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HOUSE BILL 2469

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State of Washington                      63rd Legislature                      2014 Regular Session

By Representatives Lytton, Nealey, Blake, Orcutt, Haigh, and Morris

Read first time 01/17/14. Referred to Committee on Finance.

1            AN ACT Relating to a hazardous substance tax exemption for certain  
2 hazardous substances defined under RCW 82.21.020(1)(c) that are used as  
3 agricultural crop protection products and warehoused but not otherwise  
4 used, manufactured, packaged, or sold in this state; amending RCW  
5 82.21.040; adding a new section to chapter 82.21 RCW; creating a new  
6 section; and providing an effective date.

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

8            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.21 RCW  
9 to read as follows:

10           The legislature finds that the agricultural industry is a vital  
11 component of Washington's economy, providing thousands of jobs  
12 throughout the state. The legislature further finds that Washington  
13 state is the ideal location for distribution centers for agricultural  
14 crop protection products because Washington is an efficient  
15 transportation hub for Pacific Northwest farmers. However, products  
16 being warehoused in the state are diminishing because agricultural crop  
17 protection products that are both produced and ultimately sold out-of-  
18 state are being redirected to out-of-state distribution centers because  
19 of Washington's tax burden. Relocation of this economic activity is

1 detrimental to Washington's economy through the direct loss of jobs and  
2 tax revenue, in addition to the negative impact on the supply chain for  
3 Washington farmers. Therefore, it is the intent of the legislature to  
4 encourage the regional competitiveness of agricultural distribution by  
5 providing an exemption from the hazardous substance tax for  
6 agricultural crop protection products that are manufactured out-of-  
7 state, warehoused or transported in the state, but ultimately shipped  
8 and sold out of Washington state.

9 NEW SECTION. **Sec. 2.** This section is the tax preference  
10 performance statement for the tax exemption contained in RCW 82.21.040.  
11 This performance statement is only intended to be used for subsequent  
12 evaluation of the tax preference. It is not intended to create a  
13 private right of action by any party or be used to determine  
14 eligibility for preferential tax treatment.

15 (1) The legislature categorizes this tax exemption as one intended  
16 to retain jobs, as indicated in RCW 82.32.808(2)(c).

17 (2) It is the legislature's specific public policy objective to  
18 retain existing jobs performed to warehouse and transport agricultural  
19 crop protection products. It is the legislature's intent to exempt  
20 only agricultural crop protection products that are shipped into  
21 Washington state, warehoused in the state, and ultimately shipped and  
22 sold out of Washington state from the hazardous substance tax, in order  
23 to reduce the cost of warehousing and shipping products that are held  
24 but not ultimately used in the state, thereby inducing out-of-state  
25 customers to utilize Washington as a transportation hub, thereby  
26 retaining existing jobs for warehousing such products in Washington  
27 state.

28 (3) If a review finds that the average employment in the  
29 agricultural crop protection warehousing industry remains at least  
30 steady following the enactment of this preference, then the legislature  
31 intends to extend the expiration date of the tax preference.

32 (4) In order to obtain the data necessary to perform the review in  
33 subsection (3) of this section, the joint legislative audit and review  
34 committee may refer to employment data available from the employment  
35 security department.

1       **Sec. 3.** RCW 82.21.040 and 1989 c 2 s 11 are each amended to read  
2 as follows:

3       The following are exempt from the tax imposed in this chapter:

4       (1) Any successive possession of a previously taxed hazardous  
5 substance. If tax due under this chapter has not been paid with  
6 respect to a hazardous substance, the department may collect the tax  
7 from any person who has had possession of the hazardous substance. If  
8 the tax is paid by any person other than the first person having  
9 taxable possession of a hazardous substance, the amount of tax paid  
10 shall constitute a debt owed by the first person having taxable  
11 possession to the person who paid the tax.

12       (2) Any possession of a hazardous substance by a natural person  
13 under circumstances where the substance is used, or is to be used, for  
14 a personal or domestic purpose (and not for any business purpose) by  
15 that person or a relative of, or person residing in the same dwelling  
16 as, that person.

17       (3) Any possession of a hazardous substance amount which is  
18 determined as minimal by the department of ecology and which is  
19 possessed by a retailer for the purpose of making sales to ultimate  
20 consumers. This exemption does not apply to pesticide or petroleum  
21 products.

22       (4) Any possession of alumina or natural gas.

23       (5)(a) Any possession of a hazardous substance as defined in RCW  
24 82.21.020(1)(c) that is solely for use by a farmer as an agricultural  
25 crop protection product and warehoused in this state or transported to  
26 or from this state, provided that the person possessing the substance  
27 does not otherwise use, manufacture, package for sale, or sell the  
28 substance in this state.

29       (b) For the purposes of this subsection (5), the following  
30 definitions apply:

31       (i) "Farmer" has the same meaning as in RCW 82.04.213.

32       (ii) "Use" has the same meaning as in RCW 82.12.010.

33       (6) Persons or activities which the state is prohibited from taxing  
34 under the United States Constitution.

35       ~~((6) Any persons possessing a hazardous substance where such~~  
36 ~~possession first occurred before March 1, 1989.))~~

1        NEW SECTION.   **Sec. 4.**   This act takes effect July 1, 2014.

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