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HOUSE BILL 2590

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Bailey and Buys; by request of Pollution Liability Insurance Agency

Read first time 01/18/12. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to extending the expiration of the pollution  
2 liability insurance agency's authority and its funding source; amending  
3 RCW 70.148.020, 70.148.900, 70.149.900, 82.23A.010, 82.23A.020, and  
4 82.23A.902; and providing expiration dates.

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

6 **Sec. 1.** RCW 70.148.020 and 2006 c 276 s 1 are each amended to read  
7 as follows:

8 (1) The pollution liability insurance program trust account is  
9 established in the custody of the state treasurer. All funds  
10 appropriated for this chapter and all premiums collected for  
11 reinsurance shall be deposited in the account. Expenditures from the  
12 account shall be used exclusively for the purposes of this chapter  
13 including payment of costs of administering the pollution liability  
14 insurance and underground storage tank community assistance programs.  
15 Expenditures for payment of administrative and operating costs of the  
16 agency are subject to the allotment procedures under chapter 43.88 RCW  
17 and may be made only after appropriation by statute. No appropriation  
18 is required for other expenditures from the account.

1 (2) Each calendar quarter, the director shall report to the  
2 insurance commissioner the loss and surplus reserves required for the  
3 calendar quarter. The director shall notify the department of revenue  
4 of this amount by the fifteenth day of each calendar quarter.

5 (3) Each calendar quarter the director shall determine the amount  
6 of reserves necessary to fund commitments made to provide financial  
7 assistance under RCW 70.148.130 to the extent that the financial  
8 assistance reserves do not jeopardize the operations and liabilities of  
9 the pollution liability insurance program. The director shall notify  
10 the department of revenue of this amount by the fifteenth day of each  
11 calendar quarter. The director may immediately establish an initial  
12 financial assistance reserve of five million dollars from available  
13 revenues. The director may not expend more than fifteen million  
14 dollars for the financial assistance program.

15 ~~((4) During the 2005-2007 fiscal biennium, the legislature may  
16 transfer from the pollution liability insurance program trust account  
17 to the state general fund such amounts as reflect the excess fund  
18 balance of the account.~~

19 ~~(5))~~ This section expires ~~((June 1, 2013))~~ July 1, 2020.

20 **Sec. 2.** RCW 70.148.900 and 2006 c 276 s 3 are each amended to read  
21 as follows:

22 This chapter ~~((shall))~~ expires ~~((June 1, 2013))~~ July 1, 2020.

23 **Sec. 3.** RCW 70.149.900 and 2006 c 276 s 4 are each amended to read  
24 as follows:

25 ~~((Sections 1 through 11 of this act shall expire June 1, 2013))~~  
26 This chapter expires July 1, 2020.

27 **Sec. 4.** RCW 82.23A.010 and 2004 c 203 s 4 are each amended to read  
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout this chapter.

31 (1) "Petroleum product" means plant condensate, lubricating oil,  
32 gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil,  
33 residual oil, and every other product derived from the refining of  
34 crude oil, but the term does not include crude oil or liquefiable  
35 gases.

1 (2) "Possession" means the control of a petroleum product located  
2 within this state and includes both actual and constructive possession.  
3 "Actual possession" occurs when the person with control has physical  
4 possession. "Constructive possession" occurs when the person with  
5 control does not have physical possession. "Control" means the power  
6 to sell or use a petroleum product or to authorize the sale or use by  
7 another.

8 (3) "Previously taxed petroleum product" means a petroleum product  
9 in respect to which a tax has been paid under this chapter and that has  
10 not been remanufactured or reprocessed in any manner (other than mere  
11 repackaging or recycling for beneficial reuse) since the tax was paid.

12 (4) "Rack" means a mechanism for delivering petroleum products from  
13 a refinery or terminal into a truck, trailer, railcar, or other means  
14 of nonbulk transfer. For the purposes of this definition:

15 (a) "Terminal" has the same definition as in RCW 82.36.010 and  
16 82.38.020; and

17 (b) "Nonbulk transfer" means a transfer that does not meet the  
18 definition of "bulk transfer" as defined in RCW 82.36.010 and  
19 82.38.020.

20 (5) "Wholesale value" means fair market wholesale value, determined  
21 as nearly as possible according to the wholesale selling price at the  
22 place of use of similar products of like quality and character, in  
23 accordance with rules of the department.

24 ((+5)) (6) Except for terms defined in this section, the  
25 definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this  
26 chapter.

27 **Sec. 5.** RCW 82.23A.020 and 1991 c 4 s 8 are each amended to read  
28 as follows:

29 (1) A tax is imposed on the privilege of possession of petroleum  
30 products in this state. The rate of the tax shall be ((fifty)) thirty  
31 one-hundredths of one percent multiplied by the wholesale value of the  
32 petroleum product. For purposes of determining the tax imposed under  
33 this section for petroleum products introduced at the rack, the  
34 wholesale value is determined when the petroleum product is removed at  
35 the rack unless the removal is to an exporter licensed under chapter  
36 82.36 or 82.38 RCW for direct delivery to a destination outside of the

1 state. For all other cases, the wholesale value is determined upon  
2 first possession in the state.

3 (2) Moneys collected under this chapter shall be deposited in the  
4 pollution liability insurance program trust account under RCW  
5 70.148.020.

6 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
7 The tax due dates, reporting periods, and return requirements  
8 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
9 this chapter.

10 (4) Within thirty days after the end of each calendar quarter the  
11 department shall determine the "quarterly balance," which shall be the  
12 cash balance in the pollution liability insurance program trust account  
13 as of the last day of that calendar quarter, after excluding the  
14 reserves determined for that quarter under RCW 70.148.020 (2) and (3).  
15 Balance determinations by the department under this section are final  
16 and shall not be used to challenge the validity of any tax imposed  
17 under this section. For each subsequent calendar quarter, tax shall be  
18 imposed under this section during the entire calendar quarter unless:

19 (a) Tax was imposed under this section during the immediately  
20 preceding calendar quarter, and the most recent quarterly balance is  
21 more than fifteen million dollars; or

22 (b) Tax was not imposed under this section during the immediately  
23 preceding calendar quarter, and the most recent quarterly balance is  
24 more than seven million five hundred thousand dollars.

25 **Sec. 6.** RCW 82.23A.902 and 2006 c 276 s 5 are each amended to read  
26 as follows:

27 This chapter (~~(shall)~~) expires (~~(on June 1, 2013)~~) July 1, 2020,  
28 coinciding with the expiration of chapter 70.148 RCW.

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