

# SENATE BILL REPORT

## ESSB 6427

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As Amended by House, March 2, 2016

**Title:** An act relating to specifying the documentation that must be provided to determine when sales tax applies to the sale of a motor vehicle to a tribal member.

**Brief Description:** Specifying the documentation that must be provided to determine when sales tax applies to the sale of a motor vehicle to a tribal member.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Fain, Hargrove, Keiser, Honeyford, Rolfes and Roach).

**Brief History:**

**Committee Activity:** Ways & Means: 2/08/16, 2/09/16 [DPS].

Passed Senate: 2/16/16, 49-0.

Passed House: 3/02/16, 97-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6427 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Darneille, Hasegawa, Hewitt, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

**Staff:** Juliana Roe (786-7438)

**Background:** Retail Sales Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

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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.*

Retail Sales Tax on Sales Made to Indians or Indian Tribes. Under federal law, sales tax is not imposed on sales to enrolled tribal members if the tangible personal property is delivered to a member or tribe in Indian country, or if the sale takes place in Indian country. There is no explicit exemption in state law. This includes the sale of motor vehicles, trailers, off-road vehicles, etc.

To make exempt sales to tribal members, auto dealers must obtain a retail sales tax certificate from the Department of Revenue (DOR) and obtain the required information included on the certificate. This includes a declaration of the buyer that requires the buyer's: (1) name; (2) signature; (3) address; (4) delivery address; and (5) proof of tribal membership, using one of four authorized tribal documents.

In addition to the declaration of buyer requirements, the dealer must provide information on the retail sales exemption certificate. This includes: (1) the seller's name; (2) the seller's address; (3) vehicle information; (4) the name of the tribe to which that delivery was made; and (5) the signature of the seller. DOR may require additional information to verify delivery from the seller, such as gas receipts, trip tickets, or a photograph of the vehicle next to a landmark location in Tribal country.

The auto dealer is not required to submit the exemption certificate to DOR; however, the dealer must maintain the certificate as proof the exemption was valid, as required under RCW 82.32. If DOR finds that proper documentation was not obtained, DOR may assess the auto dealer the retail sales tax that would have otherwise been due.

**Summary of Engrossed Substitute Bill:** A retail sales tax exemption is created for sales of vehicles to a tribe or a tribal member in their Indian country provided the following information is substantiated by the seller: (1) the buyer's tribal membership or citizenship card; (2) the buyer's certificate of tribal enrollment; or (3) a letter signed by a tribal official confirming the buyer's tribal membership status. The vehicle must be delivered to the Indian country for which the tribal member has tax-exempt status, or purchased in Indian country. However, the tribal member is not required to live in Indian country for the exemption to apply. The seller must document the delivery by completing a declaration, in a form prescribed by DOR, signed by the seller attesting that delivery was made to that location. The seller must retain copies of the documentation required.

**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 on Original Bill:** PRO: This bill clarifies which documents are required to be collected and secured by the dealer when making a sale to a tribal buyer. This is already an exemption under federal law. There is amendatory language that has been worked out with DOR and tribes.

**Persons Testifying on Original Bill:** PRO: Scott Hazlegrove, WA State Auto Dealers Association.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**House Amendment(s):** It is clarified that both the buyer and the seller are required to sign the declaration that delivery was made to Indian country and clarifies that such declaration is limited to only include attestation of delivery location and enrollment status of a tribal member.