
SENATE BILL 5960

State of Washington

56th Legislature

1999 Regular Session

By Senator Prentice

Read first time . Referred to Committee on .

1 AN ACT Relating to authorizing tribal-state compacts in which the
2 state retrocedes from motor fuel tax for fuel sold or distributed by a
3 tribal government, a tribally owned enterprise, or a tribally licensed
4 business; adding new sections to chapter 82.36 RCW; adding a new
5 section to chapter 82.38 RCW; and repealing RCW 82.36.450 and
6 82.38.310.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.36 RCW
9 to read as follows:

10 It is the intent of the legislature to promote and enhance
11 government to government cooperation between the state of Washington
12 and Indian tribes in the state by authorizing the governor to execute
13 motor vehicle fuel tax compacts with tribal governments concerning the
14 taxation of the use, distribution, and sales of motor vehicle fuels.
15 It is the intent of the legislature through this act to provide the
16 governor with flexibility in executing these cooperative compacts, if
17 certain statutory requirements are met.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.36 RCW
2 to read as follows:

3 The definitions set forth in this section apply throughout sections
4 1 through 5 of this act.

5 (1) "Indian reservation" means all lands within the exterior
6 boundaries of an Indian reservation and all lands that are held in
7 trust by the federal government and are under the jurisdiction of a
8 federally recognized Indian tribe.

9 (2) "Motor vehicle fuel" means "motor vehicle fuel" as defined in
10 RCW 82.36.010 and also includes "special fuels" as defined in RCW
11 82.38.020.

12 (3) "Motor vehicle fuel tax compact" means any compact entered into
13 between the state of Washington and a tribal government under the
14 authority of section 3 of this act.

15 (4) "Tribal government" means the governing body of a federally
16 recognized Indian tribe.

17 (5) "Tribal government owned enterprise" means an enterprise that
18 is at least fifty-one percent owned and operated by a tribal
19 government.

20 (6) "Tribal member" means an enrolled member of a federally
21 recognized Indian tribe.

22 (7) "Tribally licensed business" means a business that holds a
23 current license from an Indian tribe to do business on the tribe's
24 reservation. For the purposes of sections 1 through 5 of this act, a
25 business is not considered "tribally licensed" if it is operating in
26 violation of a compact executed under section 3 of this act.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.36 RCW
28 to read as follows:

29 (1) The governor may execute individual compacts with each of the
30 federally recognized Indian tribes in Washington concerning the sales
31 and taxation of motor vehicle fuel. All cooperative compacts executed
32 under the authority of this chapter must meet the requirements of this
33 section. The governor may appoint the director of the department of
34 licensing or any other appropriate agency as the governor's agent to
35 negotiate and execute these compacts.

36 (2) In accordance with sections 4 and 5 of this act, the taxes
37 under this chapter and chapter 82.38 RCW do not apply to motor fuel
38 sold by a tribal government, a tribal government owned enterprise, or

1 a tribally licensed business operating on the Indian reservation of a
2 tribe that has executed a compact with the state.

3 (3) Compacts executed by the governor may provide for a tribal
4 motor vehicle fuel tax in lieu of all state motor vehicle fuel taxes
5 and all state and local sales and use taxes on the sale of motor
6 vehicle fuel by tribal governments, tribal government owned
7 enterprises, or tribally licensed businesses.

8 (4) Compacts executed by the governor may provide for payment by
9 tribal governments to the state of Washington, on a postsale and
10 quarterly basis, a portion of the tribal motor vehicle fuel tax
11 collected by the tribe on sales to nontribal members. Revenues
12 received under this subsection must be distributed in the same manner
13 as other fuel tax revenues under this chapter and chapter 82.38 RCW.

14 (5) When negotiating the terms of a compact the governor must
15 consider: (a) The tribe's economic, geographic, and other
16 circumstances; (b) the costs to the tribe associated with administering
17 the tax; (c) the percentage of state fuel tax revenue distributed to
18 other local governments; and (d) the amount of the expenditure by the
19 state on roads within the reservation.

20 (6) Compacts must provide that tribal governments, tribal
21 government owned enterprises, and tribally licensed businesses only
22 make sales of motor vehicle fuel where the physical transfer of
23 possession of the motor vehicle fuel from the seller to the buyer
24 occurs within the Indian reservation.

25 (7) Compacts may provide that the compact may be amended upon the
26 agreement of both parties.

27 (8) Compacts may permit the submission of disputes regarding the
28 interpretation and administration of their provisions to arbitration or
29 judicial resolution, if a waiver of sovereign immunity by the state is
30 conditioned upon a similar waiver of sovereign immunity by the tribal
31 government.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.36 RCW
33 to read as follows:

34 Subject to the conditions and limitations of a compact executed
35 under section 3 of this act, the tax levied under this chapter does not
36 apply to the sale, use, consumption, handling, possession, or
37 distribution of motor fuels by a tribal government, tribal government
38 owned enterprise, or tribally licensed business during the effective

1 period of a motor vehicle fuel tax compact entered into between the
2 tribal government and the state under section 3 of this act.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.38 RCW
4 to read as follows:

5 Subject to the conditions and limitations of a compact executed
6 under section 3 of this act, the tax levied under this chapter does not
7 apply with respect to the use or sale of special fuels by a tribal
8 government, tribal government owned enterprise, or tribally licensed
9 business during the effective period of a motor vehicle fuel tax
10 compact entered into between the tribal government and the state under
11 section 3 of this act.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.36 RCW
13 to read as follows:

14 Sections 1 through 5 of this act may be known and cited as the
15 Tribal-State Motor Fuel Tax Compact Act.

16 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
17 repealed:

18 (1) RCW 82.36.450 (Agreement with tribe for imposition, collection,
19 use) and 1995 c 320 s 2; and

20 (2) RCW 82.38.310 (Agreement with tribe for imposition, collection,
21 use) and 1995 c 320 s 3.

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