

SENATE BILL REPORT

ESHB 2783

As of February 26, 2016

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: House Committee on Finance (originally sponsored by Representatives Springer, Stokesbary, Reykdal, Vick, Robinson, Orcutt, Johnson and Wilson).

Brief History: Passed House: 2/16/16, 98-0.

Committee Activity: Ways & Means: 2/29/16.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Juliana Roe (786-7438)

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 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; and (5) proof of tribal membership, using one of four authorized tribal documents.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 to which that delivery was made; and (5) the signature of the seller. 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 a landmark location in Tribal country.

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

Summary of Bill: A retail sales tax exemption is created for sales of vehicles to a tribe or a tribal member in their Indian country provided the following information is substantiated by the seller: (1) the buyer's tribal membership or citizenship card; (2) the buyer's certificate of tribal enrollment; or (3) a letter signed by a tribal official confirming the buyer's tribal membership status. The vehicle must be delivered to the Indian country for which the tribal member has tax-exempt status, or purchased in Indian country. However, the tribal member is not required to live in Indian country for the exemption to apply. The seller must document the delivery by completing a declaration, in a form prescribed by DOR, signed by the seller and the buyer attesting that delivery was made to that location. The seller must retain copies of the documentation required.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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