
SENATE BILL 6869

State of Washington 59th Legislature 2006 Regular Session

By Senators Sheldon, Swecker, Prentice, Rasmussen, Roach, Berkey, Hargrove, Brandland, Shin and Franklin

Read first time 01/30/2006. Referred to Committee on Transportation.

1 AN ACT Relating to cooperative agreements concerning the taxation
2 of motor vehicle fuels and special fuels sold on Indian lands; adding
3 new sections to chapter 43.06 RCW; adding new sections to chapter 82.36
4 RCW; adding new sections to chapter 82.38 RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** The legislature intends to further the
8 government-to-government relationship between the state of Washington
9 and Indians in the state of Washington by authorizing the governor to
10 enter into contracts concerning the sale of motor vehicle fuels and
11 special fuels. The legislature finds that these tax contracts will
12 provide a means to address critical transportation and law enforcement
13 needs in Indian country, and provide needed revenues for tribal
14 governments and Indian persons, and enhance enforcement of the state's
15 fuel tax laws, ultimately saving the state money and reducing conflict.
16 This act does not constitute a grant of taxing authority to any Indian
17 tribe nor does it provide a precedent for the taxation of non-Indians
18 on fee land.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.06 RCW
2 to read as follows:

3 (1) The governor may enter into fuel tax contracts concerning the
4 sale of motor vehicle fuels and special fuels. All fuel tax contracts
5 shall meet the requirements for fuel tax contracts under this section.
6 Except for fuel tax contracts under section 3 of this act, the rates
7 and exemption terms of a fuel tax contract are not effective unless
8 authorized in a bill enacted by the legislature.

9 (2) Fuel tax contracts shall be in regard to retail sales in which
10 Indian retailers make delivery and physical transfer of possession of
11 the fuel from the seller to the buyer within Indian country, and are
12 not in regard to transactions by non-Indian retailers.

13 (3) A fuel tax contract with a tribe shall provide for a tribal
14 fuel tax in lieu of all state motor vehicle fuel taxes or special fuel
15 taxes on sales of fuel in Indian country by Indian retailers. The
16 tribe may allow an exemption for sales to tribal members.

17 (4) Fuel tax contracts shall provide that retailers shall purchase
18 motor vehicle fuel and special fuel only from:

19 (a) Distributors, suppliers, or importers licensed to do business
20 in the state of Washington;

21 (b) Distributors, suppliers, or importers who, although not
22 licensed to do business in the state of Washington, agree to comply
23 with the terms of the fuel tax contract, are certified to the state as
24 having so agreed, and who do in fact so comply. However, the state may
25 in its sole discretion exercise its administrative and enforcement
26 powers over such distributors, suppliers, or importers to the extent
27 permitted by law;

28 (c) A tribal distributor, supplier, or importer that purchases only
29 from a distributor, supplier, or importer described in (a), (b), or (d)
30 of this subsection; and

31 (d) A tribal supplier.

32 (5) Fuel tax contracts shall be automatically renewable absent an
33 uncorrected material compliance violation resulting in termination as
34 provided by this section.

35 (6) Fuel tax contracts shall include provisions for compliance,
36 such as transport and notice requirements, inspection procedures,
37 recordkeeping, and audit requirements.

1 (7) Tax revenue retained by a tribe must be used for essential
2 government services. Use of tax revenue for subsidization of fuel
3 retailers is prohibited.

4 (8) The fuel tax contract may include provisions to resolve
5 disputes using a nonjudicial process, such as mediation.

6 (9) The governor may delegate the power to negotiate fuel tax
7 contracts to the department of licensing.

8 (10) Information received by the state or open to state review
9 under the terms of a fuel tax contract is subject to the provisions of
10 RCW 82.32.330.

11 (11) It is the intent of the legislature that the department of
12 licensing continue the duties and authority under chapters 82.34 and
13 82.36 RCW, and therefore the department of licensing is responsible for
14 enforcement activities that come under the terms of chapters 82.34 and
15 82.36 RCW.

16 (12) Each fuel tax contract shall include a procedure for notifying
17 the other party that a violation has occurred, a procedure for
18 establishing whether a violation has in fact occurred, an opportunity
19 to correct such violation, and a provision providing for termination of
20 the contract should the violation fail to be resolved through this
21 process, such termination subject to mediation should the terms of the
22 contract so allow. A contract shall provide for termination of the
23 contract if resolution of a dispute does not occur within twenty-four
24 months from the time notification of a violation has occurred.
25 Intervening violations do not extend this time period. In addition,
26 the contract shall include provisions delineating the respective roles
27 and responsibilities of the tribe and the department of licensing.

28 (13) For purposes of this section and sections 3 through 7 of this
29 act:

30 (a) "Essential government services" means services such as tribal
31 transportation, police, fire, administration, public facilities, and
32 other governmental services;

33 (b) "Indian retailer" or "retailer" means (i) a retailer wholly
34 owned and operated by an Indian tribe, (ii) a business wholly owned and
35 operated by a tribal member and licensed by the tribe, or (iii) a
36 business owned and operated by the Indian person or persons in whose
37 name the land is held in trust; and

1 (c) "Indian tribe" or "tribe" means a federally recognized Indian
2 tribe located within the jurisdictional boundaries of the state of
3 Washington.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.06 RCW
5 to read as follows:

6 (1) The governor is authorized to enter into fuel tax contracts
7 with any tribe. Each contract adopted under this section shall provide
8 that the tribal motor vehicle fuel tax rate be one hundred percent of
9 the state motor vehicle fuel tax, and that the tribal special fuel tax
10 rate be one hundred percent of the state special fuel tax. The tribal
11 tax is in lieu of the state tax as provided in section 2(3) of this
12 act.

13 (2) A fuel tax contract under this section is subject to section 2
14 of this act.

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

17 The tax levied by RCW 82.36.020 does not apply to sales of motor
18 vehicle fuel by an Indian retailer during the effective period of a
19 fuel tax contract, subject to section 2 of this act.

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

22 The tax levied by RCW 82.38.030 does not apply to sales of special
23 fuels by an Indian retailer during the effective period of a fuel tax
24 contract, subject to section 2 of this act.

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

27 The taxes imposed by this chapter do not apply to the sale, use,
28 consumption, handling, possession, or distribution of motor vehicle
29 fuel by an Indian retailer during the effective period of a fuel tax
30 contract, subject to section 2 of this act.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.38 RCW
32 to read as follows:

33 The taxes imposed by this chapter do not apply to the sale, use,

1 consumption, handling, possession, or distribution of motor vehicle
2 fuel by an Indian retailer during the effective period of a fuel tax
3 contract, subject to section 2 of this act.

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