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**SUBSTITUTE HOUSE BILL 1779**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Environmental Affairs (originally sponsored by Representatives Chandler, Hansen and Rust)

Read first time 03/01/93.

1 AN ACT Relating to hazardous substances incinerators; adding a new  
2 section to chapter 70.105 RCW; adding a new chapter to Title 82 RCW;  
3 prescribing penalties; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
6 otherwise, the definitions in this section apply throughout this  
7 chapter.

8 (1) "Dangerous wastes" means any discarded, useless, unwanted, or  
9 abandoned substances, including but not limited to certain pesticides,  
10 or any residues or containers of such substances that are disposed of  
11 in such quantity or concentration as to pose a substantial present or  
12 potential hazard to human health, wildlife, or the environment because  
13 such wastes or constituents or combinations of such wastes:

14 (a) Have short-lived, toxic properties that may cause death,  
15 injury, or illness or have mutagenic, teratogenic, or carcinogenic  
16 properties; or

17 (b) Are corrosive, explosive, flammable, or may generate pressure  
18 through decomposition or other means.

19 (2) "Department" means the department of revenue.

1 (3) "Extremely hazardous waste" means any dangerous waste that  
2 (a) Will persist in a hazardous form for several years or more at  
3 a disposal site and that in its persistent form

4 (i) Presents a significant environmental hazard and may be  
5 concentrated by living organisms through a food chain or may affect the  
6 genetic make-up of humans or wildlife, and

7 (ii) Is highly toxic to humans or wildlife

8 (b) If disposed of at a disposal site in such quantities as would  
9 present an extreme hazard to humans or the environment.

10 (4) "Hazardous substance" means any hazardous substance listed as  
11 a hazardous substance as of March 21, 1990, pursuant to section 313 of  
12 Title III of the federal superfund amendments and reauthorization act,  
13 any other substance determined by the director of ecology by rule to  
14 present a threat to human health or the environment, and all ozone-  
15 depleting compounds as defined by the Montreal Protocol of October  
16 1987.

17 (5) "Hazardous waste" means and includes all dangerous and  
18 extremely hazardous wastes, but does not include radioactive wastes or  
19 a substance composed of both radioactive and hazardous components.

20 (6) "Incinerable substance" means a hazardous waste or a hazardous  
21 substance destined for incineration at a hazardous waste disposal  
22 facility permitted by the department of ecology under chapter 70.105  
23 RCW.

24 (7) "Person" has the meaning in RCW 82.04.030.

25 (8) "Taxpayer" means the person owning an incinerable substance  
26 immediately before receipt of the same at a hazardous waste disposal  
27 facility.

28 (9) "Waste" means any solid waste as defined under RCW 70.95.030,  
29 any hazardous waste, any air contaminant as defined under RCW  
30 70.94.030, and any organic or inorganic matter that causes or tends to  
31 cause water pollution as defined in RCW 90.48.020.

32 NEW SECTION. **Sec. 2.** (1) A hazardous substances incineration  
33 response tax is imposed on the privilege of incinerating incinerable  
34 substances in this state. The tax imposed in this section is levied  
35 upon the owner of the incinerable substances immediately before receipt  
36 of the same at a hazardous waste disposal facility located in this  
37 state at the rate of thirty dollars per ton of incinerable substances  
38 delivered for incineration at the disposal facility.

1 (2) The tax imposed by this chapter shall be collected by the owner  
2 or operator of the hazardous waste disposal facility from the taxpayer.  
3 If any person charged with collecting the tax fails to bill the  
4 taxpayer for the tax, or having collected the tax, fails to pay the  
5 receipts to the department in the manner prescribed by this chapter,  
6 whether such failure is the result of the person's own acts or the  
7 result of acts or conditions beyond the person's control, he or she  
8 shall, nevertheless, be personally liable to the state for the amount  
9 of the tax. Payment of the tax by the owner of the incinerable  
10 substances to the operator of the disposal facility shall relieve the  
11 owner from further liability for the tax.

12 (3) Any tax collected under this chapter shall be held in trust  
13 until paid to the department. Any person collecting the tax who  
14 appropriates or converts the tax collected is guilty of a gross  
15 misdemeanor if the money required to be collected is not available for  
16 payment on the date payment is due. The tax required by this chapter  
17 to be collected shall be stated separately from other charges made by  
18 the disposal facility operator in any invoice or other statement of  
19 account provided to the taxpayer.

20 (4) If a taxpayer fails to pay the tax imposed by this chapter to  
21 the person charged with collection of the tax and the person charged  
22 with collection fails to pay the tax to the department, the department  
23 may, in its discretion, proceed directly against the taxpayer for  
24 collection of the tax.

25 (5) The tax shall be due from the disposal facility operator, along  
26 with reports and returns on forms prescribed by the department, within  
27 twenty-five days after the end of the month in which the taxable  
28 activity occurs.

29 (6) The amount of tax, until paid by the taxpayer to the disposal  
30 facility operator, shall constitute a debt from the taxpayer to the  
31 disposal facility operator. Any person required to collect the tax  
32 under this chapter who, with intent to violate this chapter, fails or  
33 refuses to do so as required and any taxpayer who refuses to pay any  
34 tax due under this chapter, is guilty of a misdemeanor as provided in  
35 chapter 9A.20 RCW.

36 (7) All receipts from the tax imposed in subsection (1) of this  
37 section shall be deposited into the state hazardous substances  
38 incineration response account.

1 (8) Within forty-five days after the end of each calendar quarter,  
2 the office of financial management shall determine the balance of the  
3 hazardous substances incineration response account as of the last day  
4 of that calendar quarter. Balance determinations by the office of  
5 financial management under this section are final and shall not be used  
6 to challenge the validity of any tax imposed under this chapter. The  
7 office of financial management shall promptly notify the departments of  
8 revenue and ecology of the account balance once a determination is  
9 made. For each subsequent calendar quarter, the tax imposed by  
10 subsection (1) of this section shall be imposed during the entire  
11 calendar quarter unless:

12 (a) Tax was imposed under subsection (1) of this section during the  
13 immediately preceding calendar quarter, and the most recent quarterly  
14 balance is more than twenty-five million dollars; or

15 (b) Tax was not imposed under subsection (1) of this section during  
16 the immediately preceding calendar quarter, and the most recent  
17 quarterly balance is more than fifteen million dollars.

18 NEW SECTION. **Sec. 3.** The department shall adopt such rules as may  
19 be necessary to enforce and administer this chapter. Chapter 82.32 RCW  
20 applies to the administration, collection, and enforcement of the tax  
21 levied under this chapter.

22 NEW SECTION. **Sec. 4.** The tax imposed in this chapter shall take  
23 effect October 1, 1993.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.105 RCW  
25 to read as follows:

26 The state hazardous substances incineration response account is  
27 created in the state treasury. All receipts from section 2 of this act  
28 shall be deposited in the account. Moneys in the account shall be  
29 spent only after appropriation. The account is subject to allotment  
30 procedures under chapter 43.88 RCW. The account shall be used  
31 exclusively to pay for the costs associated with the response to  
32 releases of hazardous substances and hazardous wastes at hazardous  
33 waste incineration facilities. Payment of response costs under this  
34 section shall be limited to releases that the director has determined  
35 are likely to exceed fifty thousand dollars. Before expending moneys  
36 from the account, the director shall make reasonable efforts to obtain

1 funding for response costs from the person responsible for the release.  
2 Reimbursement for response costs shall be allowed only for costs that  
3 are not covered by funds appropriated to the agencies responsible for  
4 response activities. Costs associated with the response to releases of  
5 hazardous substances include:

6 (1) Natural resource damage assessment and related activities;

7 (2) Release-related response, containment, wildlife rescue,  
8 cleanup, disposal, and associated costs;

9 (3) Economic losses of any person affected by the release;

10 (4) Interagency coordination and public information related to a  
11 response; and

12 (5) Appropriate travel, goods and services, contracts, and  
13 equipment.

14 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act shall  
15 constitute a new chapter in Title 82 RCW.

16 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and shall take  
19 effect immediately.

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