



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Details (With Text)

File #:	20-020	Version:	1	Name:	REPEAL OF TITLE 19 CH 7 SEC 61-64 - DRUG TESTING
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Enactment date:	4/27/2020	Enactment #:		Enactment #:	LA-05-20
Title:	AN ACT REPEALING CHAPTER 7, SECTIONS 61-64 OF TITLE 19 AND CHAPTER 11, SECTIONS 1101-1104 OF TITLE 51 OF THE CHEROKEE NATION CODE ANNOTATED				
Sponsors:	Joe Byrd, Wes Nofire, Joe Deere, Daryl Legg, Canaan Duncan, Dora Patzkowski, Mary Baker Shaw, Mike Shambaugh				
Indexes:	Drug testing, Elected Officials, Tribal Council				
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Date	Ver.	Action By	Action	Result
4/29/2020	1	OFFICE OF THE CHIEF	Signed	
4/27/2020	1	TRIBAL COUNCIL	Approved	Pass
2/27/2020	1	RULES COMMITTEE	Approved and Forwarded to Council	Pass

AN ACT REPEALING CHAPTER 7, SECTIONS 61-64 OF TITLE 19 AND CHAPTER 11, SECTIONS 1101-1104 OF TITLE 51 OF THE CHEROKEE NATION CODE ANNOTATED BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This Act shall repeal Legislative Act 05-13 previously codified at Title 19, Chapter 7, Sections 61-64 and Title 51, Chapter 11, Sections 1101-1104 of the Cherokee Nation Code Annotated.

Section 2. Purpose

The purpose of this Act is to repeal in its entirety Chapter 7, Sections 61-64 of Title 19 and Chapter 11, Sections 1101-1104 of Title 51, both titles of the Cherokee Nation Code Annotated. The need for this legislation arose upon the passage of Oklahoma State Question 788, which legalized marijuana for any medical use on a doctor's recommendation. This Oklahoma legislation has legalized the medical use of marijuana by all Oklahomans, which include many Cherokee citizens, employees and elected officials.

Section 3. Legislative History

Previously adopted as Legislative Act 05-13, effective March 17, 2013.

Section 4. Definitions

Section 5. Substantive Provisions

TITLE 19 CHAPTER 7

DRUG TESTING FOR ELECTED OFFICIALS

§ 61. Short title

This Act shall be known and may be cited as the Elected Officials Drug Testing Act.
History

§ 62. Purpose

The purpose of this Act is to require elected officials of the Cherokee Nation to undergo random drug testing for prohibited drugs and to set forth possible ramifications for failure of such test or refusal to allow administration of such tests.

§ 63. Definitions

For purposes of this Title:

1. "Prohibited drugs" means marijuana (THC metabolic), opiates (heroin, morphine), cocaine, phencyclidine (PCP), methamphetamines, oxycodone, amphetamines, barbiturates, and methadone or any other illegal drugs.
2. "Elected Officials" means any elected or duly appointed officials from the Cherokee Nation, including the Principal Chief, Deputy Chief, and Tribal Council Members.

§ 64. Drug testing provisions

- A. Elected officials shall submit to random drug testing.
- B. An initial drug screening will be conducted within thirty (30) days of the effective date of the policy being adopted and randomly thereafter not to exceed more than one time per year.
- C. If any of the elected officials are suffering from life threatening illnesses, have just recovered from medical procedures or surgeries, are receiving treatments for certain conditions, or take daily prescription drugs for chronic health issues such as high blood pressure, heart disease and diabetes, they shall provide documentation, from their physician, to the drug testing laboratory or company so any positives for those drugs will not affect the purposes of this Act. This documentation shall remain confidential and not subject to the Cherokee Nation Freedom of Information Act.
- D. The Council of the Cherokee Nation, which is the legislative branch of government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for the random drug testing since they are not present at the council house on a daily basis.
- E. The Chief, Deputy Chief, Cabinet members and Chief Appointees, which is the executive branch of the government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for their random drug testing.
- F. The executive and legislative branch drug testing shall be separate from each other.
- G. Anyone with a life threatening, potentially terminal illness is exempt from drug testing due to the number of medications that are required for treatment, survival, and extension of life, which also includes experimental drugs and treatments.

TITLE 51

CHAPTER 11

DRUG TESTING FOR ELECTED OFFICIALS

§ 1101. Short title

~~This Act shall be known and may be cited as the Elected Officials Drug Testing Act.~~

~~§ 1102. Purpose~~

~~The purpose of this Act is to require Elected Officials of the Cherokee Nation to undergo random drug testing for prohibited drugs and to set forth possible ramifications for failure of such test or refusal to allow administration of such tests.~~

~~§ 1103. Definitions~~

~~For purposes of this Title:~~

- ~~1. "Prohibited drugs" means marijuana (THC metabolic), opiates (heroin, morphine), cocaine, phencyclidine (PCP), methamphetamines, oxycodone, amphetamines, barbiturates, and methadone or any other illegal drugs.~~
- ~~2. "Elected Officials" means any elected or duly appointed officials from the Cherokee Nation, including the Principal Chief, Deputy Chief, and Tribal Council Members.~~

~~§ 1104. Drug testing provisions~~

- ~~A. Elected officials shall submit to random drug testing.~~
- ~~B. An initial drug screening will be conducted within thirty (30) days of the effective date of the policy being adopted and randomly thereafter not to exceed more than one time per year.~~
- ~~C. If any of the elected officials are suffering from life threatening illnesses, have just recovered from medical procedures or surgeries, are receiving treatments for certain conditions, or take daily prescription drugs for chronic health issues such as high blood pressure, heart disease and diabetes, they shall provide documentation, from their physician, to the drug testing laboratory or company so any positives for those drugs will not affect the purposes of this Act. This documentation shall remain confidential and not subject to the Cherokee Nation Freedom of Information Act.~~
- ~~D. The Council of the Cherokee Nation, which is the legislative branch of government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for the random drug testing since they are not present at the council house on a daily basis.~~
- ~~E. The Chief, Deputy Chief, Cabinet members and Chief Appointees, which is the executive branch of the government, shall determine whether they will use an independent drug testing vendor or the one currently used for Cherokee Nation Employee Drug Testing and will develop policies for their random drug testing.~~
- ~~F. The executive and legislative branch drug testing shall be separate from each other.~~
- ~~G. Anyone with a life threatening, potentially terminal illness is exempt from drug testing due to the number of medications that are required for treatment, survival, and extension of life, which also includes experimental drugs and treatments.~~

Section 6. Provisions as Cumulative

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

Section 7. Severability

The provisions of this act are severable and if any part or 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 8. Effective Date

The provisions of this act shall become effective thirty (30) days from and after the date of its passage and approval.

Section 9. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.