable waters of the state or the adjoining shorelines.

27 (15)(a) "Owner or operator" means (i) in the case of a vessel,  
28 any person owning, operating, or chartering by demise, the vessel;  
29 (ii) in the case of an onshore or offshore facility, any person  
30 owning or operating the facility; and (iii) in the case of an  
31 abandoned vessel or onshore or offshore facility, the person who  
32 owned or operated the vessel or facility immediately before its  
33 abandonment.

34 (b) "Operator" does not include any person who owns the land  
35 underlying a facility if the person is not involved in the operations  
36 of the facility.

37 (16) "Passenger vessel" means a ship of three hundred or more  
38 gross tons with a fuel capacity of at least six thousand gallons  
39 carrying passengers for compensation.

1 (17) "Person" means any political subdivision, government agency,  
2 municipality, industry, public or private corporation, copartnership,  
3 association, firm, individual, or any other entity whatsoever.

4 (18) "Race Rocks light" means the nautical landmark located  
5 southwest of the city of Victoria, British Columbia.

6 (19) "Regional vessels of opportunity response group" means a  
7 group of nondedicated vessels participating in a vessels of  
8 opportunity response system to respond when needed and available to  
9 spills in a defined geographic area.

10 (20) "Severe weather conditions" means observed nautical  
11 conditions with sustained winds measured at forty knots and wave  
12 heights measured between twelve and eighteen feet.

13 (21) "Ship" means any boat, ship, vessel, barge, or other  
14 floating craft of any kind.

15 (22) "Spill" means an unauthorized discharge of oil into the  
16 waters of the state.

17 (23) "Strait of Juan de Fuca" means waters off the northern coast  
18 of the Olympic Peninsula seaward of a line drawn from New Dungeness  
19 light in Clallam county to Discovery Island light on Vancouver  
20 Island, British Columbia, Canada.

21 (24) "Tank vessel" means a ship that is constructed or adapted to  
22 carry, or that carries, oil in bulk as cargo or cargo residue, and  
23 that:

24 (a) Operates on the waters of the state; or

25 (b) Transfers oil in a port or place subject to the jurisdiction  
26 of this state.

27 (25) "Umbrella plan holder" means a nonprofit corporation  
28 established consistent with this chapter for the purposes of  
29 providing oil spill response and contingency plan coverage.

30 (26) "Vessel emergency" means a substantial threat of pollution  
31 originating from a covered vessel, including loss or serious  
32 degradation of propulsion, steering, means of navigation, primary  
33 electrical generating capability, and seakeeping capability.

34 (27) "Vessels of opportunity response system" means nondedicated  
35 boats and operators, including fishing and other vessels, that are  
36 under contract with and equipped by contingency plan holders to  
37 assist with oil spill response activities, including on-water oil  
38 recovery in the near shore environment and the placement of oil spill  
39 containment booms to protect sensitive habitats.

1 (28) "Volunteer coordination system" means an oil spill response  
2 system that, before a spill occurs, prepares for the coordination of  
3 volunteers to assist with appropriate oil spill response activities,  
4 which may include shoreline protection and cleanup, wildlife  
5 recovery, field observation, light construction, facility  
6 maintenance, donations management, clerical support, and other  
7 aspects of a spill response.

8 (29) "Waters of the state" includes lakes, rivers, ponds,  
9 streams, inland waters, underground water, salt waters, estuaries,  
10 tidal flats, beaches and lands adjoining the seacoast of the state,  
11 sewers, and all other surface waters and watercourses within the  
12 jurisdiction of the state of Washington.

13 (30) "Worst case spill" means: (a) In the case of a vessel, a  
14 spill of the entire cargo and fuel of the vessel complicated by  
15 adverse weather conditions; and (b) in the case of an onshore or  
16 offshore facility, the largest foreseeable spill in adverse weather  
17 conditions.

18 **Sec. 2.** RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each  
19 amended to read as follows:

20 (1) The legislature declares that waterborne transportation as a  
21 source of supply for oil and hazardous substances poses special  
22 concern for the state of Washington. Each year billions of gallons of  
23 crude oil and refined petroleum products are transported as cargo and  
24 fuel by vessels on the navigable waters of the state. The state is  
25 experiencing rapid changes in how crude oil moves through rail  
26 corridors and over Washington waters, creating new safety and  
27 environmental risks. The changing sources and transport of crude oil  
28 bring new risks to our communities along rail lines and to the  
29 Columbia river, Grays Harbor, and Puget Sound waters. Since 2008,  
30 rail traffic hauling crude oil has increased more than forty-fold  
31 nationwide and major accidents have occurred over the past year in  
32 both the United States and Canada. These shipments are expected to  
33 increase in the coming years. Vessels and railroads transporting oil  
34 into Washington travel on some of the most unique and special marine  
35 environments in the United States. These marine environments are a  
36 source of natural beauty, recreation, and economic livelihood for  
37 many residents of this state. As a result, the state has an  
38 obligation to ensure the citizens of the state that the waters of the  
39 state will be protected from oil spills.

1           (2) The legislature finds that prevention is the best method to  
2 protect the unique and special marine environments in this state. The  
3 technology for containing and cleaning up a spill of oil or hazardous  
4 substances is at best only partially effective. Preventing spills is  
5 more protective of the environment and more cost-effective when all  
6 the response and damage costs associated with responding to a spill  
7 are considered. Therefore, the legislature finds that the primary  
8 objective of the state is to achieve a zero spills strategy to  
9 prevent any oil or hazardous substances from entering waters of the  
10 state.

11           (3) The legislature also finds that:

12           (a) Recent accidents in Washington, Alaska, southern California,  
13 Texas, Pennsylvania, and other parts of the nation have shown that  
14 the transportation, transfer, and storage of oil have caused  
15 significant damage to the marine environment;

16           (b) Even with the best efforts, it is nearly impossible to remove  
17 all oil that is spilled into the water, and average removal rates are  
18 only fourteen percent;

19           (c) Washington's navigable waters are treasured environmental and  
20 economic resources that the state cannot afford to place at undue  
21 risk from an oil spill;

22           (d) The state has a fundamental responsibility, as the trustee of  
23 the state's natural resources and the protector of public health and  
24 the environment to prevent the spill of oil; and

25           (e) In section 5002 of the federal oil pollution act of 1990, the  
26 United States congress found that many people believed that  
27 complacency on the part of industry and government was one of the  
28 contributing factors to the Exxon Valdez spill and, further, that one  
29 method to combat this complacency is to involve local citizens in the  
30 monitoring and oversight of oil spill plans. Congress also found that  
31 a mechanism should be established that fosters the long-term  
32 partnership of industry, government, and local communities in  
33 overseeing compliance with environmental concerns in the operation of  
34 crude oil terminals. Moreover, congress concluded that, in addition  
35 to Alaska, a program of citizen monitoring and oversight should be  
36 established in other major crude oil terminals in the United States  
37 because recent oil spills indicate that the safe transportation of  
38 oil is a national problem.

1 (4) In order to establish a comprehensive prevention and response  
2 program to protect Washington's waters and natural resources from  
3 spills of oil, it is the purpose of this chapter:

4 (a) To establish state agency expertise in marine safety and to  
5 centralize state activities in spill prevention and response  
6 activities;

7 (b) To prevent spills of oil and to promote programs that reduce  
8 the risk of both catastrophic and small chronic spills;

9 (c) To ensure that responsible parties are liable, and have the  
10 resources and ability, to respond to spills and provide compensation  
11 for all costs and damages;

12 (d) To provide for state spill response and wildlife rescue  
13 planning and implementation;

14 (e) To support and complement the federal oil pollution act of  
15 1990 and other federal law, especially those provisions relating to  
16 the national contingency plan for cleanup of oil spills and  
17 discharges, including provisions relating to the responsibilities of  
18 state agencies designated as natural resource trustees. The  
19 legislature intends this chapter to be interpreted and implemented in  
20 a manner consistent with federal law;

21 (f) To provide broad powers of regulation to the department of  
22 ecology relating to spill prevention and response;

23 (g) To provide for independent review on an ongoing basis the  
24 adequacy of oil spill prevention, preparedness, and response  
25 activities in this state; ((and))

26 (h) To provide an adequate funding source for state response and  
27 prevention programs; and

28 (i) To maintain the best achievable protection that can be  
29 obtained through the use of the best achievable technology and those  
30 staffing levels, training procedures, and operational methods that  
31 provide the greatest degree of protection achievable.

32 **Sec. 3.** RCW 90.56.010 and 2007 c 347 s 6 are each amended to  
33 read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Best achievable protection" means the highest level of  
37 protection that can be achieved through the use of the best  
38 achievable technology and those staffing levels, training procedures,  
39 and operational methods that provide the greatest degree of

1 protection achievable. The director's determination of best  
2 achievable protection shall be guided by the critical need to protect  
3 the state's natural resources and waters, while considering (a) the  
4 additional protection provided by the measures; (b) the technological  
5 achievability of the measures; and (c) the cost of the measures.

6 (2) "Best achievable technology" means the technology that  
7 provides the greatest degree of protection taking into consideration  
8 (a) processes that are being developed, or could feasibly be  
9 developed, given overall reasonable expenditures on research and  
10 development, and (b) processes that are currently in use. In  
11 determining what is best achievable technology, the director shall  
12 consider the effectiveness, engineering feasibility, and commercial  
13 availability of the technology.

14 (3) "Board" means the pollution control hearings board.

15 (4) "Cargo vessel" means a self-propelled ship in commerce, other  
16 than a tank vessel or a passenger vessel, three hundred or more gross  
17 tons, including but not limited to, commercial fish processing  
18 vessels and freighters.

19 (5) "Bulk" means material that is stored or transported in a  
20 loose, unpackaged liquid, powder, or granular form capable of being  
21 conveyed by a pipe, bucket, chute, or belt system.

22 (6) "Committee" means the preassessment screening committee  
23 established under RCW 90.48.368.

24 (7) "Covered vessel" means a tank vessel, cargo vessel, or  
25 passenger vessel.

26 (8) "Department" means the department of ecology.

27 (9) "Director" means the director of the department of ecology.

28 (10) "Discharge" means any spilling, leaking, pumping, pouring,  
29 emitting, emptying, or dumping.

30 (11)(a) "Facility" means any structure, group of structures,  
31 equipment, pipeline, or device, other than a vessel, located on or  
32 near the navigable waters of the state that transfers oil in bulk to  
33 or from a tank vessel or pipeline, that is used for producing,  
34 storing, handling, transferring, processing, or transporting oil in  
35 bulk.

36 (b) A facility does not include any: (i) Railroad car, motor  
37 vehicle, or other rolling stock while transporting oil over the  
38 highways or rail lines of this state; (ii) underground storage tank  
39 regulated by the department or a local government under chapter 90.76  
40 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is

1 operated as part of an exempt agricultural activity as provided in  
2 RCW 82.04.330; or (v) marine fuel outlet that does not dispense more  
3 than three thousand gallons of fuel to a ship that is not a covered  
4 vessel, in a single transaction.

5 (12) "Fund" means the state coastal protection fund as provided  
6 in RCW 90.48.390 and 90.48.400.

7 (13) "Having control over oil" shall include but not be limited  
8 to any person using, storing, or transporting oil immediately prior  
9 to entry of such oil into the waters of the state, and shall  
10 specifically include carriers and bailees of such oil.

11 (14) "Marine facility" means any facility used for tank vessel  
12 wharfage or anchorage, including any equipment used for the purpose  
13 of handling or transferring oil in bulk to or from a tank vessel.

14 (15) "Navigable waters of the state" means those waters of the  
15 state, and their adjoining shorelines, that are subject to the ebb  
16 and flow of the tide and/or are presently used, have been used in the  
17 past, or may be susceptible for use to transport intrastate,  
18 interstate, or foreign commerce.

19 (16) "Necessary expenses" means the expenses incurred by the  
20 department and assisting state agencies for (a) investigating the  
21 source of the discharge; (b) investigating the extent of the  
22 environmental damage caused by the discharge; (c) conducting actions  
23 necessary to clean up the discharge; (d) conducting predamage and  
24 damage assessment studies; and (e) enforcing the provisions of this  
25 chapter and collecting for damages caused by a discharge.

26 (17) "Oil" or "oils" means oil of any kind that is liquid at  
27 (~~(atmospheric temperature)~~) twenty-five degrees Celsius and one  
28 atmosphere of pressure and any fractionation thereof, including, but  
29 not limited to, crude oil, bitumen, synthetic crude oil, natural gas  
30 well condensate, petroleum, gasoline, fuel oil, diesel oil,  
31 biological oils and blends, oil sludge, oil refuse, and oil mixed  
32 with wastes other than dredged spoil. Oil does not include any  
33 substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August  
34 14, 1989, under section (~~(101(14))~~) 102(a) of the federal  
35 comprehensive environmental response, compensation, and liability act  
36 of 1980, as amended by P.L. 99-499.

37 (18) "Offshore facility" means any facility located in, on, or  
38 under any of the navigable waters of the state, but does not include  
39 a facility any part of which is located in, on, or under any land of  
40 the state, other than submerged land.

1 (19) "Onshore facility" means any facility any part of which is  
2 located in, on, or under any land of the state, other than submerged  
3 land, that because of its location, could reasonably be expected to  
4 cause substantial harm to the environment by discharging oil into or  
5 on the navigable waters of the state or the adjoining shorelines.

6 (20)(a) "Owner or operator" means (i) in the case of a vessel,  
7 any person owning, operating, or chartering by demise, the vessel;  
8 (ii) in the case of an onshore or offshore facility, any person  
9 owning or operating the facility; and (iii) in the case of an  
10 abandoned vessel or onshore or offshore facility, the person who  
11 owned or operated the vessel or facility immediately before its  
12 abandonment.

13 (b) "Operator" does not include any person who owns the land  
14 underlying a facility if the person is not involved in the operations  
15 of the facility.

16 (21) "Passenger vessel" means a ship of three hundred or more  
17 gross tons with a fuel capacity of at least six thousand gallons  
18 carrying passengers for compensation.

19 (22) "Person" means any political subdivision, government agency,  
20 municipality, industry, public or private corporation, copartnership,  
21 association, firm, individual, or any other entity whatsoever.

22 (23) "Ship" means any boat, ship, vessel, barge, or other  
23 floating craft of any kind.

24 (24) "Spill" means an unauthorized discharge of oil or hazardous  
25 substances into the waters of the state.

26 (25) "Tank vessel" means a ship that is constructed or adapted to  
27 carry, or that carries, oil in bulk as cargo or cargo residue, and  
28 that:

29 (a) Operates on the waters of the state; or

30 (b) Transfers oil in a port or place subject to the jurisdiction  
31 of this state.

32 (26) "Waters of the state" includes lakes, rivers, ponds,  
33 streams, inland waters, underground water, salt waters, estuaries,  
34 tidal flats, beaches and lands adjoining the seacoast of the state,  
35 sewers, and all other surface waters and watercourses within the  
36 jurisdiction of the state of Washington.

37 (27) "Worst case spill" means: (a) In the case of a vessel, a  
38 spill of the entire cargo and fuel of the vessel complicated by  
39 adverse weather conditions; and (b) in the case of an onshore or

1 offshore facility, the largest foreseeable spill in adverse weather  
2 conditions.

3 **Sec. 4.** RCW 90.56.500 and 2009 c 11 s 9 are each amended to read  
4 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) The account shall be used exclusively to pay for:

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

16 (b) The costs associated with the department's use of ~~((the))~~ an  
17 emergency response towing vessel ~~((as described in RCW 88.46.135))~~.

18 (3) Payment of response costs under subsection (2)(a) of this  
19 section shall be limited to spills which the director has determined  
20 are likely to exceed ~~((fifty))~~ one thousand dollars.

21 (4) Before expending moneys from the account, the director shall  
22 make reasonable efforts to obtain funding for response costs under  
23 subsection (2) of this section from the person responsible for the  
24 spill and from other sources, including the federal government.

25 (5) Reimbursement for response costs from this account shall be  
26 allowed only for costs which are not covered by funds appropriated to  
27 the agencies responsible for response activities. Costs associated  
28 with the response to spills ~~((of crude oil or petroleum products))~~  
29 shall include:

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

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

33 (c) Interagency coordination and public information related to a  
34 response; and

35 (d) Appropriate travel, goods and services, contracts, and  
36 equipment.

37 **Sec. 5.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to  
38 read as follows:

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

22           (2) Expenditures from the oil spill prevention account shall be  
23 used exclusively for the administrative costs related to the purposes  
24 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting  
25 with the 1995-1997 biennium, the legislature shall give activities of  
26 state agencies related to prevention of oil spills priority in  
27 funding from the oil spill prevention account. Costs of prevention  
28 include the costs of:

- 29           (a) Routine responses not covered under RCW 90.56.500;
- 30           (b) Management and staff development activities;
- 31           (c) Development of rules and policies and the statewide plan  
32 provided for in RCW 90.56.060;
- 33           (d) Facility and vessel plan review and approval, drills,  
34 inspections, investigations, enforcement, and litigation;
- 35           (e) Interagency coordination and public outreach and education;
- 36           (f) Collection and administration of the tax provided for in  
37 chapter 82.23B RCW; and
- 38           (g) Appropriate travel, goods and services, contracts, and  
39 equipment.

1       (3) Before expending moneys from the account, the director shall  
2 make reasonable efforts to obtain funding for response costs under  
3 this section from the person responsible for the spill and from other  
4 sources, including the federal government.

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

7       (1) In addition to the requirements found in RCW 88.46.165, and  
8 relying on the "advanced notice of transfer" system used by the  
9 department, the department must be provided prior notice before an  
10 oil transfer, that is regulated under this chapter and that may  
11 impact waters of the state, occurs between a rail facility or another  
12 facility or covered vessel. The notice must include the time,  
13 location, volume, and type of the oil transfer and the notice  
14 requirement must be immediately implemented while the department  
15 adopts rules. The department shall adopt rules under this section.

16       (2) Twice per year, pipelines must report to the department the  
17 type and volume of oil transported through the state. Reporting must  
18 occur each year by July 31st for the period January 1st through June  
19 30th and by January 31st for the period July 1st through December  
20 31st.

21       (3) The department shall publish data collected under RCW  
22 88.46.165 and other sources of information regarding the transfer of  
23 oil and oil products to or from tank vessels. The data must be  
24 published on the department's web site. Data collected with respect  
25 to oil transportation must be aggregated by county and include county  
26 of transfer, volume transferred, type of oil transferred, place of  
27 origin, mode of transportation, route taken to the point of transfer,  
28 and volume and number of oil spills en route to or during transfer  
29 that are reported to the department.

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

32       (1) The department shall evaluate and update planning standards  
33 for oil spill response equipment required under contingency plans  
34 required by this chapter in order to ensure access in the state to  
35 equipment that represents the best achievable protection to respond  
36 to a worst case spill and provide for continuous operation of oil  
37 spill response activities to the maximum extent practicable and

1 without jeopardizing crew safety, as determined by the incident  
2 commander or the unified command.

3 (2) The department shall place the earliest priority upon  
4 updating standards that address the increased volume of different  
5 types of crude oil and that address a worst case spill from  
6 articulated tug barges and from other towed waterborne vessels or  
7 barges.

8 **Sec. 8.** RCW 88.40.011 and 2007 c 347 s 4 are each amended to  
9 read as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12 (1) "Barge" means a vessel that is not self-propelled.

13 (2) "Cargo vessel" means a self-propelled ship in commerce, other  
14 than a tank vessel, fishing vessel, or a passenger vessel, of three  
15 hundred or more gross tons.

16 (3) "Bulk" means material that is stored or transported in a  
17 loose, unpackaged liquid, powder, or granular form capable of being  
18 conveyed by a pipe, bucket, chute, or belt system.

19 (4) "Covered vessel" means a tank vessel, cargo vessel, or  
20 passenger vessel.

21 (5) "Department" means the department of ecology.

22 (6) "Director" means the director of the department of ecology.

23 (7)(a) "Facility" means any structure, group of structures,  
24 equipment, pipeline, or device, other than a vessel, located on or  
25 near the navigable waters of the state that transfers oil in bulk to  
26 or from any vessel with an oil carrying capacity over two hundred  
27 fifty barrels or pipeline, that is used for producing, storing,  
28 handling, transferring, processing, or transporting oil in bulk.

29 (b) A facility does not include any: (i) Railroad car, motor  
30 vehicle, or other rolling stock while transporting oil over the  
31 highways or rail lines of this state; (ii) retail motor vehicle motor  
32 fuel outlet; (iii) facility that is operated as part of an exempt  
33 agricultural activity as provided in RCW 82.04.330; (iv) underground  
34 storage tank regulated by the department or a local government under  
35 chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense  
36 more than three thousand gallons of fuel to a ship that is not a  
37 covered vessel, in a single transaction.

1 (8) "Fishing vessel" means a self-propelled commercial vessel of  
2 three hundred or more gross tons that is used for catching or  
3 processing fish.

4 (9) "Gross tons" means tonnage as determined by the United States  
5 coast guard under 33 C.F.R. section 138.30.

6 (10) "Hazardous substances" means any substance listed as of  
7 March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under  
8 section ((~~101(14)~~)) 102(a) of the federal comprehensive environmental  
9 response, compensation, and liability act of 1980, as amended by P.L.  
10 99-499. The following are not hazardous substances for purposes of  
11 this chapter:

12 (a) Wastes listed as F001 through F028 in Table 302.4; and

13 (b) Wastes listed as K001 through K136 in Table 302.4.

14 (11) "Navigable waters of the state" means those waters of the  
15 state, and their adjoining shorelines, that are subject to the ebb  
16 and flow of the tide and/or are presently used, have been used in the  
17 past, or may be susceptible for use to transport intrastate,  
18 interstate, or foreign commerce.

19 (12) "Oil" or "oils" means oil of any kind that is liquid at  
20 ((~~atmospheric temperature~~)) twenty-five degrees Celsius and one  
21 atmosphere of pressure and any fractionation thereof, including, but  
22 not limited to, crude oil, bitumen, synthetic crude oil, natural gas  
23 well condensate, petroleum, gasoline, fuel oil, diesel oil,  
24 biological oils and blends, oil sludge, oil refuse, and oil mixed  
25 with wastes other than dredged spoil. Oil does not include any  
26 substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R.  
27 Part 302 adopted under section ((~~101(14)~~)) 102(a) of the federal  
28 comprehensive environmental response, compensation, and liability act  
29 of 1980, as amended by P.L. 99-499.

30 (13) "Offshore facility" means any facility located in, on, or  
31 under any of the navigable waters of the state, but does not include  
32 a facility any part of which is located in, on, or under any land of  
33 the state, other than submerged land.

34 (14) "Onshore facility" means any facility any part of which is  
35 located in, on, or under any land of the state, other than submerged  
36 land, that because of its location, could reasonably be expected to  
37 cause substantial harm to the environment by discharging oil into or  
38 on the navigable waters of the state or the adjoining shorelines.

39 (15)(a) "Owner or operator" means (i) in the case of a vessel,  
40 any person owning, operating, or chartering by demise, the vessel;

1 (ii) in the case of an onshore or offshore facility, any person  
2 owning or operating the facility; and (iii) in the case of an  
3 abandoned vessel or onshore or offshore facility, the person who  
4 owned or operated the vessel or facility immediately before its  
5 abandonment.

6 (b) "Operator" does not include any person who owns the land  
7 underlying a facility if the person is not involved in the operations  
8 of the facility.

9 (16) "Passenger vessel" means a ship of three hundred or more  
10 gross tons with a fuel capacity of at least six thousand gallons  
11 carrying passengers for compensation.

12 (17) "Ship" means any boat, ship, vessel, barge, or other  
13 floating craft of any kind.

14 (18) "Spill" means an unauthorized discharge of oil into the  
15 waters of the state.

16 (19) "Tank vessel" means a ship that is constructed or adapted to  
17 carry, or that carries, oil in bulk as cargo or cargo residue, and  
18 that:

19 (a) Operates on the waters of the state; or

20 (b) Transfers oil in a port or place subject to the jurisdiction  
21 of this state.

22 (20) "Waters of the state" includes lakes, rivers, ponds,  
23 streams, inland waters, underground water, salt waters, estuaries,  
24 tidal flats, beaches and lands adjoining the seacoast of the state,  
25 sewers, and all other surface waters and watercourses within the  
26 jurisdiction of the state of Washington.

27 (21) "Certificate of financial responsibility" means an official  
28 written acknowledgment issued by the director or the director's  
29 designee that an owner or operator of a covered vessel or facility,  
30 or the owner of the oil, has demonstrated to the satisfaction of the  
31 director or the director's designee that the relevant entity has the  
32 financial ability to pay for costs and damages caused by an oil  
33 spill.

34 **Sec. 9.** RCW 88.40.020 and 2003 c 91 s 3 and 2003 c 56 s 3 are  
35 each reenacted and amended to read as follows:

36 (1)(a) Except as provided in (b) of this subsection, any barge  
37 that transports hazardous substances in bulk as cargo, using any port  
38 or place in the state of Washington or the navigable waters of the  
39 state shall establish evidence of financial responsibility in the

1 amount of the greater of five million dollars, or three hundred  
2 dollars per gross ton of such vessel.

3 (b) Any barge that transports more than one million gallons of  
4 oil or oil products shall establish evidence of financial  
5 responsibility in an amount not less than one hundred million  
6 dollars.

7 (2)(a) Except as provided in (b) or (c) of this subsection, a  
8 tank vessel that carries oil as cargo in bulk shall demonstrate  
9 financial responsibility to pay at least five hundred million  
10 dollars. The amount of financial responsibility required under this  
11 subsection is one billion dollars after January 1, 2004.

12 (b) The director by rule may establish a lesser standard of  
13 financial responsibility for tank vessels of three hundred gross tons  
14 or less. The standard shall set the level of financial responsibility  
15 based on the quantity of cargo the tank vessel is capable of  
16 carrying. The director shall not set the standard for tank vessels of  
17 three hundred gross tons or less below that required under federal  
18 law.

19 (c) The owner or operator of a tank vessel who is a member of an  
20 international protection and indemnity mutual organization and is  
21 covered for oil pollution risks up to the amounts required under this  
22 section is not required to demonstrate financial responsibility under  
23 this chapter. The director may require the owner or operator of a  
24 tank vessel to prove membership in such an organization.

25 (3)(a) A cargo vessel or passenger vessel that carries oil as  
26 fuel shall demonstrate financial responsibility to pay at least three  
27 hundred million dollars. However, a passenger vessel that transports  
28 passengers and vehicles between Washington state and a foreign  
29 country shall demonstrate financial responsibility to pay the greater  
30 of at least six hundred dollars per gross ton or five hundred  
31 thousand dollars.

32 (b) The owner or operator of a cargo vessel or passenger vessel  
33 who is a member of an international protection and indemnity mutual  
34 organization and is covered for oil pollution risks up to the amounts  
35 required under this section is not required to demonstrate financial  
36 responsibility under this chapter. The director may require the owner  
37 or operator of a cargo vessel or passenger vessel to prove membership  
38 in such an organization.

39 (4) A fishing vessel while on the navigable waters of the state  
40 must demonstrate financial responsibility in the following amounts:

1 (a) For a fishing vessel carrying predominantly nonpersistent  
2 product, one hundred thirty-three dollars and forty cents per  
3 incident, for each barrel of total oil storage capacity, persistent  
4 and nonpersistent product, on the vessel or one million three hundred  
5 thirty-four thousand dollars, whichever is greater; or (b) for a  
6 fishing vessel carrying predominantly persistent product, four  
7 hundred dollars and twenty cents per incident, for each barrel of  
8 total oil storage capacity, persistent product and nonpersistent  
9 product, on the vessel or six million six hundred seventy thousand  
10 dollars, whichever is greater.

11 (5) The ~~((documentation of financial responsibility shall~~  
12 ~~demonstrate the ability of the document holder to meet state and~~  
13 ~~federal financial liability requirements for the actual costs for~~  
14 ~~removal of oil spills, for natural resource damages, and for~~  
15 ~~necessary expenses))~~ certificate of financial responsibility is  
16 conclusive evidence that the person or entity holding the certificate  
17 is the party responsible for the specified vessel, facility, or oil  
18 for purposes of determining liability pursuant to this chapter.

19 (6) This section shall not apply to a covered vessel owned or  
20 operated by the federal government or by a state or local government.

21 **Sec. 10.** RCW 88.40.025 and 1991 c 200 s 704 are each amended to  
22 read as follows:

23 An onshore or offshore facility shall demonstrate financial  
24 responsibility in an amount determined by the department as necessary  
25 to compensate the state and affected counties and cities for damages  
26 that might occur during a reasonable worst case spill of oil from  
27 that facility into the navigable waters of the state. The department  
28 shall ~~((consider such matters as the amount of oil that could be~~  
29 ~~spilled into the navigable waters from the facility, the cost of~~  
30 ~~cleaning up the spilled oil, the frequency of operations at the~~  
31 ~~facility, the damages that could result from the spill and the~~  
32 ~~commercial availability and affordability of financial~~  
33 ~~responsibility))~~ adopt by rule an amount that will be calculated by  
34 multiplying the reasonable per barrel cleanup and damage cost of  
35 spilled oil, times the worst case spill volume, as measured in  
36 barrels, calculated in the applicant's oil spill contingency plan.  
37 This section shall not apply to an onshore or offshore facility owned  
38 or operated by the federal government or by the state or local  
39 government.

1       **Sec. 11.** RCW 88.40.030 and 2000 c 69 s 32 are each amended to  
2 read as follows:

3       (1) Financial responsibility required by this chapter may be  
4 established by any one of, or a combination of, the following methods  
5 acceptable to the department of ecology: ~~((1))~~ (a) Evidence of  
6 insurance; ~~((2))~~ (b) surety bonds; ~~((3))~~ (c) qualification as a  
7 self-insurer; ~~((or (4)))~~ (d) guaranty; (e) letter of credit; (f)  
8 certificate of deposits; (g) protection and indemnity club  
9 membership; or (h) other evidence of financial responsibility. Any  
10 bond filed shall be issued by a bonding company authorized to do  
11 business in the United States. Documentation of such financial  
12 responsibility shall be kept on any covered vessel and filed with the  
13 department at least twenty-four hours before entry of the vessel into  
14 the navigable waters of the state. A covered vessel is not required  
15 to file documentation of financial responsibility twenty-four hours  
16 before entry of the vessel into the navigable waters of the state, if  
17 the vessel has filed documentation of financial responsibility with  
18 the federal government, and the level of financial responsibility  
19 required by the federal government is the same as or exceeds state  
20 requirements. The owner or operator of the vessel may file with the  
21 department a certificate evidencing compliance with the requirements  
22 of another state's or federal financial responsibility requirements  
23 if the state or federal government requires a level of financial  
24 responsibility the same as or greater than that required under this  
25 chapter.

26       (2) A certificate of financial responsibility may not have a term  
27 greater than one year.

28       **Sec. 12.** RCW 88.40.040 and 2003 c 56 s 4 are each amended to  
29 read as follows:

30       (1) It is unlawful for any vessel required to have financial  
31 responsibility under this chapter to enter or operate on Washington  
32 waters without meeting the requirements of this chapter or rules  
33 adopted under this chapter, except when necessary to avoid injury to  
34 the vessel's crew or passengers. Any vessel owner or operator that  
35 does not meet the financial responsibility requirements of this  
36 chapter and any rules prescribed thereunder or the federal oil  
37 pollution act of 1990 shall be reported by the department to the  
38 United States coast guard.

1           (2) (~~The department shall enforce section 1016 of the federal~~  
2 ~~oil pollution act of 1990 as authorized by section 1019 of the~~  
3 ~~federal act.~~) Upon notification of an oil spill or discharge or  
4 other action or potential liability, the director shall reevaluate  
5 the validity of the certificate of financial responsibility. If the  
6 director determines that, because of a spill outside of the state or  
7 some other action or potential liability, the holder of a certificate  
8 may not have the financial resources to pay damages for the oil spill  
9 or discharge or other action or potential liability and have  
10 resources remaining available to meet the requirements of this  
11 chapter, the director may suspend or revoke the certificate.

12           (3) An owner or operator of either more than one covered vessel  
13 or facility, or both is only required to obtain one certificate of  
14 financial responsibility for each vessel and facility owned or  
15 operated.

16           (4) If a person holds a certificate for more than one covered  
17 vessel or facility and a spill or spills occurs from one or more of  
18 those vessels or facilities for which the owner or operator may be  
19 liable for damages in an amount exceeding five percent of the  
20 financial resources reflected by the certificate, as determined by  
21 the director, the certificate is immediately considered inapplicable  
22 to any vessel or facility not associated with the spill. In that  
23 event, the owner or operator shall demonstrate to the satisfaction of  
24 the director the amount of financial ability required pursuant to  
25 this chapter, as well as the financial ability to pay all damages  
26 that arise or have arisen from the spill or spills that have  
27 occurred.

28           **Sec. 13.** RCW 88.16.170 and 1991 c 200 s 601 are each amended to  
29 read as follows:

30           Because of the danger of spills, the legislature finds that the  
31 transportation of crude oil and refined petroleum products by  
32 tankers, articulated tug barges, and other towed waterborne vessels  
33 or barges on the Columbia river, Grays Harbor, and on Puget Sound and  
34 adjacent waters creates a great potential hazard to important natural  
35 resources of the state and to jobs and incomes dependent on these  
36 resources.

37           The legislature recognizes that the Columbia river has many  
38 natural obstacles to navigation and shifting navigation channels that  
39 create the risk of an oil spill. The legislature also recognizes

1 Grays Harbor and Puget Sound and adjacent waters are ((a)) relatively  
2 confined salt water environments with irregular shorelines and  
3 therefore there is a greater than usual likelihood of long-term  
4 damage from any large oil spill.

5 The legislature further recognizes that certain areas of the  
6 Columbia river, Grays Harbor, and Puget Sound and adjacent waters  
7 have limited space for maneuvering a large oil tanker and that these  
8 waters contain many natural navigational obstacles as well as a high  
9 density of commercial and pleasure boat traffic.

10 For these reasons, it is important that large oil tankers,  
11 articulated tug barges, and other towed waterborne vessels or barges  
12 be piloted by highly skilled persons who are familiar with local  
13 waters and that such ((tankers)) vessels have sufficient capability  
14 for rapid maneuvering responses.

15 It is therefore the intent and purpose of RCW 88.16.180 and  
16 88.16.190 to decrease the likelihood of oil spills on the Columbia  
17 river, Grays Harbor, and on Puget Sound and its shorelines by  
18 requiring all oil tankers above a certain size, all articulated tug  
19 barges, and other towed waterborne vessels or barges to employ  
20 licensed pilots ((and to be escorted by a)), tug ((or tugs)) escorts,  
21 and other safety measures while navigating on certain areas of Puget  
22 Sound and adjacent waters, and also in Grays Harbor and the Columbia  
23 river.

24 **Sec. 14.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to  
25 read as follows:

26 (1) ~~((Any oil tanker, whether enrolled or registered, of greater~~  
27 ~~than one hundred and twenty five thousand deadweight tons shall be~~  
28 ~~prohibited from proceeding beyond a point east of a line extending~~  
29 ~~from Discovery Island light south to New Dungeness light.~~

30 (2) ~~An oil tanker, whether enrolled or registered, of forty to~~  
31 ~~one hundred and twenty five thousand deadweight tons may proceed~~  
32 ~~beyond the points enumerated in subsection (1) if such tanker~~  
33 ~~possesses all of the following standard safety features:~~

34 (a) ~~Shaft horsepower in the ratio of one horsepower to each two~~  
35 ~~and one half deadweight tons; and~~

36 (b) ~~Twin screws; and~~

37 (c) ~~Double bottoms, underneath all oil and liquid cargo~~  
38 ~~compartments; and~~

1 ~~(d) Two radars in working order and operating, one of which must~~  
2 ~~be collision avoidance radar; and~~

3 ~~(e) Such other navigational position location systems as may be~~  
4 ~~prescribed from time to time by the board of pilotage commissioners;~~

5 ~~PROVIDED, That, if such forty to one hundred and twenty five~~  
6 ~~thousand deadweight ton tanker is in ballast or is under escort of a~~  
7 ~~tug or tugs with an aggregate shaft horsepower equivalent to five~~  
8 ~~percent of the deadweight tons of that tanker, subsection (2) of this~~  
9 ~~section shall not apply: PROVIDED FURTHER, That additional tug shaft~~  
10 ~~horsepower equivalencies may be required under certain conditions as~~  
11 ~~established by rule and regulation of the Washington utilities and~~  
12 ~~transportation commission pursuant to chapter 34.05 RCW: PROVIDED~~  
13 ~~FURTHER, That)) Except as provided in subsection (2) of this section,~~  
14 ~~an oil tanker of greater than forty thousand deadweight tons may~~  
15 ~~operate in the waters described in (a) of this subsection, to the~~  
16 ~~extent that these waters are within the territorial boundaries of~~  
17 ~~Washington, only if the oil tanker is under the escort of a tug or~~  
18 ~~tugs in compliance with the requirements of subsection (4) of this~~  
19 ~~section.~~

20 (a) Those waters east of a line extending from Discovery Island  
21 light south to New Dungeness light and all points in the Puget Sound  
22 area.

23 (b) The pilotage commission, in consultation with the department  
24 of ecology and relying on the results of vessel traffic risk  
25 assessments, may write rules to implement this subsection (1)(b).  
26 Rules adopted under this subsection (1)(b) must be designed to  
27 achieve best achievable protection as defined in RCW 88.46.010. These  
28 rules may include tug escort requirements and other safety measures  
29 for oil tankers of greater than forty thousand deadweight tons, all  
30 articulated tug barges, and other towed waterborne vessels or barges  
31 that may apply in the following areas consistent with subsections  
32 (2)(a) and (4) of this section:

33 (i) Within a two-mile radius of the Grays Harbor pilotage  
34 district as defined in RCW 88.16.050;

35 (ii) Within three miles of Cape Disappointment at the mouth of  
36 the Columbia river;

37 (iii) Any inland portion of the Columbia river; or

38 (iv) All other navigable waters of the state.

39 (c) The pilotage commission, in consultation with the department  
40 of ecology and relying on the results of vessel traffic risk

1 assessments, shall adopt rules by June 30, 2017, to implement this  
2 subsection (1)(c). Rules adopted under this subsection (1)(c) must be  
3 designed to achieve best achievable protection as defined under RCW  
4 88.46.010. These rules may include tug escort requirements and other  
5 safety measures for oil tankers of greater than forty thousand  
6 deadweight tons, all articulated tug barges, and other towed  
7 waterborne vessels or barges and apply in the following areas  
8 consistent with subsections (2)(a) and (4) of this section: All  
9 narrow channels of the San Juan Islands archipelago, including  
10 Rosario Strait, Haro Strait, Boundary Pass, and connected waterways.

11 (2)(a) If an oil tanker, articulated tug barge, or other towed  
12 waterborne vessel or barge is in ballast, the tug requirements of  
13 subsection (1) of this section do not apply.

14 (b) If an oil tanker is a single-hulled oil tanker of greater  
15 than five thousand gross tons, the requirements of subsection (1)(a)  
16 of this section do not apply and the oil tanker must instead comply  
17 with 33 C.F.R. Part 168, as of the effective date of this section.

18 (3) Prior to proceeding with rule making as authorized under  
19 subsection (1)(b) and (c) of this section, the commission shall  
20 consult with the United States coast guard, the Oregon board of  
21 maritime pilots, the Puget Sound, Grays Harbor, and Columbia river  
22 harbor safety committees, area tribes, public ports in Oregon and  
23 Washington, local governments, and other appropriate entities.

24 (4) Oil tankers of greater than forty thousand deadweight tons,  
25 all articulated tug barges, and other towed waterborne vessels or  
26 barges must ensure that any escort tugs they use have an aggregate  
27 shaft horsepower equivalent to at least five percent of the  
28 deadweight tons of the escorted oil tanker or articulated tug barge.  
29 The pilotage commission may adopt rules to ensure that escort tugs  
30 have sufficient capabilities to provide for safe escort. Rules  
31 adopted on this subject must be designed to achieve best achievable  
32 protection as defined under RCW 88.46.010.

33 (5)(a) A tanker assigned a deadweight of equal to or less than  
34 forty thousand deadweight tons at the time of construction or  
35 reconstruction as reported in Lloyd's Register of Ships is not  
36 subject to the provisions of RCW 88.16.170 through 88.16.190.

37 (b) The department of ecology shall develop a voluntary shipping  
38 industry best management practices program to be implemented  
39 consistently with and in addition to the regulatory requirements of  
40 the United States coast guard and any rules adopted pursuant to this

1 section. The department of ecology shall recognize state-of-the-art  
2 oil transport safety measures and practices implemented by entities  
3 operating vessels transporting oil and oil products as bulk cargo on  
4 the state's waters. The department of ecology shall place the  
5 earliest priority upon recognizing safety measures for articulated  
6 tug barges and other towed waterborne vessels or barges.

7 (6) For the purposes of this section:

8 (a) "Articulated tug barge" means a tank barge and a towing  
9 vessel joined by hinged or articulated fixed mechanical equipment  
10 affixed or connecting to the stern of the tank barge.

11 (b) "Oil tanker" means a self-propelled deep draft tank vessel  
12 designed to transport oil in bulk. "Oil tanker" does not include an  
13 articulated tug barge tank vessel.

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

19 **Sec. 15.** RCW 82.23B.020 and 2006 c 256 s 2 are each amended to  
20 read as follows:

21 (1) An oil spill response 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  
24 navigable waters of this state. The tax imposed in this section is  
25 levied upon the owner of the crude oil or petroleum products  
26 immediately after receipt of the same into the storage tanks of a  
27 marine terminal from a waterborne vessel or barge at the rate of one  
28 cent per barrel of crude oil or petroleum product received.

29 (2) In addition to the tax imposed in subsection (1) of this  
30 section, an oil spill administration tax is imposed on the privilege  
31 of receiving crude oil or petroleum products at a marine terminal  
32 within this state from a waterborne vessel or barge operating on the  
33 navigable waters of this state. The tax imposed in this section is  
34 levied upon the owner of the crude oil or petroleum products  
35 immediately after receipt of the same into the storage tanks of a  
36 marine terminal from a waterborne vessel or barge at the rate of  
37 ~~((four))~~ ten cents per barrel of crude oil or petroleum product.

38 (3) The taxes imposed by this chapter ~~((shall))~~ must be collected  
39 by the marine terminal operator from the taxpayer. If any person

1 charged with collecting the taxes fails to bill the taxpayer for the  
2 taxes, or in the alternative has not notified the taxpayer in writing  
3 of the (~~imposition of the~~) taxes imposed, or having collected the  
4 taxes, fails to pay them to the department in the manner prescribed  
5 by this chapter, whether such failure is the result of the person's  
6 own acts or the result of acts or conditions beyond the person's  
7 control, he or she (~~shall~~), nevertheless, (~~be~~) is personally  
8 liable to the state for the amount of the taxes. Payment of the taxes  
9 by the owner to a marine terminal operator (~~shall~~) relieves the  
10 owner from further liability for the taxes.

11 (4) Taxes collected under this chapter (~~shall~~) must be held in  
12 trust until paid to the department. Any person collecting the taxes  
13 who appropriates or converts the taxes collected (~~shall-be~~) is  
14 guilty of a gross misdemeanor if the money required to be collected  
15 is not available for payment on the date payment is due. The taxes  
16 required by this chapter to be collected (~~shall~~) must be stated  
17 separately from other charges made by the marine terminal operator in  
18 any invoice or other statement of account provided to the taxpayer.

19 (5) If a taxpayer fails to pay the taxes imposed by this chapter  
20 to the person charged with collection of the taxes and the person  
21 charged with collection fails to pay the taxes to the department, the  
22 department may, in its discretion, proceed directly against the  
23 taxpayer for collection of the taxes.

24 (6) The taxes (~~shall-be~~) are due from the marine terminal  
25 operator, along with reports and returns on forms prescribed by the  
26 department, within twenty-five days after the end of the month in  
27 which the taxable activity occurs.

28 (7) The amount of taxes, until paid by the taxpayer to the marine  
29 terminal operator or to the department, (~~shall~~) constitutes a debt  
30 from the taxpayer to the marine terminal operator. Any person  
31 required to collect the taxes under this chapter who, with intent to  
32 violate the provisions of this chapter, fails or refuses to do so as  
33 required and any taxpayer who refuses to pay any taxes due under this  
34 chapter, (~~shall-be~~) is guilty of a misdemeanor as provided in  
35 chapter 9A.20 RCW.

36 (8) Upon prior approval of the department, the taxpayer may pay  
37 the taxes imposed by this chapter directly to the department. The  
38 department (~~shall~~) must give its approval for direct payment under  
39 this section whenever it appears, in the department's judgment, that  
40 direct payment will enhance the administration of the taxes imposed

1 under this chapter. The department (~~shall~~) must provide by rule for  
2 the issuance of a direct payment certificate to any taxpayer  
3 qualifying for direct payment of the taxes. Good faith acceptance of  
4 a direct payment certificate by a terminal operator (~~shall~~)  
5 relieves the marine terminal operator from any liability for the  
6 collection or payment of the taxes imposed under this chapter.

7 (9) All receipts from the tax imposed in subsection (1) of this  
8 section (~~shall~~) must be deposited into the state oil spill response  
9 account. All receipts from the tax imposed in subsection (2) of this  
10 section shall be deposited into the oil spill prevention account.

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

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

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

28 NEW SECTION. **Sec. 16.** Section 15 of this act takes effect  
29 January 1, 2016.

30 NEW SECTION. **Sec. 17.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

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