

HOUSE BILL REPORT

HB 2553

As Passed House:

February 15, 2002

Title: An act relating to increasing the number of eligible tribes for cigarette tax contracts.

Brief Description: Increasing the number of eligible tribes for cigarette tax contracts.

Sponsors: By Representatives Morris, Pflug, Dunshee, Clements, Conway, Chase, Rockefeller and Veloria.

Brief History:

Committee Activity:

Finance: 1/29/02, 2/7/02 [DP].

Floor Activity:

Passed House: 2/15/02, 98-0.

Brief Summary of Bill

- Adds Snoqualmie and Swinomish tribes to the list of tribes with which the Governor may make agreements.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 11 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Conway, Morris, Nixon, Orcutt, Roach, Santos, Van Luven and Veloria.

Staff: Rick Peterson (786-7150).

Background:

Cigarette taxes are added directly to the price of these goods before the sales tax is applied. The current rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. Retail sales and use taxes are also imposed on sales of cigarettes. Revenue from the first 23 cents of the cigarette tax goes to the general fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the general fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement.

Under federal law, the cigarette tax does 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 tax. Enforcement of state cigarette taxes in respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In the 2001 session, ESSB 5372 passed allowing the Governor to enter into cooperative agreements concerning the sale of cigarettes with federally recognized Indian tribes located within Washington. Cooperative agreements must be for renewable terms of eight years or less. Cigarettes sold on Indian lands during the cooperative agreement's term are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes.

In general, cigarette tax contracts must:

- (1) Limit tribal retailing to sales of cigarettes by tribes or Indians in Indian country;
- (2) prevent sales to any person under the age of 18 years;
- (3) require tribal cigarette tax be used for essential government services;
- (4) require the use of tribal cigarette tax stamps;
- (5) include provisions for compliance;
- (6) require that tribal retailers purchase cigarettes only from approved sources;
- (7) allow resolution of disputes through a non-judicial process, such as mediation; and
- (8) include a procedure for correcting violations of the contract and provision for termination of the contract should violations not be resolved.

The Governor is authorized to enter into cooperative agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault 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 Yakima Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe at a tax rate of 100 percent of the state cigarette and sales tax rate. The 100 percent rate may be phased in over three years, but the rate can be no lower than 80 percent of state cigarette and sales tax rate.

On December 10, 2001, the Governor signed the first cooperative agreement with the Squaxin Island Tribe.

Summary of Bill:

The Snoqualmie Tribe and the Swinomish Tribe are added to the list of tribes that the Governor may enter into agreements with.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill accomplishes many goals. It allows tribes another funding source for tribal health care programs. It will reduce youth smoking due to higher taxes on cigarettes. And it will reduce the amount of illegal smuggling of tax free cigarettes. This is a rare win-win solution and the Swinomish Tribe appreciates the opportunity to negotiate a cigarette compact with the Governor. The Squaxin Island Tribe signed an agreement on December 10. This program provided a solution to the cigarette problem for the Squaxin Island Tribe. It can also be a solution for other tribes. The Department of Revenue is in discussions with a number of tribes and expects to see more agreements signed within the year.

Testimony Against: None.

Testified: Martin Loesch, Swinomish Tribe; Kelly Croman, Squaxin Island Tribe; and Gary O'Neil, Department of Revenue.