



Council of the Cherokee Nation

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

Legislation Details (With Text)

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Title: AN ACT AMENDING LEGISLATIVE ACT 36-01 RELATING TO AN APPROVING A CERTAIN COMPACT WITH THE STATE OF OKLAHOMA TO BE KNOWN AS THE "TRIBAL- STATE MOTOR VEHICLE LICENSING COMPACT ACT"
Sponsors: Unknown
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Attachments: 1. LA-09-02.pdf

| Date | Ver. | Action By | Action | Result |
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An Act

Legislative Act 9-02

AN ACT AMENDING LEGISLATIVE ACT 36-01 RELATING TO AN APPROVING A CERTAIN COMPACT WITH THE STATE OF OKLAHOMA TO BE KNOWN AS THE

"TRIBAL- STATE MOTOR VEHICLE LICENSING COMPACT ACT"

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Purpose.

Legislative Act 01-01 authorized the Principal Chief to negotiate a motor vehicle licensing compact with the State of Oklahoma but stated that any such compact so negotiated would not be effective until approved by the Tribal Council. The Cherokee Nation, by and through the Principal Chief, and the State of Oklahoma, by and through the Governor, have negotiated the terms of such a compact for the mutual benefit of both sovereign governments, subject to the approval by the Council of the Cherokee Nation and the Joint Committee of the Oklahoma Legislature on State-Tribal Relations. The purpose of this Act is to approve and authorize the Principal Chief to execute the Tribal / State Motor Vehicle Licensing Compact Between The Cherokee Nation and The State Of Oklahoma, hereafter referred to as the "Compact," that has been negotiated with the Governor of the State of Oklahoma.

Section 2. Approval of Compact; Authority to Execute.

The Compact that has been negotiated by the Principal Chief and the Governor of the State of Oklahoma, a copy of which is attached hereto and incorporated herein by reference, is hereby approved. The Principal Chief is hereby authorized to execute said Compact on behalf of the Cherokee Nation and to take any and all actions necessary and appropriate to carry out the provisions thereof. Provided, said Compact shall not become effective until executed by the Governor of the State of Oklahoma and approved by the Joint Committee of the Oklahoma Legislature on State-Tribal Relations in accordance with the law.

Section 3. Provisions as cumulative.

The provisions of this Act shall be cumulative to existing law. Section 4. Act shall supercede Legislative Act number 36-01.

This Act shall supercede Legislative Act number 36-01, enacted September 24, 2001.

Section 5. 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 of provisions of this Act.

Section 6. 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 approval by the Council of the Cherokee Nation and the Principal Chief of the Cherokee Nation.

Enacted by the Council of the Cherokee Nation on this day of March, 2002.

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 15th day of March, 2002.

Chadwick Smith, Principal Chief Cherokee Nation

ATTEST: D. Jay Hannah, Secretary-Treasurer Cherokee Nation

YEAS AND NAYS AS RECORDED:

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

TRIBAL-STATE MOTOR VEHICLE LICENSING COMPACT
BETWEEN THE CHEROKEE NATION
AND THE STATE OF OKLAHOMA

This Tribal-State Motor Vehicle Licensing Compact (hereinafter, "Compact") is entered into by and between Cherokee Nation, a federally recognized Indian tribe (hereinafter, the "Nation"), and the State of Oklahoma (hereinafter, "State"), to be effective upon the date described herein below.

Section 1: Recitals.

- a) The Nation is a federally recognized Indian tribe with its capitol located in the City of Tahlequah, State of Oklahoma.
- b) On the 15 day of January, 2001, the Nation's Tribal Council enacted a new motor vehicle code, L.A. 01-01, pursuant to which the Nation intends to exercise its authority to issue motor vehicle licenses to its citizens within the boundaries of its jurisdictional area to the extent authorized under applicable decisions of the United States Supreme Court. Copies of L.A. 01-01 and all amendments thereto in effect as of the Effective date of this Compact are attached hereto as Exhibit A. Said boundaries encompass a portion of the lands within the Indian Territory that were ceded by the United States to the Nation pursuant to the Indian Removal Act of 1830, 4 Stat. 411, the 1835 Treaty of New Echota, 7 Stat. 478, and a fee patent executed by the President of the United States pursuant to Article 3 of said treaty. These ceded lands included what is now all of present-day Sequoyah, Adair, Cherokee, Mayes, Delaware, Rogers, Washington, Nowata and Craig Counties, and portions of present-day McIntosh, Muskogee, Wagoner, Tulsa and Ottawa Counties, in northeastern Oklahoma.
- c) The Nation and the State have agreed that it would be in their respective best interests to enter into this Compact that would coordinate the Nation's motor vehicle licensing system with that of the State in the manner and to the extent set forth herein below.

Section 2: Purpose and Scope. The purpose of this Compact is to set forth the agreement between the Nation and the State with respect to the Nation's licensing of Motor Vehicles and other Vehicles owned by the Nation's enrolled Citizens in accordance with the provisions of the Cherokee Nation's motor vehicle licensing code, LA 01-01, as in effect on the date this Compact is effective (hereinafter, the "CN Motor Vehicle Code"); coordinating the use of and/or access to motor vehicle titling and registration information with the State for law enforcement and other purposes; developing agreed-to procedures for communicating and transmitting such information; and allocating a portion of revenues collected by the Nation from the licensing of vehicles for the benefit of schools and certain counties and municipalities within the Nation's jurisdictional area.

Section 3: Definitions. Wherever used in this Compact, the words and phrases set forth below shall have the following meanings:

- a) Citizen shall mean a person who is an enrolled member of the Cherokee Nation as provided in section 103S of the CN Motor Vehicle Code.
- b) CN Motor Vehicle Code shall mean L.A. 01-01 and the amendments thereto which are attached to this Compact as Exhibit A.
- c) Indian country shall mean "Indian country" as that term is defined in 18 USC §1151 and has been interpreted by the Supreme Court of the United States in Oklahoma Tax Commission vs. Sac and Fox Nation, 508 U.S. 114 (1993), and other decisions of said Court.
- d) Jurisdictional Area of the Cherokee Nation shall mean the area in the State of Oklahoma that lies within the boundaries of the Cherokee Nation as more particularly described in Exhibit B attached to this Compact.
- e) Motor Vehicle or Vehicle shall have the same meaning given to the term "Eligible Vehicle" in section 103T of the CN Motor Vehicle Code and any other vehicle eligible for registration thereunder.
- f) Tribal Motor Vehicle License shall mean a license plate or tag issued by the Cherokee Nation for a particular Motor Vehicle or other Vehicle in accordance with provisions of the CN Motor Vehicle Code and of section 3 of this Compact.
- g) Nation shall mean Cherokee Nation.
- h) State shall mean the State of Oklahoma.

Section 4: Tribal Motor Vehicle License. The parties stipulate and agree that the Nation, as a federally recognized Indian tribe, has the sovereign authority to issue motor vehicle licenses in accordance with the United States Supreme Court's decision in Oklahoma Tax Commission vs. Sac and Fox Nation, 508 U.S. 114 (1993). However, the Nation and the State disagree in their respective interpretations of the Court's decision in Sac and Fox Nation, including without limitation the question of what lands or territory are to be considered "Indian country" in light of the Court's decision in that case, and by entering into this Compact the Nation and State do not intend to resolve that question. However, the Nation and State both recognize the practical difficulty in determining whether a vehicle is principally garaged in Indian country, under either party's legal interpretation of the term Indian country. Accordingly, in order to avoid the uncertainties

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and costs associated with litigation, and to promote a cooperative relationship between the Nation and the State of Oklahoma, the parties agree as follows:

- a) The Nation agrees that it will issue Tribal Motor Vehicle Licenses only to persons who are Citizens residing within the Jurisdictional Area of the Cherokee Nation and in accordance with the provisions of the CN Motor Vehicle Code. The Nation agrees that it will not issue Motor Vehicle Licenses to persons who reside outside the Jurisdictional Area of the Cherokee Nation or to any person living within the Jurisdictional Area of the Cherokee Nation who is not an enrolled citizen of the Cherokee Nation.
- b) The State agrees not to challenge (1) the registration of Motor Vehicles provided that they are registered to Citizens by the Nation's Tax Commission in accordance with the CN Motor Vehicle Code and this Compact, or (2) the validity of tribal motor vehicle tags issued to persons residing within the Jurisdictional Area of the Cherokee Nation provided that said tags are issued to a Citizen in accordance with the provisions of the CN Motor Vehicle Code and this Compact.
- c) Notwithstanding any other provision of this Compact, the Nation and State agree that enforcement and administration of the CN Motor Vehicle Code shall be the sole and exclusive responsibility of the Nation. This Compact shall not be construed, and is not intended, to enlarge, diminish or otherwise affect the civil or criminal law enforcement jurisdiction or obligations of either party.

Section 5: Tribal Motor Vehicle Information; Use of Oklahoma Tag Agents.

a) The Nation and the State agree that each has a significant interest in sharing information relating to the registration of Motor Vehicles and other Vehicles by the Nation and by the State so that (i) the Nation can verify registration information furnished by its Citizens when applying for tribal motor vehicle licenses for vehicles previously registered with the State of Oklahoma, and (ii) law enforcement officers and agencies of the State of Oklahoma, other states and other Indian tribes can promptly verify the ownership and the current registration status of automobile and other vehicles bearing Motor Vehicle or other Vehicle license tags issued by the Nation. Accordingly, the Nation and the State agree to share such registration information with the State as hereinafter provided.

b) The Nation shall transmit to the Oklahoma Tax Commission (OTC) Motor Vehicle ownership and registration information for each vehicle it registers, which information shall be included in the OTC's motor vehicle information database so that state, local, federal and tribal law

enforcement and other governmental agencies may access such information to the same extent and in the same manner that such agencies have access to such information with regard to motor vehicles registered with the OTC, in order to confirm the ownership and currency of registration of each such vehicle with the Nation's Tax Commission. The Nation shall transmit the Motor Vehicle ownership and registration information to the OTC no later than 15 days after the date on which the Motor Vehicle is registered with the Nation, except information for vehicles registered prior to the effective date of this Compact shall be transmitted no later than 60 days after the Compact goes into effect. The Nation shall bear any and all costs in providing the information to the OTC.

c) The parties further agree that the Nation may negotiate appropriate agreements with Oklahoma Tag Agents to process the Nation's Motor Vehicle registration and licensing documents and transmit information relating to Motor Vehicles registered by the Nation to the OTC as stated in paragraph (b), above. The fees and charges for services performed by any such Agents on behalf of the Nation shall be as negotiated by the Nation and the Agents and neither the State nor any political subdivision of the State, including the OTC, will bear any responsibility for such fees and charges.

d) Regardless of whether the Nation engages the services of Oklahoma Tag Agents in transmitting Motor Vehicle registration and ownership information to the State pursuant to this Compact, the parties acknowledge, stipulate and agree that the State shall have no responsibility for issuing certificates of title and registration under the CN Motor Vehicle Code. The content, accuracy and maintenance of all records relating to Motor Vehicle titles and registration issued by the Nation shall be the sole and exclusive responsibility of the Nation.

Section 6: Payments to Oklahoma Public Schools, Sequoyah High School, Certain Highway Projects, Counties and Municipalities. The Nation has adopted the CN Motor Vehicle Code, as amended, providing for annual payments by the Nation of a portion of Tribal Motor Vehicle Licensing revenues to Oklahoma public schools, counties, municipalities, and federally- and/or State-funded highway construction or maintenance projects located within the Jurisdictional Area of the Cherokee Nation, as well as to Sequoyah High School and the Cherokee Nation Marshal Service. Said payments shall be made by the Nation directly to the schools, agencies conducting such highway projects, counties, municipalities and Marshal Service in accordance with the CN Motor Vehicle Code, as in effect on the date on which this Compact is effective, and the annual appropriations thereunder. Provided, as a condition of this Compact, the Nation agrees to appropriate and distribute each year during which this Compact remains

in effect: (1) an amount equal to 38% of all fees and taxes collected annually by the Cherokee Nation Tax Commission under the CN Motor Vehicle Code to said public schools and Sequoyah High School in accordance with the allocation formula set forth in Section 105C(2) of said Code; (2) an amount equal to 20% of all such fees and taxes so collected for expenditure on the construction or maintenance of the following highways within the Jurisdictional Area of the Cherokee Nation: federal highways, state highways or highways constructed or maintained with funds apportioned pursuant to 47 OS section 1104(A) that are part of the counties' collector system, all in accordance with section 105C(3) of said Code; and (3) an amount equal to 5% of the amount of such fees and taxes remaining after payment of the Nation's costs incurred in administering the CN Motor Vehicle Code to counties and municipalities within the Jurisdictional Area of the Cherokee Nation and/or to the Cherokee Nation Marshal Service, as provided in Section 105C(4) of said Code. The Nation further agrees that it will continue making said annual payments to said schools, counties, municipalities, Marshal Service and highway construction or maintenance projects in accordance with the provisions of the CN Motor Vehicle Code, as in effect on the day this Compact becomes effective, so long as this the Compact remains in effect.

Section 7: Sovereign Powers and Jurisdiction Unaffected; No Partnership or Agency Created. Nothing in this Compact is intended or shall be construed to enlarge, diminish or otherwise affect the sovereign powers or jurisdiction of either party over any persons or territory. Nothing in this Compact shall prohibit the State from requiring motor vehicle registration and the payment of fees and taxes by any resident of this State who does not reside, or whose motor vehicle is not principally garaged, in Indian country. No provision in this Compact shall be construed as an admission, concession or acknowledgement by the State that (1) the Nation has civil or criminal jurisdiction over territory that is not "Indian country" or (2) any particular lands and/or territory constitute Indian country, either as a formal or informal reservation or otherwise. Nor shall any provision herein be construed as an admission, concession or acknowledgement by the Nation that (1) it does not have such jurisdiction over territory that is not Indian country or (2) any particular lands and/or territory do not constitute Indian country either as a formal or informal reservation or otherwise. Further, this Compact is not intended, and shall not be construed, to create a partnership, joint venture or agency relationship between the Nation and the State.

Section 8: Term. This Compact shall remain in effect for a period of 10 years, commencing on the effective date described in Section 9 hereof, and shall automatically renew for a like period unless prior to the end of the initial term either of the parties gives written notice to the other that the Compact shall not be renewed. Provided, however, the parties agree that either party may terminate this Compact without cause by giving the other party 90 days' written notice in accordance with Section 9 hereof, and provided further that either party may terminate the Compact for cause by giving the other party 20 days' written notice in accordance with said Section, which notice shall state the conduct, occurrence or condition giving rise to cause for termination. Provided, the parties agree

that if either is terminating for cause, the party proposing to terminate the Compact should but is not required to give the other party opportunity and reasonable time to cure or otherwise correct the conditions described in the notice as grounds for termination.

Section 9: Effective Date. This Compact shall go into effect when it has been executed and/or approved by all of the following: the Governor of the State of Oklahoma, the Joint Committee of the Oklahoma Legislature on State-Tribal Relations, the Principal Chief of the Cherokee Nation, and the Tribal Council of the Cherokee Nation.

Section 10: Notices. All notices authorized or required under this Compact shall be in writing and sent by way of certified U.S. mail to the following officials or their successors in office:

To the State of Oklahoma:

Governor Frank Keating 212 State Capitol Building 2300 North Lincoln Blvd. Oklahoma City, OK 73105

To the Cherokee Nation:

Chad Smith, Principal Chief Cherokee Nation

P.O. Box 948

Tahlequah, OK 74435

EXECUTED by the parties on the dates set forth below.

STATE OF OKLAHOMA

By: Date:

Frank Keating, Governor

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CHEROKEE NATION

By: Date:

Chad Smith, Principal Chief

Approved:

Joint Committee on State-Tribal Relations

By: Date:

Chairman

Cherokee Nation Tribal Council

[Copy of Resolution No. attached as Exhibit C]

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Date

Signature/Initial

Department Director:

Date

Signature/Initial

Executive

r.

Administrative Clearance

Program/Project Manager

Date

Signature/Initial

Date

Signature/Initial

Controller: (If Needed)

Government Resource

2-0

Signature/Initial

Ad 4/4P

Signature/Initial

Date

Date

Non Approval:

Legislative Clearance Legislative Aide-Rep

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Signature/Initial Date

Standing Committee:

Next Meeting Date

Chairperson:

Date

Date

Signature/Initial

Returned to Presenter:

Cherokee Nation

Act / Resolution. Proposal Form

Resolution

TITLE: Act Relating To And Approving A Certain Compact With The State Of Oklahoma To Be Known As The "Tribal-State Motor Vehicle Licensing Compact Act".

DEPARTMENT CONTACT: Paula Holder, Tax Administrator X 2237.

RESOLUTION PRESENTER: Paula Holder, Tax Administrator or David Mullon, Associate General Counsel.

NARRATIVE:

(See Attached Outline for Information Needed)

The purpose of this Act is to approve and authorize the Principal Chief to execute the Tribal/State Motor Vehicle Licensing Compact Between The Cherokee Nation and The State Of Oklahoma, that has been negotiated with the Governor of the State of Oklahoma and approved.

This Act shall supersede LA # 36-01.

Act