

HOUSE BILL REPORT

HB 1918

As Reported by House Committee On:
State Government & Tribal Relations
Finance

Title: An act relating to reducing emissions from outdoor power equipment.

Brief Description: Reducing emissions from outdoor power equipment.

Sponsors: Representatives Macri, Valdez, Berry, Ryu, Simmons, Peterson, Goodman, Ramel, Kloba, Bateman, Harris-Talley and Pollet.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/20/22, 1/26/22 [DPS];
Finance: 2/17/22, 2/25/22 [DP2S(w/o sub SGOV)].

Brief Summary of Second Substitute Bill

- Exempts small engine zero-emission outdoor power equipment from state and local sales and use taxes through 2032, and includes a tax preference performance statement.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

Minority Report: Do not pass. Signed by 3 members: Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Graham.

Staff: Jason Zolle (786-7124).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Sales and Use Taxes.

The State of Washington levies a 6.5 percent sales tax on each retail sale of tangible personal property, services, digital goods and services, and certain other specified goods and services, subject to a number of exemptions and exceptions.

For items purchased in other states with a lower sales tax rate than Washington, or items purchased from sellers who are not authorized to collect a sales tax, the user of the item must pay a use tax to the state equal to 6.5 percent.

The governing body of a city or county is authorized to impose an additional local sales or use tax on any occurrence that is taxable by the state. This necessarily means that any sale or use that is exempt from the state sales tax is also exempt from any local sales or use taxes.

Tax Preference Evaluation.

Every bill that enacts a new tax credit or exemption must include a tax preference performance statement. The statement must describe the purpose of the tax credit or exemption, including an indication as to whether the credit or exemption is intended to:

- induce certain behavior by taxpayers;
- improve industry competitiveness;
- create or retain jobs;
- reduce structural inefficiencies in the tax structure;
- provide tax relief for certain businesses or individuals; or
- achieve another general purpose.

The Joint Legislative Audit and Review Committee (JLARC) is tasked with reviewing tax preferences to evaluate the impacts of the tax preference and to assess whether the preference is achieving the Legislature's stated intent.

Summary of Substitute Bill:

Definitions.

Outdoor power equipment is defined as equipment designed or marketed for use in an outdoor setting in the management of vegetation, landscaped outdoor spaces, or built spaces. Examples include leaf blowers, wood chippers, and snow blowers.

Zero-emission equipment is defined as equipment that is powered by a source that does not produce exhaust gas other than water, and that is powered by an engine that produces a gross horsepower of less than 25 horsepower at or below 19 kilowatts (or is designed to produce less than 25 horsepower). Examples include equipment powered by batteries or through a plugged-in electric cord.

State Sales and Use Taxes.

The sale of zero-emission outdoor power equipment is exempt from the 6.5 percent state sales and use taxes. The stated purpose of this tax preference, for purposes of JLARC's review, is to encourage the use of zero-emission outdoor power equipment, as a means to reduce the emissions of greenhouse gases and air pollution. The tax preference begins January 1, 2023, and expires January 1, 2033.

Sellers must notify customers that the state sales tax rate is 0 percent for zero-emission outdoor power equipment. Failure to do so is a class four civil infraction, subject to a \$25 penalty.

Government Procurement.

Beginning January 1, 2025, any small-engine outdoor power equipment purchased by state agencies and local governments must be zero-emission, except for equipment used:

- for emergency response activities;
- for natural resource work conducted on forestland;
- in agricultural settings; or
- in remote settings accessible only by water vessel.

Also beginning January 1, 2025, any large-engine outdoor power equipment purchased by state agencies and local governments must be zero-emission, whenever practicable.

The Department of Commerce (Commerce) may provide technical assistance to state agencies, local governments, and the general public regarding zero-emission outdoor power equipment and larger equipment. State agencies and local governments may procure zero-emission outdoor power equipment through contracts established by the Department of Enterprise Services (DES).

Substitute Bill Compared to Original Bill:

The substitute bill removes the additional 6.5 percent sales and use tax on outdoor power equipment that is not zero-emission and that has a small engine, and it updates the tax preference performance statement accordingly. It also specifies that the sales and use tax exemptions begin January 1, 2023, and it places a January 1, 2033, expiration date on the use tax exemption in the bill (to match the sales tax exemption).

The substitute bill requires that state agencies and local governments that purchase large-engine outdoor power equipment must, whenever practicable, purchase power equipment that is powered by a source that does not produce exhaust gas other than water. It also creates an exception to the requirement for state agencies and local governments to purchase zero-emission outdoor power equipment for outdoor power equipment used for emergency response activities or in certain specified locations.

The substitute bill creates a civil infraction with a \$25 penalty for sellers who fail to comply with the requirements to provide notice for the tax exemptions in the bill.

The substitute bill removes the responsibility for Commerce to review compliance with the government purchasing requirements in the bill, and instead it requires Commerce to provide technical assistance regarding zero-emission outdoor power equipment and larger equipment to the government and the public. The substitute bill clarifies that state agencies and local governments may procure zero-emission outdoor power equipment through contracts established by DES.

Appropriation: None.

Fiscal Note: Requested on January 17, 2022.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The state has been working to reduce the use of fossil fuels and promote zero-emission technology, vehicles in particular. This has led to an examination of what other states around the country are doing to reduce gas-powered outdoor power equipment. Outdoor power equipment emits pollutants into the atmosphere, and the pollution from an hour of use of a gas-powered leaf-blower is equivalent to driving 1,100 miles. California enacted a statewide ban. This bill takes a different approach, however, by having the public sector lead by example through its procurement. The bill does not ban any outdoor power equipment, but it does place a tax surcharge and tax preference on outdoor power equipment to discourage the use of gas and encourage the use of zero-emission technologies. The California ban is relevant though, because it has such a big impact on the market, and as that ban goes into effect, it will drive innovation and there will be a greater variety of electric equipment available at lower cost. The climate emergency is real and we must write policies accordingly.

(Opposed) This bill will affect anyone who works outdoors from golf courses to landscapers. Most are moving toward battery-powered equipment but it sometimes does not work as well. Small family-run operations will face a hardship under this tax surcharge. The tax penalizes people when electric equipment is not available. The prohibition on government purchases will make it hard for special purpose districts to complete their work. Let the market take care of this as equipment improves and costs come down. The technology we currently have is not ready yet to support this type of policy.

(Other) The idea of a sales tax exemption is good, but the increase in tax will be punitive on

smaller local agencies. Phasing out the purchase of gas-powered equipment is good, but January 2025 is a very aggressive date. Governments are writing their budgets now. There should be a way to ensure that local agencies can piggyback on state purchasing through DES. There needs to be an exception for emergency equipment used in firefighting, like chainsaws. Electric and battery equipment are insufficient to cut large trees in a wildfire situation, and taking batteries into the backcountry is a real concern.

Persons Testifying: (In support) Representative Nicole Macri, prime sponsor; Leah Missik, Climate Solutions; Joe Kunzler; and Andrew Cronolm.

(Opposed) Heather Hansen, Washington Friends of Farms and Forests; Bill Ackerley, Marcus Harness, and Greg Van Hollebeke, Western Washington Golf Course Superintendents Association; Tommy Gantz, Association of Washington Business; and Jerrold Bonagofsky, Washington Contract Loggers Association.

(Other) Roxanne Miles, Pierce County Parks and Recreation; and Julie Gilling, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on State Government & Tribal Relations. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Minority Report: Do not pass. Signed by 1 member: Representative Dufault, Assistant Ranking Minority Member.

Staff: Tracey Taylor (786-7152).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On State Government & Tribal Relations:

State agencies and local governments are not required to procure zero-emission power equipment. Retailers are not required but are encouraged to notify potential customers of the effective zero-percent sales tax rate for zero-emission outdoor power equipment. The penalty provisions for failing to notify customers are removed. A technical correction is made to the tax preference performance statement.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 25, 2022.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Government will be setting the example for the public sector by transitioning to cleaner fuels and technology to protect public and environmental health. This bill focuses on the smaller equipment. California enacted a statewide mandate for the entire state that begins a year earlier than this bill. We anticipate that the large California market will influence the development of electric-powered landscaping equipment. This equipment is a big producer of particulate pollutants and has a negative impact on the health of the workers in the landscaping sector.

By providing a sales tax waiver for buying clean equipment, the private sector is encouraged to make green choices. It avoids a mandate like California.

(Opposed) There are still practical concerns due to the lack of real green alternatives to some of the equipment needed for utility vegetation management, golf course maintenance, and pest control management. This makes it difficult for many agencies and local governments to comply with the requirements of this bill. In fact, many of the zero-emission options for the outdoor power equipment are impracticable. The zero-emission pesticide sprayers cannot meet the calibration requirements of the pesticides. With few options in the zero-emission power equipment market, it would be best to provide some exemptions or delay implementation.

(Other) The work done on this bill is much appreciated; however, there are still concerns with the requirements in section 3 of the bill that apply to the procurement of outdoor power equipment by local government and state agencies. Unfortunately, technology has not caught up to the demands for the equipment. Moreover, there will be a need for charging upgrades and portals. It is suggested that a January 1, 2025, effective date for this section would be more realistic and allow for governments and agencies to make plans. Another option is to allow the Department of Enterprise Services greater waiver authority.

Persons Testifying: (In support) Representative Nicole Macri, prime sponsor; and Leah Missik, Climate Solutions.

(Opposed) Bill Ackerley and Greg Van Hollebeke, Western Washington Golf Course Superintendents Association.

(Other) Doug Levy, Washington Recreation and Park Association; Angela Beehler, Benton County Mosquito Control District; Axel Swanson, Washington State Association of County Engineers; Owen Rowe, Washington State Parks and Recreation Commission; Bill Clarke, Washington Public Utility District Association; and Clark McIsaac, Snohomish Public

Utility District.

Persons Signed In To Testify But Not Testifying: None.