

---

**SENATE BILL 5857**

---

**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Braun, Muzzall, Schoesler, Sefzik, and Short

Read first time 01/13/22. Referred to Committee on Environment,  
Energy & Technology.

1 AN ACT Relating to dedicating funding from the model toxics  
2 control accounts for pollution cleanup, water flow management, water  
3 supply, and aquatic resource protection; amending RCW 82.21.010,  
4 82.21.030, and 70A.305.200; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that funding actions  
7 pertaining to water availability, drought management, flood control,  
8 and pollution cleanup are all necessary to ensure the continued  
9 protection of the environment and economic vitality of the state.  
10 The legislature intends to continue the traditional programs that  
11 have been funded by the model toxics control act as well as provide  
12 increased mitigation against drought and floods, as well as sustain  
13 water flows.

14 **Sec. 2.** RCW 82.21.010 and 2019 c 422 s 101 are each amended to  
15 read as follows:

16 (1) It is the intent of this chapter to impose a tax only once  
17 for each hazardous substance possessed in this state and to tax the  
18 first possession of all hazardous substances, including substances  
19 and products that the department of ecology determines to present a  
20 threat to human health or the environment. However, it is not

1 intended to impose a tax on the first possession of small amounts of  
2 any hazardous substance (other than petroleum and pesticide products)  
3 that is first possessed by a retailer for the purpose of sale to  
4 ultimate consumers. This chapter is not intended to exempt any person  
5 from tax liability under any other law.

6 (2) It is the specific purpose of the model toxics control reform  
7 act (chapter 422, Laws of 2019) to update the model toxics control  
8 program and its primary funding mechanism. These reforms are intended  
9 to achieve the financial stability, transparency, and long-term  
10 protection of revenues. Specifically, this reform act makes the  
11 following changes:

12 (a) Increases funding for programs and projects related to clean  
13 air, clean water, toxic cleanup, and prevention, with specific focus  
14 on stormwater pollution;

15 (b) Provides distinct and transparent financial separation of  
16 capital and operating budget funding under the model toxics control  
17 program;

18 (c) Improves the transparency and visibility of operating and  
19 capital project expenditures under the model toxics control program;  
20 and

21 (d) Eliminates the year-to-year volatility of hazardous substance  
22 tax revenues by moving to a volumetric rate for petroleum products.

23 (3) The purpose of the model toxics control act is also to help  
24 achieve environmental protection through stormwater management, water  
25 flow management, and increased resiliency for aquatic resources.

26 **Sec. 3.** RCW 82.21.030 and 2021 c 333 s 705 are each amended to  
27 read as follows:

28 (1)(a) A tax is imposed on the privilege of possession of  
29 hazardous substances in this state. Except as provided in (b) of this  
30 subsection, the rate of the tax is seven-tenths of one percent  
31 multiplied by the wholesale value of the substance. Moneys collected  
32 under this subsection (1)(a) must be deposited in the model toxics  
33 control capital account.

34 (b) Beginning July 1, 2019, the rate of the tax on petroleum  
35 products is one dollar and nine cents per barrel. The tax collected  
36 under this subsection (1)(b) on petroleum products must be deposited  
37 as follows, after first depositing the tax as provided in (c) of this  
38 subsection, except that during the 2021-2023 biennium the deposit as

1 provided in (c) of this subsection may be prorated equally across  
2 each month of the biennium:

3 ~~(i) ((Sixty percent to the model toxics control operating account~~  
4 ~~created under RCW 70A.305.180;~~

5 ~~(ii) Twenty-five))~~ Fifty percent to the model toxics control  
6 capital account created under RCW 70A.305.190; and

7 ~~((iii) Fifteen))~~ (ii) Fifty percent to the model toxics control  
8 stormwater and water infrastructure account created under RCW  
9 70A.305.200.

10 (c) Until the beginning of the ensuing biennium after the  
11 enactment of an additive transportation funding act, fifty million  
12 dollars per biennium to the motor vehicle fund to be used exclusively  
13 for transportation stormwater activities and projects. For purposes  
14 of this subsection, "additive transportation funding act" means an  
15 act in which the combined total of new revenues deposited into the  
16 motor vehicle fund and the multimodal transportation account exceed  
17 two billion dollars per biennium attributable solely to an increase  
18 in revenue from the enactment of the act.

19 (d) The department must compile a list of petroleum products that  
20 are not easily measured on a per barrel basis. Petroleum products  
21 identified on the list are subject to the rate under (a) of this  
22 subsection in lieu of the volumetric rate under (b) of this  
23 subsection. The list will be made in a form and manner prescribed by  
24 the department and must be made available on the department's  
25 internet website. In compiling the list, the department may accept  
26 technical assistance from persons that sell, market, or distribute  
27 petroleum products and consider any other resource the department  
28 finds useful in compiling the list.

29 (2) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
30 The tax due dates, reporting periods, and return requirements  
31 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
32 this chapter.

33 ~~((3) Beginning July 1, 2020, and every July 1st thereafter, the~~  
34 ~~rate specified in subsection (1)(b) of this section must be adjusted~~  
35 ~~to reflect the percentage change in the implicit price deflator for~~  
36 ~~nonresidential structures as published by the United States~~  
37 ~~department of commerce, bureau of economic analysis for the most~~  
38 ~~recent twelve-month period ending December 31st of the prior year.))~~

1       **Sec. 4.** RCW 70A.305.200 and 2020 c 20 s 1321 are each amended to  
2 read as follows:

3       (1) The model toxics control stormwater and water infrastructure  
4 account is hereby created in the state treasury.

5       (2) Moneys in the model toxics control stormwater and water  
6 infrastructure account must be used for operating and capital  
7 programs, activities, ~~((and))~~ projects identified in subsection (3)  
8 of this section directly relating to stormwater pollution control,  
9 drought mitigation, and water flow management.

10       (3) Moneys in the model toxics control stormwater and water  
11 infrastructure account must be used only to carry out the operating  
12 and capital programs, activities, and projects ~~((directly relating to~~  
13 ~~stormwater activities under RCW 70A.305.180 and 70A.305.190))~~  
14 described in RCW 70A.305.180, 70A.305.190, 43.83B.410, 43.83B.415,  
15 43.21A.733, 90.90.010, 90.38.030, and 90.38.070, including, but not  
16 limited to, the following:

17       (a) Stormwater pollution control projects and activities that  
18 protect or preserve existing remedial actions or prevent hazardous  
19 clean-up sites;

20       (b) Stormwater financial assistance to local governments that  
21 assist in compliance to the purposes of this chapter;

22       (c) Drought mitigation, planning, and prevention; and

23       (d) Water infrastructure and supply as provided by the office of  
24 Columbia river, the Yakima basin integrated plan, and the office of  
25 Chehalis basin.

26       (4) Except for unanticipated receipts under RCW 43.79.260 through  
27 43.79.282, moneys in the model toxics control stormwater and water  
28 infrastructure account may be spent only after appropriation by  
29 statute.

--- END ---