

# An Act

LEGISLATIVE ACT 3 -92

ACT RELATING TO  
THE PRINCIPAL CHIEF APPROVING  
A CHEROKEE NATION/STATE TOBACCO COMPACT;  
TO AMEND THE TAX CODE

BE IT ENACTED BY THE CHEROKEE NATION:

CHAPTER 5

CHEROKEE NATION/STATE TOBACCO TAX COMPACT ACT

Section 21-5-1. Title

21-5-1 Title

This Act shall be known as the "Cherokee Nation/State Tobacco Tax Compact Act".

Section 21-5-2. Purpose

21-5-2 Purpose

The State and the Nation agree to enter into a compact for the mutual benefit of both sovereign governments. In recognition of the sovereign authority of the Cherokee Nation to exercise the powers of self government and the sovereign authority of the State of Oklahoma to act as an independent sovereign state, this law authorizes the Principal Chief to approve a compact and to take the necessary action to implement the requirements of its provisions when it is authorized and approved by the State Legislature and the Governor of Oklahoma.

Section 21-5-3. Legislative History

21-5-3 Legislative History

(a) Section 7, Article V. of the Constitution provides authority for the Tribal Council to establish laws which it shall deem necessary and proper for the good of the Nation.

(b) Section 21-2-12 of the Revenue and Taxation Act of the Cherokee Nation provides authority for the Principal Chief to negotiate a compact with the State of Oklahoma.

Section 21-5-4. Policy Statement

21-5-4 Policy Statement

(a) The Constitution of the Cherokee Nation affirms that Cherokee law will not conflict with the law of the United States of America.

(b) The United States Supreme Court has decided in Oklahoma Tax Commission v Citizen Band Potawatomi Indian Tribe of Oklahoma that tribes have a right to sell tobacco products to members without application of state taxes and that states have a right to collect state taxes on tobacco products sold to non-members.

(c) While the Supreme Court's decision remains the law of the land, it is to the mutual benefit for the Cherokee Nation and the State of Oklahoma to arrange for the payments of respective taxes or in lieu payments in behalf of their governments.

Section 21-5-5. Provisions of Compact Approved

21-5-5 Provisions of Compact Approved

The proposed compact between the Cherokee Nation and the State of Oklahoma is approved and may be entered into by the Principal Chief of the Cherokee Nation.

Section 21-5-6. In Lieu Payment

21-5-6 In Lieu Payment

The Cherokee Tax Commission is authorized to impose an in lieu payment to be collected by wholesalers licensed by the Cherokee Nation Tax Commission and to enforce the provisions of the compact.

Section 21-5-7. Provisions as Cumulative

21-5-7 Provisions as Cumulative

The provisions of this act shall be cumulative to existing law.

Section 21-5-8. Severability

21-5-8 Severability

If any provision of this Act or the provisions of the compact hereafter authorized are changed by subsequent federal legislation, or if the application of this Act and the compact provisions are held invalid by a final judgment of a federal court of competent jurisdiction, the invalidity shall not affect other provisions or application of this Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title are severable.

Section 21-5-9. Repealing Conflicting Law

21-5-9 Repealing Conflicting Law

All laws or parts of laws in conflict with this act are hereby repealed.

Section 21-5-10. Effective Date

21-5-10 Effective Date

This Title shall be effective beginning the same day that similar state law becomes effective and the Governor and the Principal Chief have approved a Cherokee Nation/State Tobacco Tax Compact.

Section 21-5-11. Rules and Regulations

21-5-11 Rules and Regulations

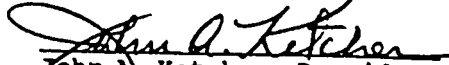
The Cherokee Nation Tax Commission is authorized consistent with the Tax Code to promulgate any necessary rule or regulation to implement the provisions of the Compact.

Section 21-5-12. Declaring an Emergency

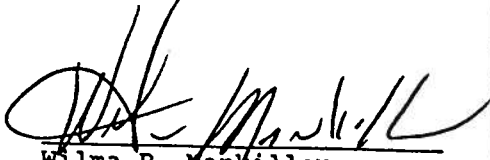
21-5-12 Emergency Clause

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


Passed by the Cherokee Nation Tribal Council on the 11TH day of  
MAY, 1992.


  
John A. Ketcher, President  
Cherokee Nation Council

Approved and signed by the Principal Chief this 11TH day of  
MAY, 1992.

  
Wilma P. Mankiller  
Principal Chief  
Cherokee Nation

ATTEST:

  
Troy Wayne Poteete, Secretary  
Cherokee Nation Tribal Council

  
Tommy Thompson, Secretary  
Cherokee Nation

YEAS AND NAYS AS RECORDED

Don Crittenden  
Sam Ed Bush  
Joe Byrd  
Mige Glory  
Mary Cooksey  
Paula Holder  
Harold DeMoss  
Greg Pitcher

YEA  
YEA  
YEA  
YEA  
ABSENT  
YEA  
YEA  
YEA

James Garland Eagle  
Harold "Jiggs" Phillips  
Troy Wayne Poteete  
Barbara Conness Mitchell  
Melvina Shotpouch  
William Smoke  
Maudie McLemore Bazille

YEA  
YEA  
YEA  
YEA  
YEA  
ABSENT  
ABSENT