

# FINAL BILL REPORT

## HB 2553

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Synopsis as Enacted

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

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

**House Committee on Finance**

**Senate Committee on Labor, Commerce & Financial Institutions**

### **Background:**

The 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 with 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 cooperative agreements 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 that the 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:**

The Governor’s authority to enter into cigarette cooperative agreements with Indian tribes is expanded to include the Snoqualmie and Swinomish Tribes.

**Votes on Final Passage:**

House 98 0  
Senate 48 0

**Effective:** June 13, 2002