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**SUBSTITUTE SENATE BILL 5209**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Hatfield, Padden, Schoesler, Hobbs, and Hewitt)

READ FIRST TIME 02/13/15.

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

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  
9 RCW to read as follows:

10 (1) The legislature categorizes this tax preference as one  
11 intended to improve industry competitiveness, as indicated in RCW  
12 82.32.808(2)(b).

13 (2) The legislature's specific public policy objective is to  
14 clarify an existing exemption from the hazardous substance tax for  
15 agricultural crop protection products to incentivize storing products  
16 in Washington state as they are engaged in interstate commerce. The  
17 legislature finds that the agricultural industry is a vital component  
18 of Washington's economy, providing thousands of jobs throughout the  
19 state. The legislature further finds that Washington state is the  
20 ideal location for distribution centers for agricultural crop  
21 protection products because Washington is an efficient transportation

1 hub for Pacific Northwest farmers, and encourages crop protection  
2 products to be managed in the most protective facilities, and  
3 transported using the most sound environmental means. However,  
4 products being warehoused in the state are diminishing because  
5 agricultural crop protection products are being redirected to out-of-  
6 state distribution centers as a direct result of Washington's tax  
7 burden. Relocation of this economic activity is detrimental to  
8 Washington's economy through the direct loss of jobs and hazardous  
9 substance tax revenue, thereby negatively impacting the supply chain  
10 for Washington farmers, thereby causing increased transportation  
11 usage and risk of spillage, thereby failing to encourage the most  
12 environmentally protective measures. Therefore, it is the intent of  
13 the legislature to encourage the regional competitiveness of  
14 agricultural distribution by clarifying an exemption from the  
15 hazardous substance tax for agricultural crop protection products  
16 that are manufactured out-of-state, warehoused or transported into  
17 the state, but ultimately shipped and sold out of Washington state.

18 (3) If a review finds an average increase in revenue of the  
19 hazardous substance tax, then the legislature intends to extend the  
20 expiration date of the tax preference.

21 (4) In order to obtain the data necessary to perform the review  
22 in subsection (3) of this section, the joint legislative audit and  
23 review committee may refer to data available from the department of  
24 revenue.

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

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

28 (1) Any successive possession of a previously taxed hazardous  
29 substance. If tax due under this chapter has not been paid with  
30 respect to a hazardous substance, the department may collect the tax  
31 from any person who has had possession of the hazardous substance. If  
32 the tax is paid by any person other than the first person having  
33 taxable possession of a hazardous substance, the amount of tax paid  
34 shall constitute a debt owed by the first person having taxable  
35 possession to the person who paid the tax.

36 (2) Any possession of a hazardous substance by a natural person  
37 under circumstances where the substance is used, or is to be used,  
38 for a personal or domestic purpose (and not for any business purpose)

1 by that person or a relative of, or person residing in the same  
2 dwelling as, that person.

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

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

9 (5)(a) Any possession of a hazardous substance as defined in RCW  
10 82.21.020(1)(c) that is solely for use by a farmer or certified  
11 applicator as an agricultural crop protection product and warehoused  
12 in this state or transported to or from this state, provided that the  
13 person possessing the substance does not otherwise use, manufacture,  
14 package for sale, or sell the substance in this state.

15 (b) The definitions in this subsection apply throughout this  
16 section unless the context clearly requires otherwise.

17 (i) "Agricultural crop protection product" means a chemical  
18 regulated under the federal insecticide, fungicide, and rodenticide  
19 act, 7 U.S.C. Sec. 136 as amended as of the effective date of this  
20 section, when used to prevent, destroy, repel, mitigate, or control  
21 predators, diseases, weeds, or other pests.

22 (ii) "Certified applicator" has the same meaning as provided in  
23 RCW 17.21.020.

24 (iii) "Farmer" has the same meaning as in RCW 82.04.213.

25 (iv) "Manufacturing" includes mixing or combining agricultural  
26 crop protection products with other chemicals or other agricultural  
27 crop protection products.

28 (v) "Package for sale" includes transferring agricultural crop  
29 protection products from one container to another, including the  
30 transfer of fumigants and other liquid or gaseous chemicals from one  
31 tank to another.

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

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

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

37 NEW SECTION. Sec. 3. This act is necessary for the immediate  
38 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect July 1, 2015.

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