

HOUSE BILL REPORT

ESSB 6427

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 a 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 a tribal member.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Fain, Hargrove, Keiser, Honeyford, Rolfes and Roach).

Brief History:

Committee Activity:

Finance: 2/24/16, 2/26/16 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by Committee)

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

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. 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

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the property, digital product, or service. If retail sales taxes were not collected when the user 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 buyers: (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 Amended Bill:

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

- currently valid tribal membership or citizenship card;
- currently valid 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. The declaration is limited to attestation of delivery of the vehicle within Indian country signed by the buyer and seller.

Amended Bill Compared to Engrossed Substitute Bill:

The enrolled tribal member must also sign the declaration of delivery. The declaration is limited to attestation of delivery of the vehicle within Indian country by the buyer and seller.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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 bill codifies existing practice. The bill just modifies the documentation requirements for vehicle dealers for sales delivered into Indian country. The bill and the amendments that will be coming have support from the dealers, the DOR, and federally recognized Indian tribes. This bill just clarifies and puts in statute what is current practice for dealers and tribal members and specifically defines what documentation is required.

(Opposed) None.

Persons Testifying: Scott Hazelgrove, Washington State Auto Dealers Association.

Persons Signed In To Testify But Not Testifying: None.