

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2272

Chapter 420, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

TRANSFERRING ENFORCEMENT OF CIGARETTE AND TOBACCO TAXES FROM THE
DEPARTMENT OF REVENUE TO THE LIQUOR CONTROL BOARD

EFFECTIVE DATE: 7/27/97

Passed by the House April 21, 1997
Yeas 54 Nays 43

CLYDE BALLARD
Speaker of the
House of Representatives

Passed by the Senate April 16, 1997
Yeas 32 Nays 16

BRAD OWEN
President of the Senate

Approved May 19, 1997, with the
exception of sections 1, 2, and 12
through 17, which are vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **ENGROSSED
SUBSTITUTE HOUSE BILL 2272** as passed
by the House of Representatives and
the Senate on the dates hereon set
forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 19, 1997 - 7:29 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 2272

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Huff, Clements, Alexander, Wensman, Sehlin and Mitchell)

Read first time 04/07/97.

1 AN ACT Relating to transferring the enforcement of existing
2 cigarette and tobacco taxes from the department of revenue to the
3 liquor control board; amending RCW 66.44.010, 82.24.010, 82.24.110,
4 82.24.130, 82.24.190, 82.24.250, 82.24.550, and 82.32.300; adding new
5 sections to chapter 82.24 RCW; adding new sections to chapter 82.26
6 RCW; adding a new section to chapter 43.06 RCW; adding a new section to
7 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;
8 prescribing penalties; and declaring an emergency.

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

10 ***NEW SECTION.** *Sec. 1. A new section is added to chapter 82.24 RCW*
11 *to read as follows:*

12 *In transferring the enforcement of existing cigarette and tobacco*
13 *taxes from the department of revenue to the liquor control board, it is*
14 *the intent of the legislature that the cigarette and tobacco tax laws*
15 *of the state of Washington be actively enforced. Enforcement officers*
16 *of the liquor control board appointed under section 10 or 11 of this*
17 *act shall pursue all necessary means within their statutory authority*
18 *in order to ensure compliance with chapters 82.24 and 82.26 RCW.*

19 **Sec. 1 was vetoed. See message at end of chapter.*

1 *Sec. 2. RCW 66.44.010 and 1987 c 202 s 224 are each amended to
2 read as follows:

3 (1) All county and municipal peace officers are hereby charged with
4 the duty of investigating and prosecuting all violations of this title,
5 and the penal laws of this state relating to the manufacture,
6 importation, transportation, possession, distribution and sale of
7 liquor, and all fines imposed for violations of this title and the
8 penal laws of this state relating to the manufacture, importation,
9 transportation, possession, distribution and sale of liquor shall
10 belong to the county, city or town wherein the court imposing the fine
11 is located, and shall be placed in the general fund for payment of the
12 salaries of those engaged in the enforcement of the provisions of this
13 title and the penal laws of this state relating to the manufacture,
14 importation, transportation, possession, distribution and sale of
15 liquor: PROVIDED, That all fees, fines, forfeitures and penalties
16 collected or assessed by a district court because of the violation of
17 a state law shall be remitted as provided in chapter 3.62 RCW as now
18 exists or is later amended.

19 (2) In addition to any and all other powers granted, the board
20 shall have the power to enforce the penal provisions of this title and
21 the penal laws of this state relating to the manufacture, importation,
22 transportation, possession, distribution and sale of liquor.

23 (3)(a) In addition to the other duties under this section, the
24 board shall enforce chapters 82.24 and 82.26 RCW.

25 (b) Through active enforcement of chapters 82.24 and 82.26 RCW and
26 negotiation of cooperative agreements as authorized under section 12 of
27 this act, the board shall reduce the ninety million dollars in lost
28 cigarette and tobacco tax revenue due to tax evasion. The board shall
29 achieve a net decrease in lost cigarette and tobacco revenue according
30 to the following schedules:

31 (i) By June 30, 1998, at least five percent;

32 (ii) By June 30, 1999, at least twelve and one-half percent;

33 (iii) By June 30, 2000, at least thirty percent;

34 (iv) By June 30, 2001, at least thirty-seven and one-half percent;

35 and

36 (v) By June 30, 2002, at least fifty percent.

37 The board shall sustain the fifty percent net decrease in lost
38 revenue due to cigarette and tobacco tax evasion after June 30, 2002.

1 *(4) The board may appoint and employ, assign to duty and fix the*
2 *compensation of, officers to be designated as liquor enforcement*
3 *officers. Such liquor enforcement officers shall have the power, under*
4 *the supervision of the board, to enforce the penal provisions of this*
5 *title and the penal laws of this state relating to the manufacture,*
6 *importation, transportation, possession, distribution and sale of*
7 *liquor, and the provisions of chapters 82.24 and 82.26 RCW. They shall*
8 *have the power and authority to serve and execute all warrants and*
9 *process of law issued by the courts in enforcing the penal provisions*
10 *of this title or of any penal law of this state relating to the*
11 *manufacture, importation, transportation, possession, distribution and*
12 *sale of liquor. They shall have the power to arrest without a warrant*
13 *any person or persons found in the act of violating any of the penal*
14 *provisions of this title or of any penal law of this state relating to*
15 *the manufacture, importation, transportation, possession, distribution*
16 *and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW.*
17 **Sec. 2 was vetoed. See message at end of chapter.*

18 **Sec. 3.** RCW 82.24.010 and 1995 c 278 s 1 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter:

22 (1) "Board" means the liquor control board.

23 (2) "Cigarette" means any roll for smoking made wholly or in part
24 of tobacco, irrespective of size or shape and irrespective of the
25 tobacco being flavored, adulterated, or mixed with any other
26 ingredient, where such roll has a wrapper or cover made of paper or any
27 material, except where such wrapper is wholly or in the greater part
28 made of natural leaf tobacco in its natural state.

29 ((+2+)) (3) "Indian tribal organization" means a federally
30 recognized Indian tribe, or tribal entity, and includes an Indian
31 wholesaler or retailer that is owned by an Indian who is an enrolled
32 tribal member conducting business under tribal license or similar
33 tribal approval within Indian country. For purposes of this chapter
34 "Indian country" is defined in the manner set forth in 18 U.S.C. Sec.
35 1151.

36 ((+3+)) (4) "Precollection obligation" means the obligation of a
37 seller otherwise exempt from the tax imposed by this chapter to collect
38 the tax from that seller's buyer.

1 (~~(4)~~) (5) "Retailer" means every person, other than a wholesaler,
2 who purchases, sells, offers for sale or distributes any one or more of
3 the articles taxed herein, irrespective of quantity or amount, or the
4 number of sales, and all persons operating under a retailer's
5 registration certificate.

6 (~~(5)~~) (6) "Retail selling price" means the ordinary, customary or
7 usual price paid by the consumer for each package of cigarettes, less
8 the tax levied by this chapter and less any similar tax levied by this
9 state.

10 (~~(6)~~) (7) "Stamp" means the stamp or stamps by use of which the
11 tax levy under this chapter is paid or identification is made of those
12 cigarettes with respect to which no tax is imposed.

13 (~~(7)~~) (8) "Wholesaler" means every person who purchases, sells,
14 or distributes any one or more of the articles taxed herein to
15 retailers for the purpose of resale only.

16 (~~(8)~~) (9) The meaning attributed, in chapter 82.04 RCW, to the
17 words "person," "sale," "business" and "successor" applies equally in
18 this chapter.

19 **Sec. 4.** RCW 82.24.110 and 1995 c 278 s 7 are each amended to read
20 as follows:

21 (1) Each of the following acts is a gross misdemeanor and
22 punishable as such:

23 (a) To sell, except as a licensed wholesaler engaged in interstate
24 commerce as to the article being taxed herein, without the stamp first
25 being affixed;

26 (b) To sell in Washington as a wholesaler to a retailer who does
27 not possess and is required to possess a current cigarette retailer's
28 license;

29 (c) To use or have in possession knowingly or intentionally any
30 forged or counterfeit stamps;

31 (d) For any person other than the department of revenue or its duly
32 authorized agent to sell any stamps not affixed to any of the articles
33 taxed herein whether such stamps are genuine or counterfeit;

34 (e) To violate any of the provisions of this chapter;

35 (f) To violate any lawful rule made and published by the department
36 of revenue or the board;

37 (g) To use any stamps more than once;

1 (h) To refuse to allow the department of revenue or its duly
2 authorized agent, on demand, to make full inspection of any place of
3 business where any of the articles herein taxed are sold or otherwise
4 hinder or prevent such inspection;

5 (i) Except as provided in this chapter, for any retailer to have in
6 possession in any place of business any of the articles herein taxed,
7 unless the same have the proper stamps attached;

8 (j) For any person to make, use, or present or exhibit to the
9 department of revenue or its duly authorized agent, any invoice for any
10 of the articles herein taxed which bears an untrue date or falsely
11 states the nature or quantity of the goods therein invoiced;

12 (k) For any wholesaler or retailer or his or her agents or
13 employees to fail to produce on demand of the department of revenue all
14 invoices of all the articles herein taxed or stamps bought by him or
15 her or received in his or her place of business within five years prior
16 to such demand unless he or she can show by satisfactory proof that the
17 nonproduction of the invoices was due to causes beyond his or her
18 control;

19 (l) For any person to receive in this state any shipment of any of
20 the articles taxed herein, when the same are not stamped, for the
21 purpose of avoiding payment of tax. It is presumed that persons other
22 than dealers who purchase or receive shipments of unstamped cigarettes
23 do so to avoid payment of the tax imposed herein;

24 (m) For any person to possess or transport in this state a quantity
25 of sixty thousand cigarettes or less unless the proper stamps required
26 by this chapter have been affixed or unless: (i) Notice of the
27 possession or transportation has been given as required by RCW
28 82.24.250; (ii) the person transporting the cigarettes has in actual
29 possession invoices or delivery tickets which show the true name and
30 address of the consignor or seller, the true name and address of the
31 consignee or purchaser, and the quantity and brands of the cigarettes
32 so transported; and (iii) the cigarettes are consigned to or purchased
33 by any person in this state who is authorized by this chapter to
34 possess unstamped cigarettes in this state.

35 (2) It is unlawful for any person knowingly or intentionally to
36 possess or to transport in this state a quantity in excess of sixty
37 thousand cigarettes unless the proper stamps required by this chapter
38 are affixed thereto or unless: (a) Proper notice as required by RCW
39 82.24.250 has been given; (b) the person transporting the cigarettes

1 actually possesses invoices or delivery tickets showing the true name
2 and address of the consignor or seller, the true name and address of
3 the consignee or purchaser, and the quantity and brands of the
4 cigarettes so transported; and (c) the cigarettes are consigned to or
5 purchased by a person in this state who is authorized by this chapter
6 to possess unstamped cigarettes in this state. Violation of this
7 section shall be punished as a class C felony under Title 9A RCW.

8 (3) All agents, employees, and others who aid, abet, or otherwise
9 participate in any way in the violation of the provisions of this
10 chapter or in any of the offenses described in this chapter shall be
11 guilty and punishable as principals, to the same extent as any
12 wholesaler or retailer or any other person violating this chapter.

13 **Sec. 5.** RCW 82.24.130 and 1990 c 216 s 5 are each amended to read
14 as follows:

15 (1) The following are subject to seizure and forfeiture:

16 (a) Subject to RCW 82.24.250, any articles taxed in this chapter
17 that are found at any point within this state, which articles are held,
18 owned, or possessed by any person, and that do not have the stamps
19 affixed to the packages or containers.

20 (b) All conveyances, including aircraft, vehicles, or vessels,
21 which are used, or intended for use, to transport, or in any manner to
22 facilitate the transportation, for the purpose of sale or receipt of
23 property described in (a) of this subsection, except:

24 (i) A conveyance used by any person as a common or contract carrier
25 having in actual possession invoices or delivery tickets showing the
26 true name and address of the consignor or seller, the true name of the
27 consignee or purchaser, and the quantity and brands of the cigarettes
28 transported, unless it appears that the owner or other person in charge
29 of the conveyance is a consenting party or privy to a violation of this
30 chapter;

31 (ii) A conveyance subject to forfeiture under this section by
32 reason of any act or omission of which the owner thereof establishes to
33 have been committed or omitted without his or her knowledge or consent;

34 (iii) A conveyance encumbered by a bona fide security interest if
35 the secured party neither had knowledge of nor consented to the act or
36 omission.

37 (c) Any vending machine used for the purpose of violating the
38 provisions of this chapter.

1 (2) Property subject to forfeiture under this chapter may be seized
2 by any agent of the department authorized to collect taxes, any
3 enforcement officer of the board, or law enforcement officer of this
4 state upon process issued by any superior court or district court
5 having jurisdiction over the property. Seizure without process may be
6 made if:

7 (a) The seizure is incident to an arrest or a search under a search
8 warrant or an inspection under an administrative inspection warrant; or

9 (b) The department, the board, or the law enforcement officer has
10 probable cause to believe that the property was used or is intended to
11 be used in violation of this chapter and exigent circumstances exist
12 making procurement of a search warrant impracticable.

13 (3) Notwithstanding the foregoing provisions of this section,
14 articles taxed in this chapter which are in the possession of a
15 wholesaler or retailer, licensed under Washington state law, for a
16 period of time necessary to affix the stamps after receipt of the
17 articles, shall not be considered contraband.

18 **Sec. 6.** RCW 82.24.190 and 1987 c 202 s 244 are each amended to
19 read as follows:

20 When the department of revenue or the board has good reason to
21 believe that any of the articles taxed herein are being kept, sold,
22 offered for sale, or given away in violation of the provisions of this
23 chapter or regulations issued under authority hereof, it may make
24 affidavit of such fact, describing the place or thing to be searched,
25 before any judge of any court in this state, and such judge shall issue
26 a search warrant directed to the sheriff, any deputy, police officer,
27 or duly authorized agent of the department of revenue commanding him or
28 her diligently to search any building, room in a building, place or
29 vehicle as may be designated in the affidavit and search warrant, and
30 to seize such tobacco so possessed and to hold the same until disposed
31 of by law, and to arrest the person in possession or control thereof.
32 If upon the return of such warrant, it shall appear that any of the
33 articles taxed herein, unlawfully possessed, were seized, the same
34 shall be sold as provided in this chapter.

35 **Sec. 7.** RCW 82.24.250 and 1995 c 278 s 10 are each amended to read
36 as follows:

1 (1) No person other than: (a) A licensed wholesaler in the
2 wholesaler's own vehicle; or (b) a person who has given notice to the
3 ((department)) the board in advance of the commencement of
4 transportation shall transport or cause to be transported in this state
5 cigarettes not having the stamps affixed to the packages or containers.

6 (2) When transporting unstamped cigarettes, such persons shall have
7 in their actual possession or cause to have in the actual possession of
8 those persons transporting such cigarettes on their behalf invoices or
9 delivery tickets for such cigarettes, which shall show the true name
10 and address of the consignor or seller, the true name and address of
11 the consignee or purchaser, and the quantity and brands of the
12 cigarettes so transported.

13 (3) If the cigarettes are consigned to or purchased by any person
14 in this state such purchaser or consignee must be a person who is
15 authorized by chapter 82.24 RCW to possess unstamped cigarettes in this
16 state.

17 (4) In the absence of the notice of transportation required by this
18 section or in the absence of such invoices or delivery tickets, or, if
19 the name or address of the consignee or purchaser is falsified or if
20 the purchaser or consignee is not a person authorized by chapter 82.24
21 RCW to possess unstamped cigarettes, the cigarettes so transported
22 shall be deemed contraband subject to seizure and sale under the
23 provisions of RCW 82.24.130.

24 (5) Transportation of cigarettes from a point outside this state to
25 a point in some other state will not be considered a violation of this
26 section provided that the person so transporting such cigarettes has in
27 his possession adequate invoices or delivery tickets which give the
28 true name and address of such out-of-state seller or consignor and such
29 out-of-state purchaser or consignee.

30 (6) In any case where the department or its duly authorized agent,
31 or any peace officer of the state, has knowledge or reasonable grounds
32 to believe that any vehicle is transporting cigarettes in violation of
33 this section, the department, such agent, or such police officer, is
34 authorized to stop such vehicle and to inspect the same for contraband
35 cigarettes.

36 (7) For purposes of this section, the term "person authorized by
37 chapter 82.24 RCW to possess unstamped cigarettes" means:

38 (a) A wholesaler or retailer, licensed under Washington state law;

39 (b) The United States or an agency thereof; and

1 (c) Any person, including an Indian tribal organization, who, after
2 notice has been given to the (~~department~~) board as provided in this
3 section, brings or causes to be brought into the state unstamped
4 cigarettes, if within a period of time after receipt of the cigarettes
5 as the department determines by rule to be reasonably necessary for the
6 purpose the person has caused stamps to be affixed in accordance with
7 RCW 82.24.030 or otherwise made payment of the tax required by this
8 chapter in the manner set forth in rules adopted by the department.

9 **Sec. 8.** RCW 82.24.550 and 1993 c 507 s 17 are each amended to read
10 as follows:

11 (1) The (~~department of revenue~~) board shall enforce the
12 provisions of this chapter (~~except RCW 82.24.500, which will be~~
13 ~~enforced by the liquor control board~~). The board may adopt, amend,
14 and repeal rules necessary to enforce the provisions of this chapter.

15 (2) The department of revenue may adopt, amend, and repeal rules
16 necessary to (~~enforce and~~) administer the provisions of this chapter.
17 The department of revenue has full power and authority to revoke or
18 suspend the license or permit of any wholesale or retail cigarette
19 dealer in the state upon sufficient cause appearing of the violation of
20 this chapter or upon the failure of such licensee to comply with any of
21 the provisions of this chapter.

22 (~~(2)~~) (3) A license shall not be suspended or revoked except upon
23 notice to the licensee and after a hearing as prescribed by the
24 department of revenue. The department of revenue, upon a finding by
25 same, that the licensee has failed to comply with any provision of this
26 chapter or any rule promulgated thereunder, shall, in the case of the
27 first offender, suspend the license or licenses of the licensee for a
28 period of not less than thirty consecutive business days, and, in the
29 case of a second or plural offender, shall suspend the license or
30 licenses for a period of not less than ninety consecutive business days
31 nor more than twelve months, and, in the event the department of
32 revenue finds the offender has been guilty of willful and persistent
33 violations, it may revoke the license or licenses.

34 (~~(3)~~) (4) Any person whose license or licenses have been so
35 revoked may apply to the department of revenue at the expiration of one
36 year for a reinstatement of the license or licenses. The license or
37 licenses may be reinstated by the department of revenue if it appears
38 to the satisfaction of the department of revenue that the licensee will

1 comply with the provisions of this chapter and the rules promulgated
2 thereunder.

3 ~~((+4))~~ (5) A person whose license has been suspended or revoked
4 shall not sell cigarettes or permit cigarettes to be sold during the
5 period of such suspension or revocation on the premises occupied by the
6 person or upon other premises controlled by the person or others or in
7 any other manner or form whatever.

8 ~~((+5))~~ (6) Any determination and order by the department of
9 revenue, and any order of suspension or revocation by the department of
10 revenue of the license or licenses, or refusal to reinstate a license
11 or licenses after revocation shall be reviewable by an appeal to the
12 superior court of Thurston county. The superior court shall review the
13 order or ruling of the department of revenue and may hear the matter de
14 novo, having due regard to the provisions of this chapter and the
15 duties imposed upon the department of revenue and the board.

16 **Sec. 9.** RCW 82.32.300 and 1983 c 3 s 222 are each amended to read
17 as follows:

18 The administration of this and chapters 82.04 through 82.27 RCW of
19 this title is vested in the department of revenue which shall prescribe
20 forms and rules of procedure for the determination of the taxable
21 status of any person, for the making of returns and for the
22 ascertainment, assessment and collection of taxes and penalties imposed
23 thereunder.

24 The department of revenue shall make and publish rules and
25 regulations, not inconsistent therewith, necessary to enforce ~~((their))~~
26 provisions of this chapter and chapters 82.02 through 82.23B and 82.27
27 RCW, and the liquor control board shall make and publish rules
28 necessary to enforce chapters 82.24 and 82.26 RCW, which shall have the
29 same force and effect as if specifically included therein, unless
30 declared invalid by the judgment of a court of record not appealed
31 from.

32 The department may employ such clerks, specialists, and other
33 assistants as are necessary. Salaries and compensation of such
34 employees shall be fixed by the department and shall be charged to the
35 proper appropriation for the department.

36 The department shall exercise general supervision of the collection
37 of taxes and, in the discharge of such duty, may institute and

1 prosecute such suits or proceedings in the courts as may be necessary
2 and proper.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.24 RCW
4 to read as follows:

5 The department shall appoint, as duly authorized agents,
6 enforcement officers of the liquor control board to enforce provisions
7 of this chapter. These officers shall not be considered employees of
8 the department.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.26 RCW
10 to read as follows:

11 The department shall appoint, as duly authorized agents,
12 enforcement officers of the liquor control board to enforce provisions
13 of this chapter. These officers shall not be considered employees of
14 the department.

15 *NEW SECTION. **Sec. 12.** *A new section is added to chapter 43.06*
16 *RCW to read as follows:*

17 *(1) The governor is authorized and empowered to execute cooperative*
18 *agreements with federally recognized Indian tribes or nations in the*
19 *state of Washington concerning the sales of cigarettes and tobacco.*
20 *The liquor control board shall negotiate the cooperative agreements*
21 *with the federally recognized Indian tribes or nations. The rate of*
22 *tax imposed and collected on cigarettes and tobacco products under*
23 *cooperative agreements shall be at the same rate as the taxes imposed*
24 *on cigarettes and tobacco products under chapters 82.24 and 82.26 RCW,*
25 *but the amount of taxes collected that may be retained by the Indian*
26 *tribes or nations shall be as provided in the cooperative agreements.*

27 *(2) A cooperative agreement under this section shall be designed to*
28 *contribute to the achievement of a net decrease in the ninety million*
29 *dollars in cigarette and tobacco tax revenues that are lost annually,*
30 *balancing the contribution of voluntary compliance, enforcement, and*
31 *the cooperative agreement. In conjunction with active enforcement of*
32 *chapters 82.24 and 82.26 RCW under RCW 66.44.010, cooperative*
33 *agreements shall be designed to achieve a net decrease in lost*
34 *cigarette and tobacco revenue according to the following schedules:*

35 *(a) By June 30, 1998, at least five percent;*

36 *(b) By June 30, 1999, at least twelve and one-half percent;*

- 1 (c) By June 30, 2000, at least thirty percent;
2 (d) By June 30, 2001, at least thirty-seven and one-half percent;
3 and
4 (e) By June 30, 2002, at least fifty percent.

5 The board shall sustain the fifty percent net decrease in lost
6 revenue due to cigarette and tobacco tax evasion after June 30, 2002.

7 (3) Of the revenues received by the state under cooperative
8 agreements negotiated under this section, fifty percent shall be
9 deposited in the violence reduction and drug enforcement account and
10 fifty percent shall be deposited in the health services account.

11 (4) For the purposes of this section, "federally recognized Indian
12 tribes or nations" means an Indian entity that is recognized as an
13 Indian tribe or a self-governing dependent Indian community by the
14 United States secretary of the interior.

15 *Sec. 12 was vetoed. See message at end of chapter.

16 *NEW SECTION. Sec. 13. A new section is added to chapter 82.08
17 RCW to read as follows:

18 The tax levied by RCW 82.08.020 does not apply to sales of
19 cigarettes or tobacco made by a federally recognized Indian tribe or
20 nation or its licensees during the effective period of a cooperative
21 agreement entered into between the state and the federally recognized
22 Indian tribe or nation under section 12 of this act.

23 *Sec. 13 was vetoed. See message at end of chapter.

24 *NEW SECTION. Sec. 14. A new section is added to chapter 82.12
25 RCW to read as follows:

26 The provisions of this chapter do not apply in respect to the use
27 of cigarettes or tobacco sold by a federally recognized Indian tribe or
28 nation or its licensees during the effective period of a cooperative
29 agreement entered into between the state and the federally recognized
30 Indian tribe or nation under section 12 of this act.

31 *Sec. 14 was vetoed. See message at end of chapter.

32 *NEW SECTION. Sec. 15. A new section is added to chapter 82.24
33 RCW to read as follows:

34 This chapter does not apply to the sale, use, consumption,
35 handling, possession, or distribution of cigarettes by a federally
36 recognized Indian tribe or nation or its licensees during the effective
37 period of a cooperative agreement entered into between the state and

1 *the federally recognized Indian tribe or nation under section 12 of*
2 *this act.*

3 *Sec. 15 was vetoed. See message at end of chapter.

4 **NEW SECTION. Sec. 16. A new section is added to chapter 82.26*
5 *RCW to read as follows:*

6 *This chapter does not apply to the sale, use, consumption,*
7 *handling, possession, or distribution of tobacco by a federally*
8 *recognized Indian tribe or nation or its licensees during the effective*
9 *period of a cooperative agreement entered into between the state and*
10 *the federally recognized Indian tribe or nation under section 12 of*
11 *this act.*

12 *Sec. 16 was vetoed. See message at end of chapter.

13 **NEW SECTION. Sec. 17. This act is necessary for the immediate*
14 *preservation of the public peace, health, or safety, or support of the*
15 *state government and its existing public institutions, and takes effect*
16 *immediately.*

17 *Sec. 17 was vetoed. See message at end of chapter.

Passed the House April 21, 1997.

Passed the Senate April 16, 1997.

Approved by the Governor May 19, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 19, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 1, 2,
3 and 12 through 17, Engrossed Substitute House Bill No. 2272 entitled:

4 "AN ACT Relating to transferring the enforcement of existing
5 cigarette and tobacco taxes from the department of revenue to the
6 liquor control board;"

7 Engrossed Substitute House Bill No. 2272 transfers responsibility
8 for collection of cigarette taxes from the Department of Revenue to the
9 Liquor Control Board. It also makes statements about the estimated
10 amounts of tax revenue lost annually due to evasion, and permits the
11 governor to enter into agreements with tribal governments for the
12 collection of the tax on tribal lands.

13 I concur with the Legislature that the state has a significant
14 problem related to the collection of the state tax on cigarettes, and
15 I agree that the Liquor Control Board is better suited to collect the
16 tax than the Department of Revenue. However, I believe that other
17 portions of ESHB 2272 are too restrictive to be practical.

18 Other states have successfully dealt with this issue through
19 effective and fair government-to-government agreements. This bill
20 would have authorized the governor to enter into compacts with Indian

1 tribes regarding cigarette tax collection, but it leaves too little
2 negotiating room. We already have other successful compacting
3 processes in place. This bill did not make use of those successful
4 processes. Instead, the compacting process set forth in the bill
5 severely and unnecessarily restricts the terms of the agreements. I
6 want the Legislature to revisit this compacting authority next session.

7 For these reasons, I have vetoed sections 1, 2, and 12 through 17
8 of Engrossed Substitute House Bill No. 2272.

9 With the exception of sections 1, 2, and 12 through 17, Engrossed
10 Substitute House Bill No. 2272 is approved."