
HOUSE BILL 1779

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Chandler, Hansen and Rust

Read first time 02/08/93. Referred to Committee on Environmental Affairs.

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) Upon prior approval of the department, the taxpayer may pay the
37 tax imposed by this chapter directly to the department. The department
38 shall give its approval for direct payment under this section if it
39 appears, in the department's judgment, that direct payment will enhance

1 the administration of the tax imposed under this chapter. The
2 department shall provide by rule for the issuance of a direct payment
3 certificate to any taxpayer qualifying for direct payment of the tax.
4 Good faith acceptance of a direct payment certificate by a disposal
5 facility operator relieves the operator from any liability for the
6 collection or payment of the tax imposed under this chapter.

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

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

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

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

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

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

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

35 The state hazardous substances incineration response account is
36 created in the state treasury. All receipts from section 2 of this act

1 shall be deposited in the account. Moneys in the account shall be
2 spent only after appropriation. The account is subject to allotment
3 procedures under chapter 43.88 RCW. The account shall be used
4 exclusively to pay for the costs associated with the response to
5 releases of hazardous substances and hazardous wastes at hazardous
6 waste incineration facilities. Payment of response costs under this
7 section shall be limited to releases that the director has determined
8 are likely to exceed fifty thousand dollars. Before expending moneys
9 from the account, the director shall make reasonable efforts to obtain
10 funding for response costs from the person responsible for the release.
11 Reimbursement for response costs shall be allowed only for costs that
12 are not covered by funds appropriated to the agencies responsible for
13 response activities. Costs associated with the response to releases of
14 hazardous substances include:

- 15 (1) Natural resource damage assessment and related activities;
- 16 (2) Release-related response, containment, wildlife rescue,
17 cleanup, disposal, and associated costs;
- 18 (3) Economic losses of any person affected by the release;
- 19 (4) Interagency coordination and public information related to a
20 response; and
- 21 (5) Appropriate travel, goods and services, contracts, and
22 equipment.

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

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

--- END ---