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**SENATE BILL 5824**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By Senator Swecker**

Read first time 02/05/2001. Referred to Committee on Transportation.

1 AN ACT Relating to authorizing tribal-state compacts in which the  
2 state retrocedes from motor fuel tax for fuel sold or distributed by a  
3 tribal government, a tribally owned enterprise, or a tribally licensed  
4 business; adding new sections to chapter 82.36 RCW; adding a new  
5 section to chapter 82.38 RCW; and repealing RCW 82.36.450 and  
6 82.38.310.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.36 RCW  
9 to read as follows:

10 It is the intent of the legislature to promote and enhance  
11 government to government cooperation between the state of Washington  
12 and Indian tribes in the state by authorizing the governor to execute  
13 motor vehicle fuel tax compacts with tribal governments concerning the  
14 taxation of the use, distribution, and sales of motor vehicle fuels.  
15 It is the intent of the legislature through this act to provide the  
16 governor with flexibility in executing these cooperative compacts, if  
17 certain statutory requirements are met.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 82.36 RCW  
2 to read as follows:

3        The definitions set forth in this section apply throughout sections  
4 1 through 5 of this act.

5        (1) "Indian reservation" means all lands within the exterior  
6 boundaries of an Indian reservation and all lands that are held in  
7 trust by the federal government and are under the jurisdiction of a  
8 federally recognized Indian tribe.

9        (2) "Motor vehicle fuel" means "motor vehicle fuel" as defined in  
10 RCW 82.36.010 and also includes "special fuels" as defined in RCW  
11 82.38.020.

12        (3) "Motor vehicle fuel tax compact" means any compact entered into  
13 between the state of Washington and a tribal government under the  
14 authority of section 3 of this act.

15        (4) "Tribal government" means the governing body of a federally  
16 recognized Indian tribe.

17        (5) "Tribal government owned enterprise" means an enterprise that  
18 is at least fifty-one percent owned and operated by a tribal  
19 government.

20        (6) "Tribal member" means an enrolled member of a federally  
21 recognized Indian tribe.

22        (7) "Tribally licensed business" means a business that holds a  
23 current license from an Indian tribe to do business on the tribe's  
24 reservation. For the purposes of sections 1 through 5 of this act, a  
25 business is not considered "tribally licensed" if it is operating in  
26 violation of a compact executed under section 3 of this act.

27        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.36 RCW  
28 to read as follows:

29        (1) The governor may execute individual compacts with each of the  
30 federally recognized Indian tribes in Washington concerning the sales  
31 and taxation of motor vehicle fuel. All cooperative compacts executed  
32 under the authority of this chapter must meet the requirements of this  
33 section. The governor may appoint the director of the department of  
34 licensing or any other appropriate agency as the governor's agent to  
35 negotiate and execute these compacts.

36        (2) In accordance with sections 4 and 5 of this act, the taxes  
37 under this chapter and chapter 82.38 RCW do not apply to motor fuel  
38 sold by a tribal government, a tribal government owned enterprise, or

1 a tribally licensed business operating on the Indian reservation of a  
2 tribe that has executed a compact with the state.

3 (3) Compacts executed by the governor may provide for a tribal  
4 motor vehicle fuel tax in lieu of all state motor vehicle fuel taxes  
5 and all state and local sales and use taxes on the sale of motor  
6 vehicle fuel by tribal governments, tribal government owned  
7 enterprises, or tribally licensed businesses.

8 (4) Compacts executed by the governor may provide for payment by  
9 tribal governments to the state of Washington, on a postsale and  
10 quarterly basis, a portion of the tribal motor vehicle fuel tax  
11 collected by the tribe on sales to nontribal members. Revenues  
12 received under this subsection must be distributed in the same manner  
13 as other fuel tax revenues under this chapter and chapter 82.38 RCW.

14 (5) When negotiating the terms of a compact the governor must  
15 consider: (a) The tribe's economic, geographic, and other  
16 circumstances; (b) the costs to the tribe associated with administering  
17 the tax; (c) the percentage of state fuel tax revenue distributed to  
18 other local governments; and (d) the amount of the expenditure by the  
19 state on roads within the reservation.

20 (6) Compacts must provide that tribal governments, tribal  
21 government owned enterprises, and tribally licensed businesses only  
22 make sales of motor vehicle fuel where the physical transfer of  
23 possession of the motor vehicle fuel from the seller to the buyer  
24 occurs within the Indian reservation.

25 (7) Compacts may provide that the compact may be amended upon the  
26 agreement of both parties.

27 (8) Compacts may permit the submission of disputes regarding the  
28 interpretation and administration of their provisions to arbitration or  
29 judicial resolution, if a waiver of sovereign immunity by the state is  
30 conditioned upon a similar waiver of sovereign immunity by the tribal  
31 government.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.36 RCW  
33 to read as follows:

34 Subject to the conditions and limitations of a compact executed  
35 under section 3 of this act, the tax levied under this chapter does not  
36 apply to the sale, use, consumption, handling, possession, or  
37 distribution of motor fuels by a tribal government, tribal government  
38 owned enterprise, or tribally licensed business during the effective

1 period of a motor vehicle fuel tax compact entered into between the  
2 tribal government and the state under section 3 of this act.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.38 RCW  
4 to read as follows:

5 Subject to the conditions and limitations of a compact executed  
6 under section 3 of this act, the tax levied under this chapter does not  
7 apply with respect to the use or sale of special fuels by a tribal  
8 government, tribal government owned enterprise, or tribally licensed  
9 business during the effective period of a motor vehicle fuel tax  
10 compact entered into between the tribal government and the state under  
11 section 3 of this act.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.36 RCW  
13 to read as follows:

14 Sections 1 through 5 of this act may be known and cited as the  
15 Tribal-State Motor Fuel Tax Compact Act.

16 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
17 repealed:

18 (1) RCW 82.36.450 (Agreement with tribe for imposition, collection,  
19 use) and 1995 c 320 s 2; and

20 (2) RCW 82.38.310 (Agreement with tribe for imposition, collection,  
21 use) and 1995 c 320 s 3.

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