

# FINAL BILL REPORT

## HB 2650

---

C 228 L 08

Synopsis as Enacted

**Brief Description:** Authorizing a cigarette tax agreement between the state of Washington and the Yakama Nation.

**Sponsors:** By Representatives Santos, Ericks, Hunter and Wood; by request of Department of Revenue.

**House Committee on Finance**

**Senate Committee on Ways & Means**

**Background:**

Cigarettes are subject to tax at a rate of \$2.025 per pack of 20 cigarettes (\$20.025 per carton). Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next \$1.01 goes to the Health Services Account. The next 10.5 cents are dedicated to the Violence Prevention and Drug Enforcement Account. The remaining 60 cents go to the Education Legacy Trust Account. A portion of the revenue to the Health Services Account and the Education Legacy Trust Account is used to reimburse other accounts for losses in revenue due to tax rate increases.

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. Retail sales and use taxes cover the sales of cigarettes. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax. The state and local combined sales tax ranges from 7.5 percent to 8.9 percent.

The Department of Revenue (DOR) administers and collects the cigarette tax. Enforcement activities are the responsibility of the Liquor Control Board.

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, the Governor was authorized to enter into contracts concerning the sale of cigarettes with federally recognized Indian tribes located within Washington. Contracts must be for renewable terms of eight years or less. Cigarettes sold on Indian lands during the contracts terms are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes. The state has entered into cigarette tax agreements with 20 of the 28 tribes for which statutory authorization has been provided.

The state and the Yakama Nation signed a cigarette tax agreement under this provision of law. In 2007 the DOR notified the Yakama Nation that the agreement was canceled due to non-compliance. The DOR and the Yakama Nation have since engaged in dispute mediation related to the agreement.

**Summary:**

The Governor may enter into a cigarette tax agreement with the Yakama Nation. Under the eight-year renewable agreement the Yakama Nation must impose a tax on the sales of cigarettes by tribal retailers to non-tribal members. The tax rate must be 80 percent of the state cigarette tax rate during the agreement's first six years, 84 percent during the seventh year, and 87.6 percent during the eighth year. The rate must increase or decrease with the state cigarette tax rate. During the agreement's term cigarette sales are subject to the tribal cigarette tax and are exempt from state cigarette and sales and use taxes.

**Votes on Final Passage:**

House	64	30
Senate	47	1

**Effective:** March 28, 2008