
SUBSTITUTE SENATE BILL 6314

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Morton, Rasmussen and Oke)

Read first time 02/06/98.

1 AN ACT Relating to endangered species recovery plan funding;
2 amending RCW 82.24.020 and 82.24.027; adding a new section to chapter
3 43.79 RCW; creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that an emergency
6 exists relating to threatened and endangered fish species listed under
7 the endangered species act. Washington state currently has four
8 salmonid stocks that are listed under the endangered species act with
9 the potential of ten more salmonid stocks being listed in the near
10 future. Each listing and impending listing has the potential to
11 adversely affect the economy of Washington state because regulation or
12 restriction will, by necessity, curtail human activities as part of
13 each recovery plan. The state of Washington needs quick action to
14 assure the recovery of threatened or endangered salmonid species and to
15 protect the economy of the state. Quick action means that a
16 comprehensive recovery plan is needed to restore each endangered or
17 threatened fish listing. Furthermore, a stable source of funding is
18 needed to implement the plan without triggering Initiative 601
19 limitations on new taxes. Therefore, a dedicated funding source shall

1 be authorized that provides certainty, results in no new taxes, and is
2 correlated to the purpose for which the funds are to be used. Such a
3 source is available in the form of cigarette tax revenues collected on
4 Indian reservations from cigarette sales to non-Indian purchasers.

5 According to an estimate by the department of revenue, sixty
6 million in tax revenue is lost annually from the sale of cigarettes to
7 non-Indian purchasers on Indian reservations. Recent legislation,
8 codified in RCW 82.24.010 and 82.24.500, shifts the enforcement of
9 cigarette excise taxation from the department of revenue to the liquor
10 control board. That legislation will result in the curtailment of
11 illegal sales on Indian reservations. Appropriating an until-now-
12 uncollected tax from smoke shop cigarette sales to non-Indian
13 purchasers is tax-neutral to members of bona fide Indian tribes.
14 Rather, the tax burden remains with the non-Indian cigarette purchaser
15 and the funds derived from such tax are passed to areas of the state
16 where salmon restoration is needed. Additionally, the funds derived
17 from such a tax will directly benefit the members of Washington tribes
18 when they apply for restoration funds and meet certain application
19 criteria. These criteria will be universally applied to all requests
20 for funding regardless of the source of the request.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.79 RCW
22 to read as follows:

23 The salmonid restoration account is created in the state treasury.
24 All receipts derived from excise taxes authorized under RCW 82.24.020
25 and 82.24.027 from the sale of cigarettes on Indian reservations to
26 non-Indian purchasers must be deposited in the account. Moneys in the
27 account may be spent only after appropriation. Expenditures from the
28 account may be used only for salmonid restoration projects, for the
29 recovery of threatened or endangered salmonids, and for aiding in
30 deterrence of salmonid species listings under the endangered species
31 act.

32 **Sec. 3.** RCW 82.24.020 and 1994 sp.s. c 7 s 904 are each amended to
33 read as follows:

34 (1) There is levied and there shall be collected as provided in
35 this chapter, a tax upon the sale, use, consumption, handling,
36 possession or distribution of all cigarettes, in an amount equal to the
37 rate of eleven and one-half mills per cigarette. All revenues

1 collected under this subsection shall be deposited into the general
2 fund, except revenues collected from the sale of cigarettes to non-
3 Indian purchasers on Indian reservations shall be deposited into the
4 salmonid restoration account.

5 (2) An additional tax is imposed upon the sale, use, consumption,
6 handling, possession, or distribution of all cigarettes, in an amount
7 equal to the rate of five and one-fourth mills per cigarette. All
8 revenues collected during any month from this additional tax shall be
9 deposited in the violence reduction and drug enforcement account under
10 RCW 69.50.520 by the twenty-fifth day of the following month, except
11 that revenues collected from the sale of cigarettes to non-Indian
12 purchasers on Indian reservations shall be deposited into the salmonid
13 restoration account.

14 (3) An additional tax is imposed upon the sale, use, consumption,
15 handling, possession, or distribution of all cigarettes, in an amount
16 equal to the rate of (~~ten mills per cigarette through June 30, 1994,~~
17 ~~eleven and one-fourth mills per cigarette for the period July 1, 1994,~~
18 ~~through June 30, 1995, twenty mills per cigarette for the period July~~
19 ~~1, 1995, through June 30, 1996, and~~) twenty and one-half mills per
20 cigarette (~~thereafter~~). All revenues collected during any month from
21 this additional tax shall be deposited in the health services account
22 created under RCW 43.72.900 by the twenty-fifth day of the following
23 month, except that revenues collected from the sale of cigarettes to
24 non-Indian purchasers on Indian reservations shall be deposited into
25 the salmonid restoration account.

26 (4) Wholesalers and retailers subject to the payment of this tax
27 may, if they wish, absorb one-half mill per cigarette of the tax and
28 not pass it on to purchasers without being in violation of this section
29 or any other act relating to the sale or taxation of cigarettes.

30 (5) For purposes of this chapter, "possession" shall mean both (a)
31 physical possession by the purchaser and, (b) when cigarettes are being
32 transported to or held for the purchaser or his or her designee by a
33 person other than the purchaser, constructive possession by the
34 purchaser or his or her designee, which constructive possession shall
35 be deemed to occur at the location of the cigarettes being so
36 transported or held.

37 **Sec. 4.** RCW 82.24.027 and 1986 c 3 s 12 are each amended to read
38 as follows:

1 There is hereby levied and there shall be collected by the
2 department of revenue from the persons mentioned in and in the manner
3 provided by this chapter, an additional tax upon the sale, use,
4 consumption, handling, possession, or distribution of cigarettes in an
5 amount equal to the rate of four mills per cigarette.

6 The moneys collected under this section shall be deposited in the
7 water quality account under RCW 70.146.030 through June 30, 2021, and
8 in the general fund thereafter, except that revenues collected from the
9 sale of cigarettes to non-Indian purchasers on Indian reservations
10 shall be deposited into the salmonid restoration account.

11 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 immediately.

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