

HOUSE BILL REPORT

HB 2783

As Reported by House Committee On: Finance

Title: An act relating to specifying the documentation that must be provided to determine when sales tax applies to the sale of a motor vehicle to an enrolled tribal member.

Brief Description: Specifying the documentation that must be provided to determine when sales tax applies to the sale of a motor vehicle to an enrolled tribal member.

Sponsors: Representatives Springer, Stokesbary, Reykdal, Vick, Robinson, Orcutt, Johnson and Wilson.

Brief History:

Committee Activity:

Finance: 1/29/16, 2/8/16 [DPS].

Brief Summary of Substitute Bill

- Creates an explicit exemption in state law, for an existing retail sales tax exemption for vehicles sales to an enrolled tribal member within Indian country.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Frame, Manweller, Pollet, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

Staff: Dominique Meyers (786-7150).

Background:

Retail Sales Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user

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acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Retail Sales Tax on Sales Made to Indians or Indian Tribes.

Under federal law, sales tax is not imposed on sales to enrolled tribal members if the tangible personal property is delivered to a member or tribe in Indian country, or if the sale takes place in Indian country. There is no explicit exemption in state law. This includes the sale of motor vehicles, trailers, off-road vehicles, etc.

To make exempt sales to tribal members, auto dealers must obtain a retail sales tax certificate from the Department of Revenue (DOR) and obtain the required information included on the certificate. This includes a declaration of the buyer that requires the buyer's: (1) name; (2) signature; (3) address; (4) delivery address; (5) and proof of tribal membership, using one of four authorized tribal documents.

In addition to the declaration of buyer requirements, the dealer must provide information on the retail sales exemption certificate. This includes: (1) the seller's name; (2) the seller's address; (3) vehicle information; (4) the name of the tribe that delivery was made; and (5) the signature of the seller. The DOR may require additional information to verify delivery from the seller, such as gas receipts, trip tickets, or a photograph of the vehicle next to landmark location in tribal country.

The auto dealer is not required to submit the exemption certificate to the DOR; however, the dealer must maintain the certificate as proof the exemption was valid, as required under RCW 82.32. If the DOR finds that proper documentation was not obtained, the DOR may assess the auto dealer the retail sales tax that would have otherwise been due.

Summary of Substitute Bill:

An explicit retail sales tax exemption is created for sales of vehicles to enrolled tribal members provided one of the the following pieces of information is obtained by the seller:

- tribal membership or citizenship card;
- certificate of tribal enrollment; or
- a letter signed by a tribal official confirming the buyer's current tribal membership status.

In addition, the vehicle must be delivered to Indian country. The seller must document the delivery by completing a declaration signed by the seller and the tribal purchaser, attesting that delivery was made to the location where the tribal member or tribe has exempt status in Indian country.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes:

- removes the penalty provisions for both the seller and the buyer for the use of fraudulent documentation;
 - removes the requirement that the dealer use a geographic information system maintained by the DOR, to verify the location for delivery is in Indian country;
 - requires the tribal member or tribe to sign the declaration attesting that delivery was made to Indian country; and
 - makes technical corrections to definitions and terminology used in the bill.
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Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2016.

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

Staff Summary of Public Testimony:

(In support) This is a straightforward bill. This codifies existing state tax policy that is currently implemented by the DOR because of federal law. Some additional work needs to be done on this bill to avoid auto dealers from being liable for \$9 million in sales tax, to ensure there is the correct language to affirm what needs to be documented. Fundamentally, the bill is simple, it does not change tax policy or create an exemption, and it just streamlines the process for which these sales are documented. The current documentation is confusing and the standards are different depending on the auditor a dealer works with.

(Opposed) None.

(Other) Tribal attorneys have some revisions that the bill needs to support because tribes have no issue with the current process that uses Washington Administrative Code to administer their tax-exempt status when a vehicle is delivered to them in Indian country.

Persons Testifying: (In support) Scott Hazelgrove, Washington State Auto Dealers Association.

(Other) Jeanne Cushman, Squaxin Island Tribe.

Persons Signed In To Testify But Not Testifying: None.