

---

**Finance Committee**

---

**HB 1220**

**Brief Description:** Concerning a hazardous substance tax exemption for certain hazardous substances defined under RCW 82.21.020(1)(c) that are used as agricultural crop protection products and warehoused but not otherwise used, manufactured, packaged, or sold in this state.

**Sponsors:** Representatives Blake, Wilcox, Takko, Nealey, Lytton, Orcutt, Haler, Klippert, McCaslin, Buys and Parker.

**Brief Summary of Bill**

- Exempts agricultural crop protection products from hazardous substance tax if the products are warehoused but not otherwise used in the state.

**Hearing Date:** 1/30/15

**Staff:** Jeffrey Mitchell (786-7139).

**Background:**

The tax imposed on hazardous substances was initiated in the late 1980s, first by the Legislature and then by Initiative 97.

The tax base of the Hazardous Substance Tax (HST), created by the Model Toxics Control Act (MCTA), is the wholesale value of substances defined as hazardous. The HST is imposed on the first possession in Washington of petroleum products under the federal Comprehensive Environmental Response, Compensation, and Liability Act; pesticides registered under the Federal Insecticide, Fungicide, and Rodenticide Act; and substances designated by rule by the Department of Ecology to present a threat to human health or the environment.

The tax rate is 0.7 percent multiplied by the wholesale value of the product. The proceeds, up to \$140 million per fiscal year, are deposited into two accounts: 56 percent to the state toxics control account; and 44 percent to the local toxics control account. Any overage is deposited

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

into the Environmental Legacy Stewardship Account. The purpose of MCTA is to raise sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters.

There are exemptions from the HST, one of which includes persons and activities that the state is prohibited from taxing under the United States Constitution. This prohibition applies to materials in interstate commerce under Article I, section 8, clause 3, of the Constitution. This clause empowers Congress "to regulate commerce with foreign nations, and among several states, and with the Indian tribes."

Agricultural crop protection products that meet the definition of pesticides under MCTA are sometimes manufactured at an out-of-state location and then are shipped to Washington warehouses. Sometimes the product is shipped from the Washington warehouse to a Washington retailer for sale to the Washington farmer. These products are subject to the HST because they are not items in interstate commerce.

A question has arisen when the product is shipped out of Washington from the warehouse. The Department of Revenue (DOR) rules allow the exemption if the product in the warehouse is already owned by the out-of-state recipient when the product is received at the warehouse. Under any other shipping scenario, the DOR levies the tax on the product even though it is ultimately sold out of state.

**Summary of Bill:**

The possession of an agricultural crop protection product when that possession is solely for use by a farmer, or certified applicator, and the product is warehoused in Washington or transported to or from Washington is exempted from the HST. To qualify for this exemption, the person possessing the product may not use, repackage, manufacture, or sell the product in Washington.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2015.