

HOUSE BILL REPORT

SHB 2036

As Passed House:

March 17, 2003

Title: An act relating to cigarette tax contracts.

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

Sponsors: By House Committee on Finance (originally sponsored by Representatives Buck, McCoy and Clements).

Brief History:

Committee Activity:

Finance: 3/6/03, 3/10/03 [DPS].

Floor Activity:

Passed House: 3/17/03, 98-0.

Brief Summary of Substitute Bill

· Adds the Samish Indian Nation, the Quileute Tribe, and the Kalispel Tribe to the list of tribes with which the Governor may make cigarette tax contracts.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Gombosky, Chair; McIntire, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Rick Peterson (786-7150).

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, ESSB 5372 passed allowing the Governor 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 Governor is authorized to enter into cigarette tax contracts 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 Yakima Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe and the Swinomish Tribe at a tax rate of 100 percent of the state cigarette and sales tax rate. The 100 percent rate may be phased in over three years, but the rate can be no lower than 80 percent of state cigarette and sales tax rate.

Cigarette tax contracts have been reached with the Squaxin Island Tribe (December 2001), the Upper Skagit Tribe (May 2002), the Tulalip Tribes (May 2002), and the Jamestown S'klallam Indian Tribe (November, 2002).

Summary of Substitute Bill:

The Governor's authority to enter into cigarette tax contracts with Indian tribes is expanded to include the Samish Indian Nation, the Quileute Tribe and the Kalispel Tribe.

Appropriation: None.

Fiscal Note: Requested on the substitute bill on March 11, 2003.

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

Testimony For: Cigarette tax contracts between the state and Indian Tribes have worked well. There are now 5 agreements. It is appropriate to add these tribes to the list. The Squaxin's program just went through a third party audit and came back clean. The money from the Tribal tax is used for education, roads, and other government services.

Testimony Against: None.

Testified: Representative McCoy, sponsor; and Kelly Croman, Squaxin Island Tribe.