

SENATE BILL REPORT

SB 5380

As Reported By Senate Committee On:
Ways & Means, January 18, 2007

Title: An act relating to authorizing the governor to enter into a cigarette tax contract with the Spokane Tribe.

Brief Description: Authorizing the governor to enter into a cigarette tax contract with the Spokane Tribe.

Sponsors: Senators Prentice, Zarelli, Marr, Morton and Shin; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 01/18/07 [DP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Dianne Criswell (786-7433)

Background: The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. The rate of the cigarette tax is 202.5 cents per pack of 20 cigarettes, which equals \$20.25 per carton. Cigarette taxes are added directly to the price of these goods before sales tax is applied. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The combined state and local rate varies from 7 percent to 8.9 percent, depending on the location. Sales tax on an average carton of cigarettes is about \$4.00.

Under federal law, the cigarette tax and sales and use taxes do 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 taxes.

In 2001, the Legislature authorized the Governor to negotiate and enter into cigarette tax contracts with certain named federally recognized tribes located in Washington. Contracts must be for renewable periods of eight years or less. Cigarettes sold on Indian lands under a contract are subject to a tribal cigarette tax and are exempt from state cigarette and sales and

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use taxes. The tribal cigarette tax must equal 100 percent of the cigarette tax and sales and use taxes. The rate may be phased in over three years, but can be no lower than 80 percent of the state cigarette and sales tax rate.

A cigarette contract must:

- limit tribal retailing to sales of cigarettes by tribes or Indians in Indian country;
- prevent sales to any person under the age of 18 years;
- require that the tribal cigarette tax be used for essential government services;
- require the use of tribal cigarette tax stamps;
- include provisions for tax compliance;
- require that tribal retailers purchase cigarettes only from approved sources; and
- include a procedure for correcting violations of the contract and provision for termination of the contract should violations not be resolved.

Since 2001, RCW 43.06.460 has been amended and currently lists 25 tribes with which the Governor may contract. RCW 43.06.465 separately authorizes the Governor to enter into a contract with the Puyallup Tribe. Of the 26 tribes eligible under these sections, 19 tribes have signed cigarette contracts with the state.

Summary of Bill: Authority is granted to the Governor to enter into a cigarette tax contract with the Spokane Tribe.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The cigarette tax contracts have been working well. As a result of these contracts, a lot of revenue has come back to the state. They have leveled the playing field in the retail market. This bill would allow the Spokane Tribe to join the 25 other tribes listed in RCW 43.06.460 with which the Governor may contract.

Persons Testifying: PRO: Leslie Cushman, Department of Revenue; Scott Wheat, Spokane Tribe of Indians.