

# HOUSE BILL REPORT

## HB 1631

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**As Reported by House Committee On:**  
Community Development, Housing & Tribal Affairs  
Transportation

**Title:** An act relating to allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Brief Description:** Allowing federally recognized tribes with lands held in trust in a county that is west of the Cascade mountain range that borders Puget Sound with a population of at least one hundred eighteen thousand, but less than two hundred fifty thousand, persons to enter into agreements regarding fuel taxes.

**Sponsors:** Representatives Lytton, Appleton, Van De Wege, Pollet and Santos.

**Brief History:**

**Committee Activity:**

Community Development, Housing & Tribal Affairs: 2/3/15, 2/9/15 [DP], 1/11/16, 1/14/16 [DPS];  
Transportation: 2/25/15, 2/26/15 [DP], 2/4/16 [DPS(CDHT)].

**Brief Summary of Substitute Bill**

- Allows the Department of Licensing to enter into fuel tax agreements with certain federally recognized tribes with lands held in trust.

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**HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Ryu, Chair; Robinson, Vice Chair; Appleton and Sawyer.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Wilson, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Hickel.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Kirsten Lee (786-7133).

**Background:**

Under federal law, absent explicit Congressional authorization, states are prohibited from imposing taxes on a tribe or its members for sales made on tribal lands. In 2007 state legislation was enacted that authorized the Governor to enter into a motor vehicle fuel tax agreement with any federally recognized Indian tribe with a reservation in Washington. The Governor has delegated this authority to the Department of Licensing (DOL).

There are two types of fuel tax agreements:

Seventy-five Percent Refund/25 Percent (75/25) State Tax Agreement.

Tribes agree to purchase the fuel sold at tribally owned retail stations from state-licensed fuel distributors with the state fuel tax included. Tribes report their purchases to the DOL and receive 75 percent of the state fuel tax revenue collected as a refund, and the state retains 25 percent as state tax.

Per Capita Agreement.

A per capita agreement is a computational formula resulting in an estimate of the amount of fuel tax most likely paid by tribal members purchasing fuel on the reservation. This formula provides an annual amount of fuel tax to be refunded to each tribe. All per capita agreements were entered into prior to the 2007 legislation.

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**Summary of Substitute Bill:**

The DOL, by delegated authority from the Governor, may enter into fuel tax agreements with federally recognized Indian tribes with trust lands in certain counties. The federally recognized tribe must have trust lands located in a county that is west of the Cascade mountain range that borders Puget Sound and has a population of at least 118,000, but less than 250,000 people.

**Substitute Bill Compared to Original Bill:**

The effective date is corrected to July 1, 2016.

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**Appropriation:** None.

**Fiscal Note:** Available

**Effective Date of Substitute Bill:** This bill takes effect July 1, 2016.

**Staff Summary of Public Testimony:**

(In support) Samish is a federally recognized tribe. Tribal members are rebuilding their tribe. The Samish Tribe has 67 acres of trust lands located in Skagit County; they do not yet have reservation land. The Samish Tribe is of small means, and they want the opportunity to enter into a compact. The bill is important as they have no way of building their infrastructure. Twenty-four tribes have the opportunity to enter into tribal fuel taxes. The term "reservation" used when the compacts were revised in 2007 excludes the Samish's ability to participate. The reservation language was added to prevent out-of-state tribes from entering fuel tax compacts. This bill will allow the tribe to be treated like other tribes. Allowing growth in infrastructure will help the whole community.

(Opposed) Small businesses struggle to compete with those who have entered into the tribal fuel tax agreement. There is lack of transparency on what the refunds are being used for. This bill would not promote equal business opportunity.

(Other) The bill is written narrowly to respect the original intent of the fuel compact legislation.

**Persons Testifying:** (In support) Representative Lytton, prime sponsor; and Tamara Rogers and Gary Hatch, Samish Indian Nation Tribal Council.

(Opposed) Dave Ducharme, Washington Oil Marketers Association.

(Other) Rebecca Johnson, Samish Indian Nation.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill by Committee on Community Development, Housing & Tribal Affairs be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Bergquist, Gregerson, Hayes, McBride, Morris, Ortiz-Self, Riccelli, Rossetti, Sells and Tarleton.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Hickel, Kochmar, Pike, Shea and Stambaugh.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Harmsworth, Assistant Ranking Minority Member; Young.

**Staff:** David Munnecke (786-7315).

### **Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Community Development, Housing & Tribal Affairs:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect July 1, 2016.

**Staff Summary of Public Testimony:**

See House Bill Report in the 2015 Legislative Session.

**Persons Testifying:** See House Bill Report in the 2015 Legislative Session.

**Persons Signed In To Testify But Not Testifying:** None.