

# HOUSE BILL REPORT

## HB 1663

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### As Reported by House Committee On: Finance

**Title:** An act relating to imposing a surtax on the possession of hazardous substances.

**Brief Description:** Concerning imposing a surtax on the possession of hazardous substances.

**Sponsors:** Representatives Peterson, Fitzgibbon, Macri and Pollet; by request of Department of Ecology.

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/7/17, 2/21/17 [DP].

#### **Brief Summary of Bill**

- Imposes a surtax on the first possession of hazardous substances in Washington, subject to a fiscal year limit of \$160 million in combined tax and surtax collections.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 6 members: Representatives Lytton, Chair; Frame, Vice Chair; Dolan, Pollet, Springer and Wylie.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Stokesbary and Wilcox.

**Staff:** Tracey O'Brien (786-7152).

#### **Background:**

##### Model Toxics Control Act.

The Model Toxics Control Act (MTCA), which is administered and enforced by the Department of Ecology (DOE), requires liable parties to clean up sites contaminated with hazardous substances, and authorizes the DOE to conduct certain pollution prevention

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activities. Under the MTCA, the State Toxics Control Account (STCA) and the Local Toxics Control Account (LTCA) provide for hazardous and solid waste planning, contaminated site cleanup grants to local governments, and other activities related to hazardous waste prevention, management, and remediation. The Environmental Legacy Stewardship Account (ELSA), created in 2013, provides grants or loans to local governments for performance and outcome-based projects, model remedies, demonstrated technologies, procedures, contracts, and project management and oversight that result in significant reductions in the average time spent to complete other authorized projects.

Hazardous Substance Tax.

There is a privilege tax on the first possession of hazardous substances in Washington. Hazardous substances include petroleum products, pesticides, and certain chemicals determined by the DOE to present a threat to human health or the environment if released into the environment.

The Hazardous Substance Tax (HST) is based on the wholesale value of the hazardous product. The tax rate is 0.7 percent. All receipts from this tax are distributed as follows:

- 56 percent of the first \$140 million per fiscal year to the STCA;
- 44 percent of the first \$140 million per fiscal year to the LTCA; and
- any amount collected over \$140 million per fiscal year to the ELSA.

In fiscal year 2013 the Hazardous Substance Tax collected over \$198 million. In subsequent fiscal years that amount declined. In fiscal year 2016 the tax collections were \$113.225 million.

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**Summary of Bill:**

In addition to the current 0.7 percent tax on hazardous substances, an additional surtax is imposed on the first possessor of hazardous substances. In the 2017-19 biennium, the surtax amount is 0.14 percent on the wholesale rate of hazardous substances. Beginning in fiscal year 2020, the surtax amount is 0.03 percent.

If in any fiscal year the total aggregate collections of the tax and the surtax equals or exceeds \$160 million, the Department of Revenue (DOR) will suspend the surtax for the remainder of the fiscal year. The suspension begins on the first day of the calendar month that is at least 30 days after the DOR makes a determination that revenues equal or exceed \$160 million. The DOR must provide notice on its website of the surtax suspension as soon as is practical. The surtax will be reinstated on the first day of the next fiscal year.

A determination that the surtax is suspended by the DOR is final.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2017.

**Staff Summary of Public Testimony:**

(In support) The overwhelming majority of MTCA funds come from petroleum; however, the volatility of oil prices have affected funds. Plans are already in the works by ports and local governments to begin projects that would be funded through one of the three MTAC funded accounts. With the decrease in available funds, important projects will be delayed while the volume of work that needs to be done grows. In the three decades since the creation of the hazardous substance tax, the rate has not changed, but the workload has increased. We need to ensure the sustainability of this tremendously successful program.

(Opposed) Per capita collection of the hazardous substance tax has increased. The current shortfall is temporary and by 2018, it should return to full funding. This is actually one of the least volatile funding sources. Of greater concern is the recent raiding of MTCA to backfill the State General Fund. The uses of MTCA were clearly defined in the initiative and if there is a shortfall, we should review and reprioritize how we spend these funds.

(Other) There is a programmatic problem due to the revenue and spending commitments of the Legislature. We should consider not just additional revenue, but narrowing the scope of activities funded by the MTCA, reprioritizing for immediate action on grants, and making a statement that the HST is dedicated to the MTCA, and will not be the subject of transfers in the future.

**Persons Testifying:** (In support) Carl Schroeder, Association of Washington Cities; Jeff Parsons, Puget Sound Partnership; Denise Clifford, Department of Ecology; Darcy Nonemacher, Washington Environmental Council; Felipe Rodriguez-Flores, Progreso: Latino Progress; and Jim Hedrick, Port of Everett.

(Opposed) Heather Hansen, Washington Friends of Farms and Forests; Mary Catherine McAleer, Association of Washington Business; and Greg Hanon, Western States Petroleum Association.

(Other) Laura Berg, Washington State Association of Counties; Sean Eagan, Port of Tacoma; and Gerry O'Keefe, Washington Public Ports.

**Persons Signed In To Testify But Not Testifying:** None.