



Council of the Cherokee Nation

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

Legislation Text

File #: 09-071, Version: 2

A LEGISLATIVE ACT AMENDING TITLE 68 OF THE CHEROKEE NATION CODE ANNOTATED - ADDING PROVISIONS FOR TAX REBATE OF LICENSED TOBACCO RETAILERS BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the "Tobacco Retailer Rebate Act of 2009" and codified as _____ (Title) _____ (Section) _____ of the Cherokee Nation Code Annotated (CNCA).

Section 2. Purpose

This Act is to protect the viability of Cherokee Nation licensed smoke shops that they are designated as a "border" smoke shop by mutual agreement between the State of Oklahoma and Cherokee Nation, through a monthly rebate for smoke shops currently in business. These provisions assist these retailers in continuing to operate a profitable business.

Section 3. Substantive provisions

The following sections shall be included in Title 68 of the Cherokee Nation Code Annotated:

Tobacco Rebate

Cherokee Nation licensed "border" smoke shops, as determined by the Cherokee Nation Tax Commission and consistent with the Tobacco Tax Compact between the State of Oklahoma and the Cherokee Nation, including any amendments or clarifications thereto arising at any time during the effectiveness of this Act, will receive a rebate in the amount of \$1.50 per carton purchased. This rebate will be in effect for the lesser of 18 months or until a neighboring state's tax rate increases, as set forth herein.

Procedures:

1. To apply for the rebate the Cherokee Nation licensed retailer must provide monthly reports to the Cherokee Nation Tax Commission.
2. The rebate shall be paid on at least a monthly basis to qualifying smoke shops.
3. If a retailer fails to repay the Cherokee Nation for any overpayment of rebate discovered during the year-end reconciliation the Cherokee Nation Tax Commission will revoke the retailer's tobacco license and seek other remedies allowable by law.
4. The funds required from the rebate shall be administered from the Cherokee Nation General Fund.
5. If a bordering state increases its tax rate at or above the comparable tax rate of the State of Oklahoma the rate of this rebate will be discontinued for Cherokee Nation licensed retailers located within twenty (20) miles of said state.

Section 4. Provisions as cumulative

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

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 or provisions of this act.

Section 6. Effective Date

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 from and after its passage.

Section 7. Termination Date (Sunset Clause)

This being an Act temporary in nature the provisions of this Act shall not extend beyond October 1, 2010 without specific amendment by the Cherokee Nation Tribal Council.