

TITLE 37
INTOXICATING LIQUORS

Oklahoma Statutes

Intoxicating liquors, see 37 O.S. § 1 et seq.

United States Code

Indian alcohol and substance abuse prevention and treatment, see 25 U.S.C. § 2401 et seq.

Traffic in intoxicating liquors, see 25 U.S.C. § 241 et seq.

CHAPTER 1
GENERAL PROVISIONS

§ 1. Short title

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

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

Library References

Indians <KEY>323.

Westlaw Topic No. 209.

C.J.S. Indians § 194.

§ 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 Enterprises, L.L.C.

4. **"CNE"** means Cherokee Nation Enterprises, L.L.C.

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 substance, 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.

7. **"Trust land"** means those lands that are held in trust by the United States for Cherokee Nation and not for any individual Indian.

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

§ 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.

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

Library References

Indians <KEY>323.

Westlaw Topic No. 209.

C.J.S. Indians § 194.

§ 4. Sales of liquor

A. License required. Sales of liquor and alcoholic beverages may only be made by CNE, or other persons approved by CNE, 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 (1) 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.

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

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§ 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.

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

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§ 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 Cherokee Nation.

History

Source. LA 09–04, eff. June 28, 2004.

Amended. LA 13–08, eff. October 30, 2009.

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