

History of Requiring Washington Pilots on Tankers Over 40,000 DWT to and from Canadian Ports via Haro Strait, Boundary Pass, and the Strait of Georgia

Tankers over 5,000 GT inbound and outbound between sea and Canadian ports via Haro Strait, Boundary Pass, and the Strait of Georgia are required under RCW 88.16.180 to employ Washington state pilots when transiting Washington waters. However, under RCW 88.16.190(2)(c), tankers under 40,000 DWT are exempt from the requirement of RCW 88.16.180.

Background

The 1971 amendments to the Pilotage Act directed the Washington Pilotage Commission to study the feasibility and legality of requiring a pilot on all vessels entering Puget Sound. A legal debate arose regarding whether the Oregon Treaty of 1846, which guarantees Canadians free and open navigation through these waters, prohibited the state from enforcing a Washington pilot requirement on vessels bound for Canada. This issue was resolved in 1975 when the Washington Attorney General's office issued a formal opinion stating that, to the extent vessels entered Washington waters, they were subject to the state's compulsory pilotage provisions under RCW 88.16.070.

In 1975, the Washington State Legislature passed RCW 88.16.180, which mandated that "Notwithstanding the provisions of RCW 88.16.070," all US and foreign tankers of a certain size must have a Washington pilot on board when transiting Washington waters. The law extended the pilotage requirement to cover both US and Canadian tankers. However, in September 1976, the US District Court in Washington invalidated RCW 88.16.180 entirely, citing federal preemption.

In 1977, the Pilotage Act was amended to include what is now RCW 88.16.070(3), which exempted any vessel from pilotage if it had a Canadian pilot on board and was transiting to and from Canadian ports through Haro Strait and Boundary Pass. This amendment did not directly address RCW 88.16.180, either because it had been preempted by federal law or due to the legislature's intent that RCW 88.16.070(3) not apply to tankers.

In 1978, the US Supreme Court in [*Ray v. Atlantic Richfield*](#) reinstated the portion of RCW 88.16.180 that required pilots on registered vessels. The language of RCW 88.16.180, stating, "Notwithstanding the provisions of RCW 88.16.070" was left unchanged.

The Washington State Legislature revisited the statute in [1983](#) (Sec. 231, Pg 149), when the tariff reference was changed; in [1991](#) (Sec. 601, Pg 69) when enrolled tankers were removed and the size requirement was changed from DWT to GT; and again in [2019](#), when tankers under 40,000 DWT were exempted from RCW 88.16.170 and RCW 88.16.180. The language of "Notwithstanding the provisions of RCW 88.16.070" was left unchanged in each of these revisions.

Conclusion

While operational ambiguities arose due to changes in the 1970s, more recent legislative actions align with the plain language of the law, reaffirming the requirement for Washington pilots on certain tankers.