S-3472.2

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**SENATE BILL 5857**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Braun, Muzzall, Schoesler, Sefzik, and Short

AN ACT Relating to dedicating funding from the model toxics control accounts for pollution cleanup, water flow management, water supply, and aquatic resource protection; amending RCW 82.21.010, 82.21.030, and 70A.305.200; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that funding actions pertaining to water availability, drought management, flood control, and pollution cleanup are all necessary to ensure the continued protection of the environment and economic vitality of the state. The legislature intends to continue the traditional programs that have been funded by the model toxics control act as well as provide increased mitigation against drought and floods, as well as sustain water flows.

**Sec.**  RCW 82.21.010 and 2019 c 422 s 101 are each amended to read as follows:

(1) It is the intent of this chapter to impose a tax only once for each hazardous substance possessed in this state and to tax the first possession of all hazardous substances, including substances and products that the department of ecology determines to present a threat to human health or the environment. However, it is not intended to impose a tax on the first possession of small amounts of any hazardous substance (other than petroleum and pesticide products) that is first possessed by a retailer for the purpose of sale to ultimate consumers. This chapter is not intended to exempt any person from tax liability under any other law.

(2) It is the specific purpose of the model toxics control reform act (chapter 422, Laws of 2019) to update the model toxics control program and its primary funding mechanism. These reforms are intended to achieve the financial stability, transparency, and long-term protection of revenues. Specifically, this reform act makes the following changes:

(a) Increases funding for programs and projects related to clean air, clean water, toxic cleanup, and prevention, with specific focus on stormwater pollution;

(b) Provides distinct and transparent financial separation of capital and operating budget funding under the model toxics control program;

(c) Improves the transparency and visibility of operating and capital project expenditures under the model toxics control program; and

(d) Eliminates the year-to-year volatility of hazardous substance tax revenues by moving to a volumetric rate for petroleum products.

(3) The purpose of the model toxics control act is also to help achieve environmental protection through stormwater management, water flow management, and increased resiliency for aquatic resources.

**Sec.**  RCW 82.21.030 and 2021 c 333 s 705 are each amended to read as follows:

(1)(a) A tax is imposed on the privilege of possession of hazardous substances in this state. Except as provided in (b) of this subsection, the rate of the tax is seven-tenths of one percent multiplied by the wholesale value of the substance. Moneys collected under this subsection (1)(a) must be deposited in the model toxics control capital account.

(b) Beginning July 1, 2019, the rate of the tax on petroleum products is one dollar and nine cents per barrel. The tax collected under this subsection (1)(b) on petroleum products must be deposited as follows, after first depositing the tax as provided in (c) of this subsection, except that during the 2021-2023 biennium the deposit as provided in (c) of this subsection may be prorated equally across each month of the biennium:

(i) ((~~Sixty percent to the model toxics control operating account created under RCW 70A.305.180;~~

~~(ii) Twenty-five~~)) Fifty percent to the model toxics control capital account created under RCW 70A.305.190; and

((~~(iii) Fifteen~~)) (ii) Fifty percent to the model toxics control stormwater and water infrastructure account created under RCW 70A.305.200.

(c) Until the beginning of the ensuing biennium after the enactment of an additive transportation funding act, fifty million dollars per biennium to the motor vehicle fund to be used exclusively for transportation stormwater activities and projects. For purposes of this subsection, "additive transportation funding act" means an act in which the combined total of new revenues deposited into the motor vehicle fund and the multimodal transportation account exceed two billion dollars per biennium attributable solely to an increase in revenue from the enactment of the act.

(d) The department must compile a list of petroleum products that are not easily measured on a per barrel basis. Petroleum products identified on the list are subject to the rate under (a) of this subsection in lieu of the volumetric rate under (b) of this subsection. The list will be made in a form and manner prescribed by the department and must be made available on the department's internet website. In compiling the list, the department may accept technical assistance from persons that sell, market, or distribute petroleum products and consider any other resource the department finds useful in compiling the list.

(2) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

((~~(3) Beginning July 1, 2020, and every July 1st thereafter, the rate specified in subsection (1)(b) of this section must be adjusted to reflect the percentage change in the implicit price deflator for nonresidential structures as published by the United States department of commerce, bureau of economic analysis for the most recent twelve-month period ending December 31st of the prior year.~~))

**Sec.**  RCW 70A.305.200 and 2020 c 20 s 1321 are each amended to read as follows:

(1) The model toxics control stormwater and water infrastructure account is hereby created in the state treasury.

(2) Moneys in the model toxics control stormwater and water infrastructure account must be used for operating and capital programs, activities, ((~~and~~)) projects identified in subsection (3) of this section directly relating to stormwater pollution control, drought mitigation, and water flow management.

(3) Moneys in the model toxics control stormwater and water infrastructure account must be used only to carry out the operating and capital programs, activities, and projects ((~~directly relating to stormwater activities under RCW 70A.305.180 and 70A.305.190~~)) described in RCW 70A.305.180, 70A.305.190, 43.83B.410, 43.83B.415, 43.21A.733, 90.90.010, 90.38.030, and 90.38.070, including, but not limited to, the following:

(a) Stormwater pollution control projects and activities that protect or preserve existing remedial actions or prevent hazardous clean-up sites;

(b) Stormwater financial assistance to local governments that assist in compliance to the purposes of this chapter;

(c) Drought mitigation, planning, and prevention; and

(d) Water infrastructure and supply as provided by the office of Columbia river, the Yakima basin integrated plan, and the office of Chehalis basin.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the model toxics control stormwater and water infrastructure account may be spent only after appropriation by statute.

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