

TITLE 37

INTOXICATING LIQUORS

Chapter

1. Limited Mixed Beverage Sales Act
2. Public Intoxication and Open Container Act

CHAPTER 1

LIMITED MIXED BEVERAGE SALES ACT

Section

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§ 1. Short title

This Act shall be known and may be cited as the Cherokee Nation Limited Mixed Beverage Sales Act.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

§ 2. Definitions

As used in this Act, the following words shall have the following meanings unless the context clearly requires otherwise:

1. "**Alcohol**" means the substance known as ethyl alcohol, hydrated oxide of ethyl, ethanol, or spirits of wine, from whatever source or by whatever process produced.
2. "**Alcoholic Beverage**" is synonymous with the term "liquor" as defined in this chapter.
3. "**Board of Directors**" means the Board of Directors of Cherokee Nation Businesses, LLC.
4. "**Indian Country**" shall include those areas defined by 18 U.S.C. § 1151.
5. "**Liquor**" includes mixed beverages and all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is

fermented, and every liquid or solid or semisolid or other substance, patented or not, containing distilled or rectified spirits, potable alcohol, beer, wine, brandy, whiskey, rum, gin, aromatic bitters, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contains more than one half of one percent (0.5%) of alcohol.

6. "**Sale**" or "**Sell**" includes exchange, barter and traffic, and also includes the selling or supplying or distribution, by any means whatsoever, of liquor.

7. "**Tax Commission**" means the Cherokee Nation Tax Commission.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

§ 3. Powers of enforcement

The Tax Commission. In furtherance of this Act, the Tax Commission shall have the power to:

1. issue licenses pursuant to 37 CNCA § 4;
2. collect the excise tax specified in 37 CNCA § 5;
3. publish and enforce rules and regulations adopted by the Tax Commission governing the sale, consumption and possession of alcoholic beverages;
4. establish procedures for conducting hearings related to licensing; and
5. take all necessary steps to enforce 37 CNCA §§ 4 and 5, including the collection of fees, taxes and damages related thereto.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

§ 4. Sales of liquor

A. License Required. Sales of liquor and alcoholic beverages may only be made by corporate entities wholly owned by the Cherokee Nation, or other person or entity designated by corporate entities wholly owned by the Cherokee Nation and the employees thereof, under a license issued by the Tax Commission.

B. Identification. When requested by the provider of liquor, any person asking to purchase liquor or being served in a group shall be required to present official documentation bearing the holder's age, signature and photograph before being served. Official documentation includes one of the following:

1. Driver's license or identification card issued by any state department of motor vehicles or foreign nation;

2. United States Military identification;

3. Official Passport issued by any nation and accepted by the United States Department of State for entry into the United States;

4. Cherokee Nation Tribal Identification Card that includes: a) the individual's color photograph; b) the individual's full legal name; c) the individual's date of birth; d) the individual's signature; e) the Cherokee Nation seal; and f) the signature of the Cherokee Nation registrar.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

§ 5. Taxes

Excise Tax. In lieu of any otherwise applicable tribal sales tax on the retail sale of liquor or alcoholic beverages, there shall be an excise tax in the amount of two percent (2%) of the retail sales price, to be collected by the Tax Commission. These revenues shall be used to promote mental health and related issues associated with substance abuse and shall be reserved for expenditure as provided for in the annual budget by the Cherokee Nation Health Service. The Board of Directors shall be entitled to make recommendation as to how these revenues are expended.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

§ 6. Rules, regulations, and enforcement

A. Sales without license. Any person who shall sell or offer for sale, distribute or transport, in any manner, liquor in violation of this Act, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Act subjecting him or her to prosecution for a crime.

B. Sale for personal consumption. All sales shall be for the personal consumption of the purchaser or persons in a group. Resale of any alcoholic beverage is prohibited. Any person not licensed pursuant to this Act who purchases an alcoholic beverage and sells it, whether in the original container or not, shall be guilty of a crime.

C. Illegal purchases. Any person who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

D. Minors. No person under the age of twenty-one (21) years shall consume, acquire or have in his possession any liquor or alcoholic beverage. No person shall permit any other person under the age of twenty-one (21) to consume liquor on his premises or any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a violation of this Act, subjecting him or her to prosecution for a crime.

E. Sales to minors. Any person who shall sell or provide any liquor to any person under the age of twenty-one (21) years shall be guilty of a crime.

F. Sales to intoxicated persons. Any person who shall sell or provide any alcoholic beverage to an individual who is intoxicated, or appears intoxicated, shall be guilty of a crime.

G. False identification. Any person who transfers in any manner an identification of age to a person under the age of twenty-one (21) years for the purpose of permitting such person to obtain liquor or any alcoholic beverage shall be in violation of this Act, subjecting him or her to prosecution for a crime.

H. Using false identification. Any person who attempts to purchase liquor or any alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years shall be guilty of violating this Act, subjecting him or her to prosecution for a crime.

I. Punishment. Any person found guilty of a crime under this section may be punished by imprisonment for up to one (1) year and/or fined up to Five Hundred Dollars (\$500.00) for each violation.

J. Contraband liquor. Any liquor, possessed contrary to the terms of this Act, whether for personal consumption, hospitality, sale, or otherwise, is declared to be contraband. Any tribal law enforcement officer who is authorized to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

K. Forfeiture. Upon being found in violation of this Act, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Cherokee Nation.

LA 09-04, eff. June 28, 2004. Amended LA 13-08, eff. October 30, 2009; LA 03-13, eff. February 13, 2013.

CHAPTER 2

PUBLIC INTOXICATION AND OPEN CONTAINER ACT

Section

201. Short title

202. Possession of open container of intoxicating or alcoholic beverage

203. Second and subsequent alcohol related offenses

204. Consuming or inhaling intoxicants in public places—Penalties

§ 201. Short title

This Act shall be known and may be cited as the Public Intoxication and Open Container Act.

LA 09-91, eff. April 13, 1991. Amended LA 04-15, eff. March 11, 2015.

§ 202. Possession of open container of intoxicating or alcoholic beverage

Except where otherwise provided for by law, every person who possesses any open container of alcohol, beer, wine coolers, or other intoxicating or alcoholic beverage at any public facility or grounds upon Indian Country shall be guilty of a crime and shall be punished by up to thirty (30) days in a penal institution and/or a fine of up to Two Hundred and Fifty Dollars (\$250.00).

LA 09-91, eff. April 13, 1991. Amended LA 04-15, eff. March 11, 2015.

§ 203. Second and subsequent alcohol related offenses

Every person who having been convicted of public intoxication or some other alcohol related crime or of an attempt of some other alcohol related crime shall upon subsequent conviction of public intoxication or some other alcohol related crime or of an attempt of some other alcohol related crime be punishable by twice the punishment provided for the crime.

LA 09-91, eff. April 13, 1991. Amended LA 04-15, eff. March 11, 2015.

§ 204. Consuming or inhaling intoxicants in public places—Penalties

Any person who shall, in any public place, or in or upon any passenger streetcar or in or upon any vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, otherwise consume any intoxicating liquor unless authorized by law, intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, if any person shall be drunk or intoxicated in any public or private road, or passenger coach, streetcar, or any public place or building, or at any gathering, from drinking or consuming such intoxicating liquor, intoxicating substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated cause and shall disturb the peace of any person, he shall be guilty of a crime, and upon conviction thereof shall be punished by a fine of not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00), or by imprisonment for not less than five (5) days nor more than thirty (30) thirty days or by both such fine and imprisonment.

LA 09-91, eff. April 13, 1991. Amended LA 04-15, eff. March 11, 2015.