

SHB 1175 - H AMD 455

By Representative Shea

FAILED 03/25/2011

1 On page 93, after line 10, insert the following:

2 "Sec. 721. RCW 82.36.450 and 2007 c 515 s 19 are each amended to
3 read as follows:

4 (1) The governor may enter into an agreement with any federally
5 recognized Indian tribe located on a reservation within this state
6 regarding motor vehicle fuel taxes included in the price of fuel
7 delivered to a retail station wholly owned and operated by a tribe,
8 tribal enterprise, or tribal member licensed by the tribe to operate a
9 retail station located on reservation or trust property. The agreement
10 may provide mutually agreeable means to address any tribal immunities
11 or any preemption of the state motor vehicle fuel tax.

12 (2)(a) The provisions of this section do not repeal existing
13 state/tribal fuel tax agreements or consent decrees in existence on May
14 15, 2007. The state and the tribe may agree to substitute an agreement
15 negotiated under this section for an existing agreement or consent
16 decree, or to enter into an agreement using a methodology similar to
17 the state/tribal fuel tax agreements in effect on May 15, 2007.

18 (b) For any state/tribal fuel tax agreement in existence as of the
19 effective date of this section, the governor must by no later than May
20 15, 2012, complete such actions as are permitted under those agreements
21 to renegotiate the agreement terms to:

22 (i) Conform to the requirements of subsection (3) of this section;
23 and

24 (ii) Provide that a maximum of fifteen percent of the motor vehicle
25 fuel taxes included in the price of fuel delivered to a retail station
26 wholly owned and operated by a tribe is to be refunded to the tribe.

27 (c) Any new agreement or modified existing agreement negotiated
28 after the effective date of this section must contain terms as required
29 in subsection (3) of this section.

1 **Sec. 722.** RCW 82.38.310 and 2007 c 515 s 31 are each amended to
2 read as follows:

3 (1) The governor may enter into an agreement with any federally
4 recognized Indian tribe located on a reservation within this state
5 regarding special fuel taxes included in the price of fuel delivered to
6 a retail station wholly owned and operated by a tribe, tribal
7 enterprise, or tribal member licensed by the tribe to operate a retail
8 station located on reservation or trust property. The agreement may
9 provide mutually agreeable means to address any tribal immunities or
10 any preemption of the state special fuel tax.

11 (2)(a) The provisions of this section do not repeal existing
12 state/tribal fuel tax agreements or consent decrees in existence on May
13 15, 2007. The state and the tribe may agree to substitute an agreement
14 negotiated under this section for an existing agreement or consent
15 decree, or to enter into an agreement using a methodology similar to
16 the state/tribal fuel tax agreements in effect on May 15, 2007.

17 **(b) For any state/tribal special fuel tax agreement in existence as**
18 **of the effective date of this section, the governor must by no later**
19 **than May 15, 2012, complete such actions as are permitted under those**
20 **agreements to renegotiate the agreement terms to:**

21 **(i) Conform to those required by subsection (3) of this section;**
22 **and**

23 **(ii) Provide that a maximum of fifteen percent of the special fuel**
24 **taxes included in the price of fuel delivered to a retail station**
25 **wholly owned and operated by a tribe is to be refunded to the tribe.**

26 **(c) Any new agreement or modified existing agreement negotiated**
27 **after the effective date of this section must contain terms as required**
28 **in subsection (3) of this section.**

29 (3) (~~If a new~~) **Any** agreement (~~is negotiated, the agreement~~)
30 must:

31 (a) Require that the tribe or the tribal retailer acquire all
32 special fuel only from persons or companies operating lawfully in
33 accordance with this chapter as a special fuel distributor, supplier,
34 importer, or blender, or from a tribal distributor, supplier, importer,
35 or blender lawfully doing business according to all applicable laws;

36 (b) Provide that the tribe will expend fuel tax proceeds (~~or~~
37 ~~equivalent amounts on: Planning, construction, and maintenance of~~
38 ~~roads, bridges, and boat ramps; transit services and facilities;~~

1 ~~transportation planning; police services; and other highway-related~~
2 ~~purposes)) on highway purposes as set forth in Article II, section 40~~
3 ~~of the Washington Constitution;~~

4 (c) Include provisions for audits or other means of ensuring
5 compliance to certify (~~the number of gallons of special fuel purchased~~
6 ~~by the tribe for resale at tribal retail stations, and the use of fuel~~
7 ~~tax proceeds or their equivalent for the purposes identified in (b) of~~
8 ~~this subsection. Compliance reports must be delivered to the director~~
9 ~~of the department of licensing)) the tribe is in compliance with (a)
10 and (b) of this subsection. The auditor must be selected jointly by
11 the director of the department of licensing and the tribe. Auditor
12 reports verifying compliance with this act must be delivered by the
13 tribe to the director of the department of licensing within time frames
14 established by the department.~~

15 (4) The legislature must appropriate the funds necessary to
16 implement the agreements in this section.

17 (5) Information from the tribe or tribal retailers received by the
18 state or open to state review under the terms of an agreement (~~shall~~
19 ~~be deemed personal information under RCW 42.56.230(3)(b) and exempt~~
20 ~~from public inspection and copying)) is subject to chapter 42.56 RCW.~~

21 ((+5)) (6) The governor may delegate the power to negotiate fuel
22 tax agreements to the department of licensing.

23 ((+6)) (7) The department of licensing (~~shall~~) must prepare and
24 submit an annual report to the legislature on the status of existing
25 agreements and any ongoing negotiations with tribes."

26 Correct the title.

EFFECT: Requires the renegotiation by the Governor of any
state/tribal fuel tax or special fuel tax agreements by May 15, 2012,
to: (1) Provide for no more than a 15% refund to any tribe of fuel
taxes included in the price of fuel delivered to a retail station
wholly owned or operated by a tribe; (2) restrict the expenditure of
any refunded amounts to highway purposes as allowed under the 18th
amendment; and (3) require auditing by a jointly selected auditor.
Makes information received pursuant to the agreements subject to the
public records act.

FISCAL IMPACT: If successfully implemented by July 1, 2012,

increases motor vehicle fuel taxes revenue to the state by approximately \$23 million for the 2013 fiscal year.

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