

# An Act

Legislative Act 34-01

## A LEGISLATIVE ACT AMENDING LA# 01-01, "THE CHEROKEE NATION MOTOR VEHICLE LICENSING AND TAX CODE"

**BE IT ENACTED BY THE CHEROKEE NATION:**

**Section 1. Purpose.** The purpose of this Act is to amend LA# 01-01, sections 103,105, 204, 205 and 207.

**Section 2. Amendments.**

Section 103 of LA# 01-01 is hereby amended by adding a new subsection "U" to read in full as follows:

U. "Manufactured Home" shall mean structures, transportable in one or more sections, which, in the traveling mode, are eight feet or more in width or forty feet or more in length, or, when erected on site, are more than 320 square feet, and which are built on a permanent chassis and designed to be used as dwellings with or without permanent foundations when connected to the required utilities, and include the plumbing, heating, air conditioning and electrical systems contained thereon.

**Section 105 of LA# 01-01 is hereby amended to read in full as follows:**

**Section 105. Revenue Sharing.**

A. A portion of the revenue generated from fees, taxes penalties and fines generated in connection with the issuance of motor vehicle licenses hereunder shall be allocated to Sequoyah High School and the public schools within the Reservation Boundaries of the Cherokee Nation, to the Marshal Service and to certain counties and municipalities in accordance with the provisions of Section 105B of this Act; provided, however, in the event that a compact is approved in accordance with Section 104A of this Act, such revenues shall be allocated in accordance with the provisions of the compact.

B. Allocation of Revenues.

The fees, taxes, penalties and fines collected by the Commission pursuant to the provisions of this Act shall be allocated and expended for the purposes set forth in the following paragraphs:

(1) The fees, taxes, penalties and fines collected by the Commission shall be applied to the costs and expenses of the Commission in carrying out the provisions of this Act, as authorized and appropriated in the Nation's comprehensive annual budget. Provided, however, that said costs and expenses shall be paid out of revenues remaining after the prior allocations of funds pursuant to paragraphs (2) and (3) of this subsection.

(2) **An amount equal to 38%** of all fees and taxes collected by the Commission shall be allocated and made available to Oklahoma public schools located within the Reservation Boundaries of the Cherokee Nation that have students on current Johnson O'Malley rosters and to Sequoyah High School in accordance with the apportionment provisions of subsection C(2) of this section. Any public school located outside the Reservation Boundaries shall be eligible to receive a share of the allocation pursuant to subsection C(2) of this section provided all three of the following conditions are met with respect to such school: (a) any portion of the district of which said school is a part is within the

Reservation Boundaries; *and* (b) any portion of the premises of said school is located within two miles of the Reservation Boundary; *and* (c) the school has one or more enrolled students included in current Johnson O'Malley rosters.

- (3) **An amount equal to 20%** of all fees and taxes collected by the Commission shall be made available for contribution to the cost of constructing or maintaining federally- and/or state-funded highways within the Nation's Reservation Boundaries, to be allocated among such highway projects in accordance with subsection C(3) of this section.
- (4) ~~Up to~~ **An amount not to exceed 20%** but not less than 5% of the amount of such fees and taxes remaining after the amounts appropriated pursuant to paragraphs (1), (2) and (3) of this subsection shall be available to and allocated among counties and municipalities within the Nation's Reservation Boundaries and/or the Cherokee Nation Marshal Service in accordance with subsection C(4) of this section.
- (5) Any funds not appropriated or expended pursuant to paragraphs (1), (2), (3) or (4) of this subsection shall remain available in the General Fund for appropriation and expenditure pursuant to future Legislative Act. All amounts apportioned under Subsection C of this section shall be appropriated as part of the Nation's comprehensive annual budget.

C. Apportionment and Expenditure of Revenues.

All revenues set aside pursuant to Subsection B of this section shall be apportioned and expended as follows:

- (1) Within 30 days after the end of each fiscal year during which this Act is in effect, the Commission shall prepare and submit to the Controller a report setting forth separately the amounts collected by the Commission as fees, taxes, penalties and fines. The Commission shall make available any documents or records requested by the Controller to verify the accuracy of the report. In addition to the foregoing annual report, the Commission shall prepare and submit to the Controller any monthly or quarterly reports as may be requested by the Controller.

The Principal Chief shall cause a copy of any report prepared pursuant to this paragraph to be delivered to the Tribal Council upon receipt of same by the Controller.

- (2) Revenues set aside under Subsection B(2) of this section shall be apportioned pro rata each year among eligible public schools and Sequoyah High School based on each school's qualified student enrollment determined as follows: for the purposes of this allocation formula, (a) the qualified student enrollment for each public school shall be equal to the total number of its enrolled Cherokee students, as determined annually from the most recent official Johnson O'Malley roster prepared by the Cherokee Nation or any other bordering Indian Nation; and (b) the qualified student enrollment for Sequoyah High School shall be equal to the total number of its enrolled Indian students in accordance with the most recent Bureau of Indian Affairs student count. The pro rata share referred to in this paragraph shall be the percentage that each such school's qualified student enrollment bears to the total qualified student enrollment of all such schools within the Reservation Boundaries and Sequoyah High School. Provided, however, for any year that the available per-pupil federal education funding for Indian students attending Sequoyah High School is less than 85% of the state per-pupil expenditures for students attending public schools in the State of Oklahoma, each Indian Student enrolled at Sequoyah High School shall be weighted as two Indian Students for the purposes of the apportionment formula in this paragraph.

- (3) The funds set aside under Section 105B(3) shall be allocated each year to governmental agencies or political subdivisions for expenditure on federally- and/or state-funded highway construction or maintenance projects within the Nation's Reservation Boundaries. The projects and their respective allocations hereunder shall be identified in the comprehensive annual budget approved by the Tribal Council.
- (4) The funds set aside under Section 105B(4) shall be allocated among the counties and municipalities within the Nation's Reservation Boundaries and/or to the Marshal Service in accordance with and as appropriated in the comprehensive annual budget of the Cherokee Nation.
- (5) No funds allocated and apportioned under this subsection shall be made available to the schools, highway projects, counties, municipalities or Marshal Service until appropriated as part of the comprehensive annual budget for the applicable fiscal year. The Controller, with the assistance of any officer designated by the Principal Chief, shall be responsible for calculating and making all expenditures authorized by Section 105C(2).

**Section 204 of LA# 01-01 is hereby amended by adding a new subsection "I" which subsection shall read in full as follows:**

I. Registration Tax on Manufactured Homes.

- (1) There is hereby levied a registration tax on every new Manufactured Home not previously registered with the Cherokee Nation or any other tribe or with any territory or state at the rate of one and one-half percent (1 ½%) of the actual purchase price.
- (2) There is hereby levied a registration tax on every used Manufactured Home not previously registered with the Cherokee Nation or any other tribe or with any territory or state at the rate equal to one-half (1/2) of the amount of the tax which would otherwise be imposed on a new Manufactured Home of subsection one (1) of this Subsection I. The three quarter percent (¾ %) registration tax on a used manufactured home shall be applied to sixty five percent (65%) of one half (1/2) of the actual purchase price/value.

**Section 205(D) of LA# 01-01 is hereby amended to read in full as follows:**

D. Salvage and Rebuilt Title.

~~No certificate of title shall be issued on for a salvage or rebuilt title issued by another tribe or state. The Cherokee Nation shall not issue any titles on Salvage or Rebuilt Vehicles.~~

- (1) A "Salvage Title" shall be issued to any Vehicle ten (10) model years and newer which has been damage by collision or other occurrence to the extent that the cost of repairing the Vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, immediately prior to the damage.
- (2) A "Rebuilt Title" shall be issued on any Salvage Vehicle, which has been rebuilt and inspected for the purpose of registration and title with the Cherokee Nation, another tribe or state.

**Section 205 of LA# 01-01 is further amended by adding a new subsection "F" which subsection shall read in full as follows:**

F. Manufactured Home Title.

- (1) A "Manufactured Home Title" shall be issued and subtitled as follows:

- (a) "Manufactured Home - original title" shall be issued to the first purchaser of a new manufactured home from a manufactured home dealer.
- (b) "Manufactured Home - transfer title shall be the title issued to a second or subsequent owner of an Eligible manufactured home whether purchased from an individual or dealer.
- (c) "Manufactured Home - duplicate title shall be the title issued to the owner of record of an Eligible manufactured home to replace a lost, stolen or mutilated original or transfer title.

**Section 207(B) of LA# 01-01 is hereby amended to read in full as follows:**

**B. Penalties For Late Registration.**

- (1) Any Tribal Citizen residing within the Reservation Boundaries of the Cherokee Nation, or owning and garaging a Vehicle within said Boundaries, who is eligible to apply for a certificate of title, certificate of registration, tag and decal for said Vehicle shall have ~~twenty (20) days~~ thirty (30) days after purchasing or obtaining possession of said Vehicle, or ~~(20) days~~ (30) days after the expiration of the previous tag issued by the Cherokee Nation, another tribe, Oklahoma or other state or territory, within which to apply for a Cherokee Nation certificate of title, certificate of registration, tag and decal. Failure to apply within the prescribed time will result in the civil penalty of \$0.25 per day beginning on the first day following the expiration of said ~~20-day~~ 30-day period, provided that no such penalty shall be assessed unless and until an application for registration is made. Provided, the foregoing penalty shall not exceed two (2) times the registration fee for the Vehicle and shall be assessed and collected by the Commission at the time of application for a new or renewal registration for said Vehicle. No such application shall be granted until all civil penalties and fines owed by the applicant pursuant to this Act are paid in full along with all other taxes and fees payable hereunder, except that penalties need not be paid if the Administrator waives the penalties in whole or in part in accordance with Subsection B (2) of this section. Any Vehicle last registered with the Cherokee Nation pursuant to this Act whose tag has been expired for 12 months or longer and being operated upon any tribal trust or fee land within the Reservation Boundaries of the Cherokee Nation is hereby declared contraband and shall be subject to seizure and sale by the Commission; provided, that not less than 30 days prior to the date of sale the Commission shall give notice of the date and time of sale to the owner and any lien holder whose name(s) appears on the most recent application for registration and/or lien entry form for said Vehicle, by certified mail sent to the address set forth therein, during which period the owner may avoid the sale and recover the Vehicle by paying all fees, taxes, fines and penalties then owing with respect to said vehicle. The proceeds of such sale shall be deposited into the General Fund and shall be available for appropriation and allocation under Section 105B of this Act, unless there is a lien holder whose lien has been perfected in accordance with the regulations of the Commission, in which event the proceeds shall be first applied to the costs of sale, then to any such lien holders in accordance with their respective priorities, and the balance, if any, into the General Fund for appropriation and allocation pursuant to this Act.

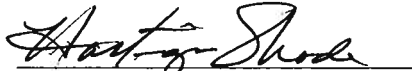
**Section 3. Severability**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.


**Section 4. Emergency declared**

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.


Enacted by the Council of the Cherokee Nation on the 10th day of SEPTEMBER, 2001.

  
Hastings Shade, President  
Council of the Cherokee Nation

ATTEST:

  
Stephanie Wickliffe-Shepherd, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 12<sup>th</sup> day of September, 2001.

  
Chadwick Smith, Principal Chief  
Cherokee Nation

ATTEST:

  
D. Jay Hannah, Secretary-Treasurer  
Cherokee Nation

**YEAS AND NAYS AS RECORDED:**

John A. Ketcher	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Don Crittenden	<u>YEA</u>	Stephanie Wickliffe Shepherd	<u>YEA</u>
Harold "Jiggs" Phillips	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Harold DeMoss	<u>YEA</u>
Mary Flute-Cooksey	<u>YEA</u>	Dorothy Jean McIntosh	<u>YEA</u>
David W. Thornton, Sr.	<u>YEA</u>	Nick Lay	<u>ABSENT</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Barbara Starr-Scott	<u>YEA</u>		