

HOUSE BILL REPORT

HB 1915

As Passed House:

March 10, 2005

Title: An act relating to adding additional tribes with whom the governor may contract with under RCW 43.06.460.

Brief Description: Authorizing the governor to enter into cigarette tax contracts with additional tribes.

Sponsors: By Representatives McIntire, Conway, Clements, McCoy, Williams and Chase; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 2/22/05, 2/28/05 [DP].

Floor Activity:

Passed House: 3/10/05, 96-0.

Brief Summary of Bill

- Adds the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe to the list of tribes with which the Governor may make cigarette tax contracts.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 8 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Hasegawa and Santos.

Minority Report: Do not pass. Signed by 1 member: Representative Ericksen.

Staff: Bob Longman (786-7139).

Background:

The rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. Retail sales and use taxes are also imposed on sales of cigarettes. Revenue from the first 23 cents of the cigarette tax goes to the general fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the general fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In the 2001 session, the Governor was authorized to enter into contracts concerning the sale of cigarettes with federally recognized Indian tribes located within Washington. Contracts must be for renewable terms of eight years or less. Cigarettes sold on Indian lands during the contracts term are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes.

In general, cigarette contracts must:

- (1) limit tribal retailing to sales of cigarettes by tribes or Indians in Indian country;
- (2) prevent sales to any person under the age of 18 years;
- (3) require that the tribal cigarette tax be used for essential government services;
- (4) require the use of tribal cigarette tax stamps;
- (5) include provisions for compliance;
- (6) require that tribal retailers purchase cigarettes only from approved sources;
- (7) allow resolution of disputes through a non-judicial process, such as mediation; and
- (8) include a procedure for correcting violations of the contract and provision for termination of the contract should violations not be resolved.

The original authorization for the Governor, in 2001, was to enter into agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Authority was subsequently granted to enter into agreements with the Yakama Nation, the Suquamish Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Quileute Tribe, the Samish Indian Nation, and the Kalispel Tribe.

Summary of Bill:

Authority is granted to the Governor to enter into cigarette tax contracts, under the same terms as the existing contracts, with the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The existing contracts with tribes have been very successful. There are 18 contracts in place. The contracts provide for tax stamps, tax compliance, and record keeping. Intergovernmental cooperation is improved. These arrangements are much better than the old days when cigarettes coming to the reservations was subject to seizure by the state. The state and tribes now work together for tax enforcement. Each tribe must come to the Legislature to be added to the list of tribes with whom the Governor may negotiate. The tribal cigarette tax revenue is spent for essential government services.

Testimony Against: None.

Persons Testifying: Leslie Cushman, Tribal Liaison, Department of Revenue; and Kelly Croman, Squaxin Island Tribe.

Persons Signed In To Testify But Not Testifying: Randy Scott, Colville Confederated Tribes.