

# SENATE BILL REPORT

## SB 5814

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As Passed Senate, March 8, 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:** Senators Prentice, Swecker, Rasmussen and Kohl-Welles; by request of Department of Revenue.

**Brief History:**

**Committee Activity:** Ways & Means: 2/15/05, 2/16/05 [DP].

Passed Senate: 3/8/05, 47-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Fairley, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Terry Wilson (786-7433)

**Background:** The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. Cigarette taxes are added directly to the price of these goods before the sales tax is applied. The rate for the cigarette tax is 142.5 cents per pack of twenty cigarettes which is equal to \$14.25 per carton. Retail sales and use taxes are also imposed on sales of cigarettes. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.9 percent, depending on the location. State and local sales and use taxes on an average carton of cigarettes are about \$3.00.

Under federal law, the state cigarette and state and local sales and use taxes do 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 taxes.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette and state and local sales and use taxes and are exempt from these state and local taxes. The rate may be phased in over three years but can be no lower than 80 percent of the state cigarette and sales tax rate. Revenues from the tribal tax must be used for essential government services. The contracts must be for renewable periods of no more than eight years.

The Governor was originally authorized to enter into agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinalt 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.

The Governor has the authority to contract with twenty-one tribes and has contracted with eighteen tribes to date.

**Summary of Bill:** Authority is granted to the Governor to enter into a cigarette tax contract 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.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** These compacts have improved the relationship between the department and the tribes. The tribes must collect 100 percent of the taxes. It gives the tribes a reliable tax base for essential government services.

**Testimony Against:** None.

**Who Testified:** PRO: Leslie Cushman, Dept of Revenue; Kelly Croman, Squaxin Island Tribe.