
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3678.1/26

ATTY/TYPIST: CL:akl

BRIEF DESCRIPTION: Allocating a portion of hazardous tax revenues derived from aviation fuel to aircraft noise and air quality mitigation.

1 AN ACT Relating to allocating a portion of hazardous tax revenues
2 derived from aviation fuel to aircraft noise and air quality
3 mitigation; amending RCW 82.21.020 and 82.21.030; adding a new
4 section to chapter 53.20 RCW; and adding a new section to chapter
5 82.21 RCW.

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

7 **Sec. 1.** RCW 82.21.020 and 2002 c 105 s 1 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Aircraft noise and air quality mitigation allocation" means
12 an amount equal to the rate of the tax on petroleum products under
13 RCW 82.21.030(1)(b) in excess of \$1.48 per barrel, multiplied by the
14 number of barrels of aviation fuel.

15 (2) "Aviation fuel" has the same meaning as "aircraft fuel" as
16 provided in RCW 82.42.010.

17 (3) "Hazardous substance" means:

18 (a) Any substance that, on March 1, 2002, is a hazardous
19 substance under section 101(14) of the federal comprehensive
20 environmental response, compensation, and liability act of 1980, 42
21 U.S.C. Sec. 9601(14), as amended by Public Law 99-499 on October 17,

1 1986, except that hazardous substance does not include the following
2 noncompound metals when in solid form in a particle larger than one
3 hundred micrometers (0.004 inches) in diameter: Antimony, arsenic,
4 beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver,
5 thallium, or zinc;

6 (b) Petroleum products;

7 (c) Any pesticide product required to be registered under section
8 136a of the federal insecticide, fungicide and rodenticide act, 7
9 U.S.C. Sec. 136 et seq., as amended by Public Law 104-170 on August
10 3, 1996; and

11 (d) Any other substance, category of substance, and any product
12 or category of product determined by the director of ecology by rule
13 to present a threat to human health or the environment if released
14 into the environment. The director of ecology shall not add or delete
15 substances from this definition more often than twice during each
16 calendar year. For tax purposes, changes in this definition shall
17 take effect on the first day of the next month that is at least
18 thirty days after the effective date of the rule. The word "product"
19 or "products" as used in this (~~paragraph~~) subsection (3)(d) means
20 an item or items containing both: (i) One or more substances that are
21 hazardous substances under (a), (b), or (c) of this subsection or
22 that are substances or categories of substances determined under this
23 (~~paragraph~~) subsection (3)(d) to present a threat to human health
24 or the environment if released into the environment; and (ii) one or
25 more substances that are not hazardous substances.

26 (~~(2)~~) (4) "Petroleum product" means plant condensate,
27 lubricating oil, gasoline, aviation fuel, kerosene, diesel motor
28 fuel, benzol, fuel oil, residual oil, liquefied or liquefiable gases
29 such as butane, ethane, and propane, and every other product derived
30 from the refining of crude oil, but the term does not include crude
31 oil.

32 (~~(3)~~) (5) "Possession" means the control of a hazardous
33 substance located within this state and includes both actual and
34 constructive possession. "Actual possession" occurs when the person
35 with control has physical possession. "Constructive possession"
36 occurs when the person with control does not have physical
37 possession. "Control" means the power to sell or use a hazardous
38 substance or to authorize the sale or use by another.

39 (~~(4)~~) (6) "Previously taxed hazardous substance" means a
40 hazardous substance in respect to which a tax has been paid under

1 this chapter and which has not been remanufactured or reprocessed in
2 any manner (other than mere repackaging or recycling for beneficial
3 reuse) since the tax was paid.

4 ~~((+5))~~ (7) "Wholesale value" means fair market wholesale value,
5 determined as nearly as possible according to the wholesale selling
6 price at the place of use of similar substances of like quality and
7 character, in accordance with rules of the department.

8 ~~((+6))~~ (8) Except for terms defined in this section, the
9 definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this
10 chapter.

11 **Sec. 2.** RCW 82.21.030 and 2023 c 68 s 3 are each amended to read
12 as follows:

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

19 (b) For the fiscal year beginning July 1, 2019, the rate of the
20 tax on petroleum products is \$1.09 per barrel. For subsequent fiscal
21 years, the rate of tax on petroleum products is determined pursuant
22 to subsection (3) of this section. The tax collected under this
23 subsection (1)(b) on petroleum products must be deposited as follows,
24 after first depositing the tax as provided in (c) and (d) of this
25 subsection, except that during the 2021-2023 biennium the deposit as
26 provided in (c) of this subsection may be prorated equally across
27 each month of the biennium:

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

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

32 (iii) Fifteen percent to the model toxics control stormwater
33 account created under RCW 70A.305.200.

34 (c) Until the beginning of the ensuing biennium after the
35 enactment of an additive transportation funding act, \$50,000,000 per
36 biennium to the motor vehicle fund to be used exclusively for
37 transportation stormwater activities and projects. For purposes of
38 this subsection, "additive transportation funding act" means an act
39 enacted after June 30, 2023, in which the combined total of new

1 revenues deposited into the motor vehicle fund and the multimodal
2 transportation account exceed \$2,000,000,000 per biennium
3 attributable solely to an increase in revenue from the enactment of
4 the act.

5 (d) Beginning with taxes collected on or after October 1, 2026,
6 the portion of tax collected under (b) of this subsection (1)
7 constituting the aircraft noise and air quality mitigation allocation
8 must be deposited in the state aircraft noise and air quality
9 mitigation account created in section 3 of this act.

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

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

24 (3) For fiscal years beginning on or after July 1, 2020, the rate
25 of tax on petroleum products for the previous fiscal year must be
26 adjusted to reflect the percentage change in the implicit price
27 deflator for nonresidential structures as published by the United
28 States department of commerce, bureau of economic analysis for the
29 most recent 12-month period ending December 31st of the prior year.

30 NEW SECTION. Sec. 3. A new section is added to chapter 53.20
31 RCW to read as follows:

32 The state aircraft noise and air quality mitigation account is
33 created in the state treasury. Receipts from RCW 82.21.030(1)(d) must
34 be deposited into the account. The state treasurer shall periodically
35 distribute funds in the account to port districts receiving a grant
36 under RCW 53.20.090.

37 NEW SECTION. Sec. 4. A new section is added to chapter 82.21
38 RCW to read as follows:

1 Taxpayers subject to tax under this chapter on the possession of
2 aviation fuel must report the quantity of barrels and tax due on a
3 separate line as required by the department.

--- **END** ---