

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5703 SB	<b>Title:</b> Concerning the use and disclosure of toxic chemicals in cosmetic products.
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Health	.8	0	0	404,000	1.3	0	0	746,000	.8	0	0	434,000
Department of Ecology	1.0	0	0	259,829	1.7	0	0	429,886	2.3	0	0	577,442
Environmental and Land Use Hearings Office	.0	0	0	0	.0	175,500	175,500	175,500	.0	175,500	175,500	175,500
<b>Total \$</b>	<b>1.8</b>	<b>0</b>	<b>0</b>	<b>663,829</b>	<b>3.0</b>	<b>175,500</b>	<b>175,500</b>	<b>1,351,386</b>	<b>3.1</b>	<b>175,500</b>	<b>175,500</b>	<b>1,186,942</b>

## Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

Now includes a fiscal note from the Department of Health.

<b>Prepared by:</b> Lisa Borkowski, OFM	<b>Phone:</b> (360) 742-2239	<b>Date Published:</b> Revised
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5703 SB	<b>Title:</b> Concerning the use and disclosure of toxic chemicals in cosmetic products.	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	1.5	0.8	1.3	0.8
<b>Account</b>					
State Toxics Control Account-State 173-1	0	404,000	404,000	746,000	434,000
<b>Total \$</b>	0	404,000	404,000	746,000	434,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate ) , are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2022
Agency Preparation: Ryan Rogers	Phone: 3602363194	Date: 01/12/2022
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 01/12/2022
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 01/13/2022

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This new version has additional fiscal impact to FY23, in addition, adds fiscal impact to FY24-26 and ongoing.

Section 3: The Department of Health (DOH) must consult with the Department of Ecology (ECY) to create and adopt a community engagement plan by December 1, 2022. The plan must include: 1) testing cosmetic products marketed to women of color and identifying potentially harmful ingredients; 2) seeking information through outreach and providing culturally appropriate education concerning identified harmful ingredients used in cultural and other cosmetic products, prioritizing engagement with vulnerable populations; 3) obtaining recommendations for priority chemicals or products to be regulated in accordance with chapter 70A.350; and 4) methods for outreach and communication with those who face barriers to participation, such as language.

ECY and DOH assume that after the plan is completed it will be implemented.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Section 3: The Department of Health (DOH) must consult with the Department of Ecology (ECY) to create and adopt a community engagement plan by December 1, 2022. The plan must include: 1) testing cosmetic products marketed to women of color and identifying potentially harmful ingredients; 2) seeking information through outreach and providing culturally appropriate education concerning identified harmful ingredients used in cultural and other cosmetic products, prioritizing engagement with vulnerable populations; 3) obtaining recommendations for priority chemicals or products to be regulated in accordance with chapter 70A.350; and 4) methods for outreach and communication with those who face barriers to participation, such as language.

Assumptions:

- ECY and DOH assume that Section 3 includes development of the plan from July 1, 2022 to December 31, 2022, and implementation of the plan from January 1, 2023 and ongoing.
- DOH and ECY assume this work will be similar to the consulting and coordinated work DOH did with ECY on Safer Products for Washington, which required expertise in community engagement and social justice.
- ECY and DOH assume that as soon as the plan is completed it will be implemented.

The development of the plan with ECY (July 1, 2022 to December 31, 2022) will require 1.0 FTE MA4 with expertise in community engagement and environmental justice for the engagement of stakeholders, and 0.6 FTE of a Toxicologist 3 for technical and policy expertise regarding community engagement and recommendations for priority chemicals and products under chapter 70A.350 RCW to consult and work with ECY to develop and complete the plan outlined in this bill.

Costs for development of plan:

Fiscal year (FY) 2023 \$135,000 and 0.8 FTE

Implementation of the plan will begin as soon as the plan is completed, January 1, 2023, (and ongoing) in order to carry out the required plan elements. DOH will require 0.3 Toxicologist 3 ongoing, and 1.0 FTE MA4 from January 1, 2023 to June 30, 2025, then 0.5 FTE from July 1, 2025 and ongoing, in cooperation with ECY, to :

- 1) test cosmetic products marketed to women of color and identify potentially harmful ingredients ;
- 2) seek information through outreach and provide culturally appropriate education concerning identified harmful ingredients used in cultural and other cosmetic products ;
- 3) obtain recommendations for priority chemicals or products to be regulated in accordance with chapter 70A.350 ;
- 4) outreach and communication with those who face barriers to participation, such as language.

Outreach and communication materials, travel, translation services, and contracts for outreach will also be needed in order to implement the required community engagement plan in an equitable, socio-culturally appropriate, and effective manner that prioritizes engagement with vulnerable and disproportionately impacted populations, including women of color. Additional costs for outreach by FY are as follows :

FY 2023 (July – December) total \$155,000

- Contracts for outreach \$120,000
- Outreach and communication materials and dissemination (e.g., media outlets) \$20,000
- Translation and interpretation services \$10,000
- Travel \$5,000

FY 2024 total \$155,000

- Contracts for outreach \$120,000
- Outreach and communication materials and dissemination (e.g., media outlets) \$20,000
- Translation and interpretation services \$10,000
- Travel \$5,000

FY 2025 total \$155,000

- Contracts for outreach \$120,000
- Outreach and communication materials and dissemination (e.g., media outlets) \$20,000
- Translation and interpretation services \$10,000
- Travel \$5,000

FY 2026 and ongoing total \$83,000

- Contracts for outreach \$72,000
- Outreach and communication materials and dissemination (e.g., media outlets) \$3,000
- Translation and interpretation services 5,000
- Travel \$3,000

Costs for implementation of plan:

FY 2023: \$269,000 and 0.7 FTE

FY 2024: \$373,000 and 1.3 FTE

FY 2025: \$373,000 and 1.3 FTE

FY 2026: \$217,000 and 0.8 FTE ongoing

Total costs for FN:

FY 2023: \$404,000 and 1.5 FTE

FY 2024: \$373,000 and 1.3 FTE

FY 2025: \$373,000 and 1.3 FTE

FY 2026: \$217,000 and 0.8 FTE ongoing

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
173-1	State Toxics Control Account	State	0	404,000	404,000	746,000	434,000
Total \$			0	404,000	404,000	746,000	434,000

### III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		1.5	0.8	1.3	0.8
A-Salaries and Wages		125,000	125,000	220,000	140,000
B-Employee Benefits		43,000	43,000	76,000	48,000
C-Professional Service Contracts		120,000	120,000	240,000	144,000
E-Goods and Other Services		97,000	97,000	180,000	84,000
G-Travel		5,000	5,000	10,000	6,000
J-Capital Outlays		3,000	3,000		
M-Inter Agency/Fund Transfers					
P-Debt Service					
T-Intra-Agency Reimbursements		11,000	11,000	20,000	12,000
9-					
Total \$	0	404,000	404,000	746,000	434,000

**III. C - Operating FTE Detail:** List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
MANAGEMENT ANALYST 4	80,292		1.0	0.5	1.0	0.5
TOXICOLOGIST 3	100,308		0.5	0.3	0.3	0.3
Total FTEs			1.5	0.8	1.3	0.8

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

**IV. D - Capital FTE Detail:** List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB

NONE

None

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5703 SB	<b>Title:</b> Concerning the use and disclosure of toxic chemicals in cosmetic products.	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	2.1	1.0	1.7	2.3
<b>Account</b>					
Model Toxics Control Operating Account-State 23P-1	0	259,829	259,829	429,886	577,442
<b>Total \$</b>	0	259,829	259,829	429,886	577,442

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate ) , are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2022
Agency Preparation: Vince Chavez	Phone: 360-407-6561	Date: 01/06/2022
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/06/2022
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/08/2022

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Under current law, chapter 70A.350 RCW – Pollution Prevention for Healthy People and Puget Sound Act, every five years, Ecology is required to identify priority consumer products that are a significant source of or use of priority chemicals specified in RCW 70A.350.010, submit a report to the legislature, and determine regulatory actions regarding the priority chemicals and priority consumer products identified. Also, under current law, chapter 70A.430 RCW - Children's Safe Products Act (CSPA), establishes limits for children's cosmetics for lead, cadmium, and phthalates.

This bill would add a new chapter to Title 70A RCW known as the Toxic-Free Cosmetics Act to prohibit use of toxic chemicals found in cosmetic and personal care products, and require manufacturers to disclose information on their websites to provide consumers and workers with ingredient information.

Section 3 (1) would ban the manufacture, sale, and distribution for use in this state beginning January 1, 2025, any cosmetic product that contains the chemicals or chemical classes as specified in this section above the practical quantitation limit.

Section 3 (2) would require Ecology in consultation with the Department of Health (DOH) to create and adopt a community engagement plan by December 1, 2022, addressing (i) testing cosmetic products marketed to women of color; (ii) seeking information through outreach to affected communities, providing culturally appropriate education, and prioritizing engagement with vulnerable populations; and, (iii) obtaining recommendations for priority chemicals or products regulated under chapter 70A.350 RCW. The plan would need to include identification of methods of outreach and communication with those who face barriers to participation.

Section 4 would require a manufacturer of a cosmetic product that is manufactured on or after January 1, 2023, to provide product ingredient information on their website for each of their cosmetic product sold in the state of Washington

Section 5 would establish penalties for manufacturers who fail to comply with the requirements of the bill.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

No cash receipts are estimated for the penalty provisions under section 5.

Section 5 would establish a penalty for manufacturers who fail to comply with the requirements of the bill up to \$5,000 for a first offense and \$10,000 for a repeat offense. Penalties could be appealed to the Pollution Control Hearings Board, and would be deposited into the Model Toxics Control Operating Account.

The penalty authority under this chapter is consistent with Ecology's authority to issue penalties for manufacturers in violation of chapter 70A.350 RCW. Enforcement actions and penalties are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2023 and



ongoing, to implement the requirements of sections 3 and 5 of the bill.

### Section 3 (1) Enforcement of Banned Chemicals :

Beginning January 1, 2025, the bill would establish a ban on specified ingredients in cosmetic products. Ecology assumes enforcement would require determining if any companies selling non-compliant products and ensure that they stop selling those products. Enforcement would begin January 1, 2025, when the bans in Section 3 would become effective. It is estimated that enforcement would require 0.25 FTE Environmental Specialist 4 (ES4) in FY 2025, 0.50 FTE in FY 2026, 0.50 FTE in FY 2027, and ongoing, to research products available for sale in Washington and evaluate compliance, receive and respond to complaints about restricted products being sold, and work with the project's Community Outreach and Environmental Education Specialist to provide appropriate educational opportunities as outlined in the community engagement plan required by Section 3 (2) of the bill. (ES4: 0.25 FTE FY 2025, 0.50 FTE FY 2026, 0.50 FTE FY 2027, and ongoing)

Ecology also estimates the need for 0.50 FTE of a Community Outreach and Environmental Education Specialist 4 (COEES4) from January 1, 2025 to June 30, 2029, to coordinate with enforcement staff to communicate with manufacturers and retailers about restrictions and develop appropriate outreach materials as detailed in the plan. (COEES4: 0.25 FTE FY 2025, 0.50 FTE FY 2026, 0.50 FTE FY 2027, and ongoing)

Ecology also assumes contracts (Object C) for specialized laboratory analysis of selected products to support enforcement efforts. Ecology estimates a cost of \$5,000 in FY 2025, \$10,000 in FY 2026, \$10,000 in FY 2027, \$7,500 in FY 2028, and \$5,000 in FY 2029 and ongoing. Ecology assumes that the number of cosmetic products for testing purposes will be quite large and frequent, and that the cost for third party lab analysis could range from \$10 to \$1,000 per sample or more. It is assumed for the purposes of this fiscal note that each sample would cost \$50 and that in FY 2025 Ecology would perform 100 samples ( $\$50 \times 100 = \$5,000$  FY 2025), in FY 2026 would perform 200 samples ( $\$50 \times 200 = \$10,000$  FY 2026), FY 2027 would perform 200 samples, and 200 samples at the same cost in subsequent fiscal years.

Ecology assumes no new rule making as a result of this bill. No rule making authority has been granted to Ecology as a result of this bill, and no current authority exists for Ecology to put in place a new rule to carry out the mandate as outlined in Section 3 (1).

### Section 3 (2) Engagement Plan Development and Implementation :

Ecology in consultation with Department of Health would be required by December 1, 2022, to create and adopt a community engagement plan. Based on our current work under the Safer Products for Washington process, Ecology anticipates this would be a significant exercise and require community engagement in the development and review of a meaningful plan. Ecology estimates these efforts would require 1.0 FTE of a COEES4 from July 1 to December 31, 2022, to coordinate with Ecology staff and efforts with Department of Health, draft the initial community engagement plan, identify relevant plan reviewers and coordinate edits and revisions to community engagement plan, coordinate executive review and approval of plan, and respond to legislative and stakeholder questions after plan approval. After plan approval, we assume Ecology would begin implementing the plan. Ecology estimates this effort would require 1.0 FTE of the COEES 4 from January 1, 2023 to June 30, 2025, then 0.5 FTE from July 1, 2025, ongoing to facilitate community outreach and engagement, assist with development and updating of appropriate education and outreach materials as outlined in the plan, assist with development of recommendations for identifying priority chemicals and products as outlined in the plan and other community engagement plan implementation activities. (COEES4: 1.0 FTE FY 2023, 1.0 FTE FY 2024, 0.5 FTE FY 2025, 0.5 FTE FY 2026, 0.5 FTE FY 2027, and ongoing)

Ecology also estimates the need for 0.1 FTE of a Chemist 3 from July 1 to December 31, 2022, to provide technical advice regarding testing parameters and needs, provide technical advice regarding recommendations for priority

chemicals and products under chapter 70A.350 RCW, review and edit the final plan, and respond to legislative and stakeholder questions after plan approval. (Chemist 3: 0.05 FTE FY 2023 )

Ecology also estimates the need for 1.0 FTE of an Environmental Planner 4 from July 1 to December 31, 2022, to provide environmental justice and Title VI assistance, identify plan elements for outreach and culturally appropriate education opportunities, identify community groups collaboration and communications for plan input and review, and respond to legislative and stakeholder questions after plan approval. Beginning January 1, 2023 and ongoing, Ecology estimates 0.5 FTE would be required to provide expert advice regarding community outreach and engagement, provide Title VI compliance advice, engage with community and tribal leaders, and assist with development of recommendations for identifying priority chemicals and products as outlined in the plan. (EP4: 0.75 FTE FY 2023, 0.50 FTE FY 2024, 0.50 FTE FY 2025, 0.50 FTE FY 2026, 0.50 FTE FY 2027, and ongoing )

SUMMARY: The expenditure impact to Ecology under this bill is :

Section 3 (1) Enforcement is estimated to require :

FY 2025: \$71,286 and 0.6 FTEs

FY 2026: \$142,562 and 1.2 FTEs

FY 2027: \$142,562 and 1.2 FTEs.

Section 3 (2) Engagement Plan Development and Implementation is estimated to require :

FY 2023: \$259,829 and 2.1 FTEs

FY 2024: \$212,441 and 1.7 FTEs

FY 2025: \$146,159 and 1.2 FTEs

FY 2026: \$146,159 and 1.2 FTEs

FY 2027: \$146,159 and 1.2 FTEs

The Total Expenditure Impact to Ecology under this bill is estimated to be :

FY 2023: \$259,829 and 2.1 FTEs

FY 2024: \$212,441 and 1.7 FTEs

FY 2025: \$217,445 and 1.7 FTEs

FY 2026: \$288,721 and 2.3 FTEs

FY 2027: \$288,721 and 2.3 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 36.5% of salaries.

Contracts are estimated at \$5,000 in FY 2025, \$10,000 in FY 2026, and \$10,000 in FY 2027.

Goods and Services are the agency average of \$4,834 per direct program FTE.

Travel is the agency average of \$2,234 per direct program FTE.

Equipment is the agency average of \$1,230 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.3% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT App Development - Journey.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
23P-1	Model Toxics Control Operating Account	State	0	259,829	259,829	429,886	577,442
Total \$			0	259,829	259,829	429,886	577,442

### III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		2.1	1.0	1.7	2.3
A-Salaries and Wages		139,834	139,834	228,396	299,352
B-Employee Benefits		51,039	51,039	83,364	109,260
C-Professional Service Contracts				5,000	20,000
E-Goods and Other Services		8,702	8,702	14,503	19,336
G-Travel		4,022	4,022	6,703	8,936
J-Capital Outlays		2,215	2,215	3,691	4,920
9-Agency Administrative Overhead		54,017	54,017	88,229	115,638
Total \$	0	259,829	259,829	429,886	577,442

### III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
CHEMIST 3	80,292		0.1	0.0		
COM OUTREACH & ENV ED SP 4	70,956		1.0	0.5	0.9	1.0
ENVIRONMENTAL PLANNER 4	86,484		0.8	0.4	0.5	0.5
ENVIRONMENTAL SPEC 4	70,956				0.1	0.5
FISCAL ANALYST 2			0.2	0.1	0.2	0.2
IT APP DEVELOP-JOURNEY			0.1	0.1	0.1	0.1
Total FTEs			2.1	1.1	1.7	2.3

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

### IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5703 SB	<b>Title:</b> Concerning the use and disclosure of toxic chemicals in cosmetic products.	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
<b>Account</b>					
General Fund-State 001-1	0	0	0	175,500	175,500
<b>Total \$</b>	0	0	0	175,500	175,500

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate ) , are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2022
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/07/2022
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/07/2022
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/08/2022

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 3 (1) – Prohibits the manufacturing, selling, offering for sale, distributing for sale, and distributing for use in Washington cosmetic products that contain toxic chemicals.

Section 4 – Requires cosmetic manufacturers to put certain information on their websites regarding products manufactured on or after January 1, 2023.

Section 5 (1) – Makes violations of the law, rule, or orders issued under the new law subject to civil penalty. Civil penalties will be no more than \$5,000 for each first offense and no more than \$10,000 for each repeat offense.

Section 5 (2) – Makes penalties and orders appealable to the Pollution Control Hearings Board.

FISCAL IMPACT to the Pollution Control Hearings Board: YES

Current Agency Structure: The Environmental & Land Use Hearings Office (ELUHO) is the administrative agency that supports three environmental and land use hearings boards – the Pollution Control Hearings Board (PCHB), Shoreline Hearings Board (SHB), and Growth Management Hearings Board (GMHB). Appeals from SB 5480 would come to the PCHB under Section 5 of the proposed bill. In addition to appeals from this bill, the PCHB hears appeals from 37 other environmental statutes including Washington's clean air act, toxic pollution, forest practices, derelict vessels, and water resource permits. The PCHB consists of three Governor-appointed board members who have two administrative appeals judges (AAJs) to assist in all cases.

Current workload: As of January 1, 2022, the PCHB is handling 72 active appeals arising from permits and enforcement actions by a variety of state or local agencies. There were 3 toxic pollution cases in 2021. The PCHB is now scheduling hearings 12 months in advance for cases that normally would be heard in 6 months.

Assume Full Enforcement: ELUHO assumes the Departments of Ecology and Health will fully implement SB 5480, meaning the new requirements will be enforced and orders and penalties will be issued to cosmetic manufacturers.

Assume Increased Cases: ELUHO assumes the PCHB will receive 3 appeals from toxic cosmetic penalties and orders per year under Section 5 of the bill. This assumption is based on ELUHO's experience with parties who are interested in testing new law or state regulations and on having 3 toxic pollution cases in 2021.

Assume Increased Workload: Enforcement actions and penalties for violating the statute are assumed to be limited but are unknown at this time. Prescribing penalties and issuing orders under the bill will result in cases that present new legal issues that have not been decided by Washington courts. ELUHO assumes it will take more time initially for the PCHB to understand, analyze, and issue final decisions in these cases. After an initial normalizing period, ELUHO assumes the new cases will be of low complexity.

Assume New Administrative Appeals Judge – ELUHO assumes it will contract with AAJs experienced in environmental law. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such AAJs to assist the PCHB. Contracting for these services allows flexibility to hire an AAJ as needed when toxic cosmetics appeals are filed.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

## II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation ), identifying by section number the provisions of the legislation that result in the expenditures (or savings ). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates . Distinguish between one time and ongoing functions .

To accommodate the increased workload, it is assumed ELUHO will contract with an AAJ on an as-needed basis.

ELUHO estimates each toxic cosmetics appeal will require approximately 130 hours of AAJ work to complete (50 hours pre-hearing work and 80 hours hearing and post-hearing work). This estimate is based on a current analysis of PCHB work.

130 hours/appeal x 3 appeals = 390 hours

ELUHO assumes a \$225/hour rate for a contracted attorney with experience in environmental law.

\$225/hour x 130 hours = \$29,250 per toxic cosmetics appeal x 3 appeals per year = \$87,750.

ELUHO assumes this contract work on toxic cosmetic appeals begins in FY 2024 following the planning and outreach conducted by the Departments of Ecology and Health.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	0	0	0	175,500	175,500
Total \$			0	0	0	175,500	175,500

### III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts				175,500	175,500
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	0	0	175,500	175,500

**III. C - Operating FTE Detail:** List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

### IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

## Part V: New Rule Making Required