
HOUSE BILL 2454

State of Washington

68th Legislature

2024 Regular Session

By Representatives Ybarra and Chapman

Read first time 01/23/24. Referred to Committee on Finance.

1 AN ACT Relating to extending an existing hazardous substance tax
2 exemption for certain agricultural crop protection products that are
3 temporarily warehoused but not otherwise used, manufactured,
4 packaged, or sold in the state of Washington; amending RCW 82.21.040;
5 and amending 2015 3rd sp.s. c 6 s 1901 (uncodified).

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

7 **Sec. 1.** RCW 82.21.040 and 2015 3rd sp.s. c 6 s 1902 are each
8 amended to read as follows:

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

10 (1) Any successive possession of a previously taxed hazardous
11 substance. If tax due under this chapter has not been paid with
12 respect to a hazardous substance, the department may collect the tax
13 from any person who has had possession of the hazardous substance. If
14 the tax is paid by any person other than the first person having
15 taxable possession of a hazardous substance, the amount of tax paid
16 shall constitute a debt owed by the first person having taxable
17 possession to the person who paid the tax.

18 (2) Any possession of a hazardous substance by a natural person
19 under circumstances where the substance is used, or is to be used,
20 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~~) Until January 1, 2036, any possession of a
10 hazardous substance as defined in RCW 82.21.020(1)(c) that is solely
11 for use by a farmer or certified applicator as an agricultural crop
12 protection product and warehoused in this state or transported to or
13 from this state, provided that the person possessing the substance
14 does not otherwise use, manufacture, package for sale, or sell the
15 substance in this state.

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

18 (i) "Agricultural crop protection product" means a chemical
19 regulated under the federal insecticide, fungicide, and rodenticide
20 act, 7 U.S.C. Sec. 136 as amended as of September 1, 2015, when used
21 to prevent, destroy, repel, mitigate, or control predators, diseases,
22 weeds, or other pests.

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

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

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

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

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

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

36 **Sec. 2.** 2015 3rd sp.s. c 6 s 1901 (uncodified) is amended to
37 read as follows:

38 (1) The legislature categorizes the tax preference in section
39 1902 (~~(of this act)~~), chapter 6, Laws of 2015 3rd sp.s. and section

1 1, chapter . . ., Laws of 2024 (section 1 of this act) as one
2 intended to improve industry competitiveness, as indicated in RCW
3 82.32.808(2)(b).

4 (2) The legislature's specific public policy objective is to
5 clarify an existing exemption from the hazardous substance tax for
6 agricultural crop protection products to incentivize storing products
7 in Washington state as they are engaged in interstate commerce. The
8 legislature finds that the agricultural industry is a vital component
9 of Washington's economy, providing thousands of jobs throughout the
10 state. The legislature further finds that Washington state is the
11 ideal location for distribution centers for agricultural crop
12 protection products because Washington is an efficient transportation
13 hub for Pacific Northwest farmers, and encourages crop protection
14 products to be managed in the most protective facilities, and
15 transported using the most sound environmental means. However,
16 products being warehoused in the state are diminishing because
17 agricultural crop protection products are being redirected to out-of-
18 state distribution centers as a direct result of Washington's tax
19 burden. Relocation of this economic activity is detrimental to
20 Washington's economy through the direct loss of jobs and hazardous
21 substance tax revenue, thereby negatively impacting the supply chain
22 for Washington farmers, thereby causing increased transportation
23 usage and risk of spillage, thereby failing to encourage the most
24 environmentally protective measures. Therefore, it is the intent of
25 the legislature to encourage the regional competitiveness of
26 agricultural distribution by clarifying an exemption from the
27 hazardous substance tax for agricultural crop protection products
28 that are manufactured out-of-state, warehoused or transported into
29 the state, but ultimately shipped and sold out of Washington state.

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

33 (4) In order to obtain the data necessary to perform the review
34 in subsection (3) of this section, the joint legislative audit and
35 review committee may refer to data available from the department of
36 revenue.

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