

HOUSE BILL REPORT

SSB 5933

As Reported by House Committee On:

Finance

Title: An act relating to cigarette tax contracts.

Brief Description: Authorizing cigarette tax contracts between the state and additional Indian tribes.

Sponsors: Senate Committee on Commerce & Trade (originally sponsored by Senators Hargrove, Franklin and Kline).

Brief History:

Committee Activity:

Finance: 3/27/03, 4/4/03 [DP].

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: 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), the Jamestown S'klallam Indian Tribe (November 2002), and the Nooksack Indian Tribe

(March 2003).

Summary of 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: Available.

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

Testimony For: The Centennial Accord has led to a very good government to government collaborative process for the tribes and the state. Tribal and state cooperation on tax issues and economic development has been going very well. The Quileute Tribe asks to be included in the list of tribes that enter into cigarette tax contracts with the state.

Testimony Against: None.

Testified: Walter Jackson, Quileute Tribe; and Mike Moran, Samish Tribe.