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**SUBSTITUTE HOUSE BILL 2247**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Cooper, Linville and Ruderman; by request of Office of Financial Management)

Read first time 03/08/1999.

1 AN ACT Relating to the oil spill response tax; amending RCW  
2 82.23B.020 and 90.56.510; creating a new section; and declaring an  
3 emergency.

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

5 **Sec. 1.** RCW 82.23B.020 and 1997 c 449 s 2 are each amended to read  
6 as follows:

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

15 (2) In addition to the tax imposed in subsection (1) of this  
16 section, an oil spill administration tax is imposed on the privilege of  
17 receiving crude oil or petroleum products at a marine terminal within  
18 this state from a waterborne vessel or barge operating on the navigable  
19 waters of this state. The tax imposed in this section is levied upon

1 the owner of the crude oil or petroleum products immediately after  
2 receipt of the same into the storage tanks of a marine terminal from a  
3 waterborne vessel or barge at the rate of four cents per barrel of  
4 crude oil or petroleum product.

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

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

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

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

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

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

12 (9) All receipts from the tax imposed in subsection (1) of this  
13 section shall be deposited into the state oil spill response account.  
14 All receipts from the tax imposed in subsection (2) of this section  
15 shall be deposited into the oil spill administration account.

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

26 (a) Tax was imposed under subsection (1) of this section during the  
27 immediately preceding calendar quarter, and the most recent quarterly  
28 balance is more than (~~ten~~) eight million dollars; or

29 (b) Tax was not imposed under subsection (1) of this section during  
30 the immediately preceding calendar quarter, and the most recent  
31 quarterly balance is more than (~~nine~~) seven million dollars.

32 **Sec. 2.** RCW 90.56.510 and 1997 c 449 s 3 are each amended to read  
33 as follows:

34 (1) The oil spill administration account is created in the state  
35 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in  
36 the account. Moneys from the account may be spent only after  
37 appropriation. The account is subject to allotment procedures under  
38 chapter 43.88 RCW. If, on the first day of any calendar month, the

1 balance of the oil spill response account is greater than (~~ten~~) eight  
2 million dollars and the balance of the oil spill administration account  
3 exceeds the unexpended appropriation for the current biennium, then the  
4 tax under RCW 82.23B.020(2) shall be suspended on the first day of the  
5 next calendar month until the beginning of the following biennium,  
6 provided that the tax shall not be suspended during the last six months  
7 of the biennium. If the tax imposed under RCW 82.23B.020(2) is  
8 suspended during two consecutive biennia, the department shall by  
9 November 1st after the end of the second biennium, recommend to the  
10 appropriate standing committees an adjustment in the tax rate. For the  
11 biennium ending June 30, (~~1997~~) 1999, and the biennium ending June  
12 30, 2001, the state treasurer may transfer a total of up to  
13 (~~(\$1,718,000)~~) one million dollars from the oil spill response account  
14 to the oil spill administration account to support appropriations made  
15 from the oil spill administration account in the omnibus (~~and~~  
16 ~~transportation~~) appropriations act(~~s~~) adopted not later than June  
17 30, (~~1997~~) 1999.

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

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

36 NEW SECTION. **Sec. 3.** The department of ecology shall form the  
37 Washington waters oil spill risk reduction work group. The work group

1 shall make recommendations to the legislature for an oil spill risk  
2 management plan for all Washington shipping corridors.

3 The work group shall identify risk reduction measures already in  
4 place and build upon this work and the work of the scoping risk  
5 assessment, the evaluation of the international tug of opportunity  
6 system, current state and canadian studies pertaining to marine safety  
7 and environmental protection in the Puget Sound area, the United States  
8 coast guard cost-benefit analysis of extending escorts or establishing  
9 a dedicated rescue tug, the port access route study, and other studies  
10 concerning marine safety issues.

11 The department of ecology and the United States coast guard,  
12 consistent with the provisions of their memorandum of understanding,  
13 shall chair the work group. The work group membership shall include a  
14 representative from port districts, oil refineries, cargo vessels, tug  
15 and barge operators, marine oil transport, tribes, environmental  
16 organizations, counties, cities, and shellfish growers. The work group  
17 shall include representation from each of the four primary caucuses,  
18 selected by the co-speakers of the house of representatives and the  
19 senate majority and minority leader. The department of ecology shall  
20 also attempt to gain representation from the province of British  
21 Columbia.

22 The work group will discuss and develop a recommended risk  
23 management plan for the north Puget Sound marine corridor area after  
24 taking into consideration the input from existing information and  
25 studies, ongoing initiatives, and the reports of the various  
26 stakeholders and experts. The work group will provide their  
27 recommendations, including possible funding, to the legislature by  
28 December 1, 1999.

29 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately.

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