

# HOUSE BILL REPORT

## HB 1619

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### As Reported by House Committee On: Finance

**Title:** An act relating to providing a business and occupation tax exemption for environmental handling charges.

**Brief Description:** Providing a business and occupation tax exemption for environmental handling charges.

**Sponsors:** Representatives S. Hunt, Nealey, Fitzgibbon and Pollet.

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/3/15, 2/17/15 [DPS].

#### **Brief Summary of Substitute Bill**

- Provides a business and occupation tax exemption for revenue generated from the sale of products subject to an environmental handling charge.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Manweller, Reykdal, Robinson, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

**Staff:** Richelle Geiger (786-7175).

#### **Background:**

##### Business and Occupation Taxes.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all

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business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted.

#### Tax Preference Performance Statement.

In 2013 the Legislature passed Engrossed Substitute Senate Bill 5882, which requires all new tax preference legislation to include a tax preference performance statement. "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objective of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference.

Engrossed Substitute Senate Bill 5882 also establishes an automatic 10-year expiration date for new tax preference if an alternative expiration date is not provided in the new tax preference legislation.

#### Mercury-Containing Lights Product Stewardship Programs.

In 2010 the Legislature passed a law requiring producers of mercury-containing lights to participate in a mercury-containing lights product stewardship program (stewardship program). A stewardship program is responsible for the collection, recycling, and disposal of mercury-containing lights, including compact fluorescent lights. The stewardship program must operate pursuant to a plan approved by Department of Ecology (ECY). The ECY is responsible for reviewing and approving a stewardship program's plan and ensuring compliance with the approved plan. Stewardship program collection sites must be registered with the product stewardship organization and must be located in every city with a population greater than 10,000, with at least one location per county, regardless of a county's population.

#### Environmental Handling Charges.

An environmental handling charge (EHC) must be added to the price of mercury-containing lights sold to retailers in or into the state. The handling charge must cover the stewardship program's operational and administrative costs, plus a reserve.

Producers must remit environmental handling charge revenue to their stewardship program, unless a distributor or retailer has voluntarily agreed to directly remit the environmental handling charge to the stewardship program on behalf of the producer. Retailers who voluntarily agree to remit the handling charge to the stewardship organization may retain a portion of the handling charge as compensation for the costs associated with collecting and remitting the handling charge.

The stewardship program, using funds from the environmental handling charge, must pay \$5,000 per participating producer to the ECY to cover administration and enforcement costs.

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**Summary of Substitute Bill:**

A B&O tax exemption is provided for receipts attributable to an EHC.

The tax exemption is exempt from the tax preference performance statement and expiration date requirements.

**Substitute Bill Compared to Original Bill:**

The substitute bill clarifies that only the portion of receipts from the EHC are exempt from the B&O tax.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Last year, a bill passed to provide funding for mercury-containing lights recycling efforts by applying the EHC to the price of the bulbs. Late last fall, the Department of Revenue determined the EHC was subject to the B&O tax. This was not the intent of the previous legislation. Currently, the B&O tax is due on a government-mandated fee.

We want to make it as easy as possible to recycle mercury-containing lights.

(Opposed) None.

**Persons Testifying:** Representative S. Hunt, prime sponsor; Charlie Brown, National Electrical Manufacturers Association; and Carolyn Logue, Washington Food Industry Association.

**Persons Signed In To Testify But Not Testifying:** None.