

SENATE BILL REPORT

SB 5915

As Passed Senate, February 13, 2024

Title: An act relating to extending an existing hazardous substance tax exemption for certain agricultural crop protection products that are temporarily warehoused but not otherwise used, manufactured, packaged, or sold in the state of Washington.

Brief Description: Extending an existing hazardous substance tax exemption for certain agricultural crop protection products that are temporarily warehoused but not otherwise used, manufactured, packaged, or sold in the state of Washington.

Sponsors: Senators Torres, Schoesler, Wagoner and Warnick.

Brief History:

Committee Activity: Ways & Means: 1/18/24, 2/01/24 [DP, w/oRec].

Floor Activity: Passed Senate: 2/13/24, 36-13.

Brief Summary of Bill

- Extends the expiration date by ten years for the hazardous substance tax exemption for pesticides sold out of state.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Hunt, Keiser, Muzzall, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Dhingra, Hasegawa and Pedersen.

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

Staff: Jeffrey Mitchell (786-7438)

Background: Washington's hazardous substance tax (HST) was established in 1988. The tax applies to the first possession of hazardous substances, including petroleum products, certain pesticides, and certain chemicals. Until 2020 the tax rate for any hazardous substance was 0.7 percent of its wholesale value. The 2019 Legislature changed the HST rate for liquid petroleum products from a value-based tax to a volumetric one, in other words per barrel. For fiscal year 2023 the tax rate on petroleum products was \$1.20 per barrel. Nonliquid petroleum products and all other hazardous substances continue to be taxed at 0.7 percent of their wholesale value.

The 2015 Legislature enacted a tax preference to exempt agricultural crop protection products (pesticides) from the HST. These products are chemicals used to prevent or control diseases, weeds, or other pests. Under the preference, pesticides warehoused in Washington or transported to or from Washington are exempt from the state's hazardous substance tax, as long as they are not manufactured, packaged, sold, or used in the state. In the 2015 legislation, the Legislature expressed an intent to incentivize agricultural pesticide storage in Washington and that if a tax preference performance review by the Joint Legislative Audit and Review Committee (JLARC) found an average increase in revenue of the hazardous substance tax, then the Legislature intends to extend the expiration date of the tax preference. In its review, JLARC found that the preference provides tax relief to Washington businesses distributing pesticides to other states by reducing storage costs and making Washington a more competitive location for storing and distributing pesticides in the Pacific Northwest. However, JLARC found that the metric of increasing HST revenue was established before the Legislature changed the tax rate for liquid petroleum products, which lead to a significant increase in HST revenue. JLARC found that the preference likely had no effect on the revenue increase and recommended that the Legislature consider new metrics.

The exemption is scheduled to expire on January 1, 2026.

Summary of Bill: The expiration date for the HST exemption for pesticides sold out of state is extended from January 1, 2026, to January 1, 2036.

The existing tax preference performance statement will be used by JLARC to evaluate the exemption as it approaches its expiration date.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill puts Washington on equal competitive footing with Oregon and Idaho for storing crop protection products. This is a bill that improves food safety and food security. This bill allows Washington to be the most competitive location for pesticides in the Pacific Northwest, which leads to job creation and family wage jobs. Several businesses have utilized this exemption to expand existing operations. These crop protection products that are not use, applied, or sold in Washington. The tax will continue to apply to products that are manufactured, used, or sold in the state. Prior to the exemption, the tax was applied to some products that were temporarily in the state before being exported creating the unintended consequence of discouraging regional distribution. This exemption has encouraged businesses to store crop protection products in Washington in specifically designed hazmat facilities for rapid deployment to farmers. The Joint Legislative Audit and Review Committee and the Citizen's Commission on Tax Preferences recommended continuation of this tax preference.

Persons Testifying: PRO: Senator Nikki Torres, Prime Sponsor; Craig Smith, Far West Agribusiness Association; Matt Ewers, IEDS Logistics; Emily Shay, Association of Washington Businesses.

Persons Signed In To Testify But Not Testifying: No one.