



Council of the Cherokee Nation

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

Legislation Text

File #: LA-25-06, Version: 1

Committee: Rules

Author: Diane Hammons

Date: 8-21-06 Committee Date: 8-31-06

Sponsor: Cara Cowan Watts

An Act

Legislative Act 25-06

A LEGISLATIVE ACT AMENDING CNCA TITLE 47 "MOTOR VEHICLES; ADDING REGULATIONS FOR TRAFFIC CONTROL; AND ESTABLISHING A BOND SCHEDULE

BE IT ENACTED BY THE CHEROKEE NATION: SECTION 1. TITLE AND CODIFICATION

This act shall be known as the 2006 Motor Vehicle Code Update and Cherokee Nation Bond Schedule and codified as and adding new sections 47 CNCA Section 12-417, 47 CNCA Section 11- 1114, 47 CNCA Section 11-1115, 47 CNCA Section 12-609, 47 CNCA Chapter 14 Section 14-107 and 47 CNCA Chapter 14 Section 14-109 of the Cherokee Nation Code Annotated.

The Cherokee Nation Bond Schedule will be an appendix to the Title 47 codified as 47 CNCA Appendix A.

SECTION 2. PURPOSE

The purpose of this act is to create standards for traffic violations and to up date title 47 CNCA. More specifically,

- ◆ The Bond Schedule is to create a standard for traffic violations.
- ◆ 47 Section 12-417, Scat Belt Law ◆ Cherokee Citizens will be required to wear a seat belt while operating and riding as a passenger of a motor vehicle.
- ◆ 47 CNCA Section 11-1114 ◆ Allowing passenger to ride outside of compartment ◆ this law makes it illegal for a person to ride outside of the compartment of a motor vehicle.
- ◆ 47 CNCA Section 11-1115, Railroad crossings - this law creates standards for crossing a railroad grade.
- ◆ 47 CNCA Section 12-609 Motorcycle and motor scooter - this law creates safety standards for motorcycle and motor scooter for Cherokee Citizens.
- ◆ 47 CNCA Chapter 14 Section 14-107, Definitions - this law adds needed definitions for the Overload, Any Axle or Gross Weight law.
- ◆ 47 CNCA Chapter 14 Section 14-109 Overload, Any Axle or Gross Weight ◆ this law creates standards for large trucks using Cherokee Nation roads.

SECTION 3. LEGISLATIVE HISTORY

None.

SECTION 4. DEFINITIONS

The following definitions shall be added to 47 CNCA Chapter 14 Section 14-107: Definitions

As used in this chapter:

1. "Axle load" means the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle,
2. "Tandem axle" means any two or more consecutive axles whose centers are more than forty (40) inches apart, but not more than ninety-five (95) inches apart; and
3. "Non-divisible" means any load or vehicle exceeding applicable length or weight which, if separated into smaller loads or vehicles, would:
 - a. compromise the intended use of the vehicle,
 - b. destroy the value of the load or vehicle, or
 - c. require more than eight (8) hours to dismantle using appropriate equipment

SECTION 5. SUBSTANTIVE PROVISIONS OF LAW Cherokee Nation Bond Schedule 47 CNCA Appendix A

OFFENSE

Speeding

One to Ten miles per hour Over Limit Eleven to Fifteen miles per hour Over Limit Sixteen to Twenty miles per hour Over Limit Twenty-one to Twenty-five miles per hour Over Limit Twenty-six to Thirty miles per hour Over Limit Thirty-one to Thirty-five miles per hour Over Limit Thirty-six miles per hour or more Over Limit Speeding in a Construction or Maintenance Zone One to Ten miles per hour Over Limit Eleven to Fifteen miles per hour Over Limit Sixteen to Twenty miles per hour Over Limit

Twenty-one to Twenty-five miles per hour Over Limit Twenty-six to thirty miles per hour Over Limit Thirty-one to thirty-five miles per hour Over Limit Thirty-six miles or more miles per hour Over Limit

Operating a Motor Vehicle in a Manner Not Reasonable and Proper

Reckless Driving (First Offense Only.)

Reckless Driving (Second or Subsequent Offense)

Failure to Obey a Lawful Traffic Control (Sign) (Signal) (Device)

Impeding the Normal and Reasonable Flow of Traffic

MIN BOND Plus \$ 60.00 COURT COST

Improper Passing

1. Failure to Give Way to Right when being passed
2. Improper Passing on the Right \$233.90 47 CNCA * 11-303.a
\$233.90 47 CNCA 11-304.b

3. Passing Without Sufficient Clearance \$233.90 47 CNCA ♦ 11-305
Driving Left of Center
I. Unauthorized Driving Left of Center on
47 CNCA ♦ 11-
(Grades) (Curves) (View Obstructed) \$233.90 306.a-1
2. Unauthorized Driving Left of Center within 100 of 47 CNCA ♦ I 1 -
(Intersection) (Railroad Crossing) \$233.90 306.a-2
3. Unauthorized Driving Left of Center within 100' of any
47 CNCA ♦ II-
(Tunnel) (Bridge) (Viaduct) when view is obstructed \$233.90 306.a-3
4. On Left Side of Road in a Marked Zone 47 CNCA ♦ 11-
\$233.90 307.b
5. Unauthorized Driving Left of Center on Divided 47 CNCA ♦ 11-
Four-Lane Roadway \$233.90 301.c
Driving Wrong Way on One-way Road Improperly Crossing Center Dividing Section 47 CNCA ♦ 11- \$233.90 308.b
\$233.90 47 CNCA ♦ 11-311

Improperly Driving (Onto) (Of) Controlled-access
Roadway \$233.90 47 CNCA ♦ 11-312
Improper Movement from a Direct Course (To enter private drive)
(Driveway)
Failure to Signal Intention to Turn Right or Left Failure to Stop for a Stop Sign
Changing Lanes Unsafely
47 CNCA ♦ 11- \$233.90 604.a
47 CNCA ♦ II- \$233.90 604.b
47 CNCA ♦ 11- \$233.90 403.b
\$233.90 47 CNCA ♦ 11-309
Failure to Stop for a School Bus (Loading) (Unloading) 47 CNCA ♦ 11-
Children \$328.90 705.a
Failure to Wear Safety Belt \$80.00 47 CNCA ♦ 12-417
Failure to Use Child Passenger Restraint System 47 CNCA. ♦ 11- \$256.90 1112

Depositing, Dumping or Throwing Destructive or
Injurious Material on Public Property \$418.40 21 CNCA ♦ 1761.1
Improper Negotiation of a Railroad-Highway Grade
47 CNCA. ♦ 11- Crossing by a Commercial Motor Vehicle \$233.90 1115
Failure to Stop/Improper Stop at a Railroad Grade
47 CNCA. ♦ 1 !-
Crossing \$233.90 701
Throwing, Dropping, Depositing or Placing Litter
(Including Lighted Substances) on Highway, Roadway or
Public Property \$228.40 21 CNCA ♦ 1753
Allowing a Passenger to Ride Outside the Passenger
47 CNCA. ♦ I 1-
Compartment of the vehicle \$85.00 1114
Operating a Motor Vehicle with an Improper Brake 68 CNCA ♦ 11-
System \$233.90 1114
Operating a Motor Vehicle Without a Valid (Operator's)
(Chauffeur's)
License) \$278.90 68 CNCA * 1263
Violation of License Restriction \$233.90 68 CNCA * 1263
Transporting Open Container in violation of 21 CNCA
♦1220 \$338.90 21 CNCA * 1220
Unlawfully Transporting Open Container of Alcoholic
Beverage in a Vehicle (MI \$268.90 21 CNCA * 1220
Drunk in a Public Place (Name Place) \$228.40 37 CNCA8
Failure to Carry Security Verification Form \$223.90 68 CNCA * 1263
Failure to Pay All Taxes Due State or Nation \$223.90 68 CNCA1258
Operating a Vehicle Without Current License Plates
(Decal) \$223.90 47 CNCA1261
Operating a Motorcycle (Without) (Improper)
(Windshield) (Goggles) (Face Shields) \$223.90 47 CNCA40-105
Overload, Any Axle or Gross Weight
From 700 up to and including 2,000 Pounds \$268.90 47 O.S. * 14-109.A
From 2,001 up to and including 3,000 Pounds \$318.90 47 O.S. * 14-109.A
From 3,001 up to and including 4,000 Pounds \$368.90 47 O.S. * 14-109.A
From 4,001 up to and including 5,000 Pounds \$418.90 47 U.S. * 14-109.A
From 5,001 up to and including 6,000 Pounds \$468.90 47 0.5. * 14-109.A

From 6,001 up to and including 7,000 Pounds \$518.90 47 O.S. * 14-109.A
From 7,001 up to and including 8,000 Pounds \$568.90 47 O.S. * 14-109.A
From 8,001 up to and including 9,000 Pounds \$618.90 47 U.S. * 14-109.A
From 9,001 up to and including 10,000 Pounds \$668.90 47 O.S. * 14-109.A
Over 10,000 Pounds \$688.90 47 O.S. * 14-109.A

Violating Special Permit Exceeding Authorized Permit Weight in Accordance with the Bond Schedule provided for in this section for Overload, Plus an Additional One Hundred Dollars (\$100.00).

47 CNCA 12-417

Safety Belt Law

I. Every operator and front seat passenger of a passenger car operated in the jurisdiction of the Cherokee Nation shall wear a properly adjusted and fastened safety seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R., Section 571.208.

2. For the purposes of this section "passenger car" shall mean "vehicle" as defined in Section 1-186 of this title. "Passenger car" shall include the passenger compartment of pickups, vans, minivans, and sport utility vehicles. "Passenger car" shall not include trucks, truck-tractors, recreational vehicles, motorcycles, or motorized bicycles. "Passenger car" shall not include a vehicle used primarily for farm use which is registered and licensed pursuant to the provisions of 68 CNCA * 1258 of Cherokee Nation Code.

B. This section shall not apply to persons eligible for an exception for medical reasons pursuant to Title 59 Section 495 of the Oklahoma Statute and any other similar statute of another state.

C. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service.

D. Fine and court costs for violating the provisions of this section shall not exceed Twenty Dollars (\$20.00) plus sixty dollar (60.00) court cost.

47 CNCA 11-1114

Allowing passenger to ride outside of compartment

A. No operator of a motor vehicle shall allow a passenger to ride outside the passenger compartment of the vehicle on the streets, highways or turnpikes of the Cherokee Nation; provided, this section shall not apply to persons so riding on private property or for parades or special events nor shall this section apply to passengers riding on the bed of a pickup truck.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of Fifteen Dollars (\$15.00) and shall court costs of Sixty Dollars (\$60.00) provided the Department of Public Safety shall not assess points to the driving record of any licensed or unlicensed person convicted of a violation of this section.

47 CNCA11-1115 Railroad crossings

At a railroad-highway grade crossing, a person operating a Class A, B or C commercial motor vehicle as described in 47 OS Section 1-107 shall not negotiate the crossing if there is:

1. Insufficient space to drive completely through the crossing without stopping; or

2. Insufficient clearance for the undercarriage of the vehicle.

47 CNCA 12-609

Motorcycle and motor scooter

The following equipment shall be required on all motorcycles and all motor scooters except on actual trail rides conducted outside of public roads and highways:

A. Rear View Mirrors: All vehicles covered under this section shall be equipped with two mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle.

B. Windshield: All vehicles covered under this section shall be equipped with a windshield of sufficient quality, size and thickness to protect the operator from foreign objects, except that in lieu of such windshield the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

C. Brakes: All vehicles covered under this section shall be equipped with brakes adequate to control the movement of same to stop and hold such vehicles, including two separate means of applying the brakes, one means shall be effective to apply the brakes to the front wheel and one means shall be effective to apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle, which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be actuated upon application of the service brake.

D. Speedometer: All vehicles covered under this section shall be equipped with a properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle.

E. Fenders: All vehicles covered under this section shall be equipped with a fender over each wheel. All fenders shall be of the type provided by the manufacturer.

F. Lights: All vehicles covered under this section shall carry at least one lighted headlamp capable of showing a white light visible at least three hundred (300) feet in-the direction in which the same are proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear, and such lights required by this section shall be burning whenever such vehicles are in motion during the period from one-half hour after sunset and one-half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead.

G. Headgear: No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this section unless such person is equipped with and wearing on the head a crash helmet of a type which complies with standards established by the Department of Public Safety. All crash helmets shall consist of lining, padding and chin straps and be of the type as not to distort the view of the driver. The Commissioner of the Department of Public Safety is hereby authorized to approve or disapprove protective headgear and eye-protective devices sold and required herein, and to issue and enforce regulations establishing standards and specifications for approval thereof. The Commissioner shall publish lists of all approved protective headgear and eye-protective devices by name and type. Provided, however, the Department may not recommend one brand in preference to another if quality is identical.

47 CNCA14-109 Overload, Any Axle or Gross Weight

On any road or highway within the Cherokee Nation:

1. No single axle weight shall exceed twenty thousand (20,000) pounds: and

2. The total gross weight in pounds imposed thereon by a vehicle or combination of vehicles shall not exceed the value given in the following table corresponding to the distance in feet between the extreme axles of the group measured longitudinally to the nearest foot.

Distance in Feet Between the Extremes of Any Group of 2 or More Consecutive Axles	Maximum Load in Pounds Carried on Any Group of 2 or More Consecutive Axles				
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles
4	34,000				
	5				
	34,000				
	6				
	34,000				
	7				
	34,000				
8	34,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
		16	52,500	58,000	
		48,000			
		17	53,500	58,500	
		48,500			
		18	54,000	59,000	
		49,500			
19	50,000	54,500	60,000		
20	51,000	55,500	60,500	66,000	
21	51,500	56,000	61,000	66,500	
22	52,500	56,500	61,500	67,000	
23	53,000	57,500	62,500	68,000	
24	54,000	58,000	63,000	68,500	
	54,500	25	63,500	69,000	
		58,500			
26	56,000	59,500	64,000	69,500	
27	57,500	60,000	65,000	70,000	
28	59,000	60,500	65,500	71,000	
29	60,500	61,500	66,000	71,500	
30	62,000	62,000	66,500	72,000	
31	63,500	63,500	67,000	72,500	
	64,000	32	68,000	73,500	
		64,000			
33		64,500	68,500	74,000	
34		65,000	69,000	74,500	
35		66,000	70,000	75,000	
		36	70,500	75,500	
		68,000			
37		68,000	71,000	76,000	
		38	72,000	77,000	
		69,000			
39		70,000	72,500	77,500	
40		71,000	73,000	78,000	
41		72,000	73,500	78,500	
42		73,000	74,000	79,000	
43		73,280	75,000	80,000	
44		73,280	75,500	80,500	
45	73,280	76,000	81,000		
	46	76,500	81,500		
	73,280				
47	73,500	77,500	82,000		
	48	78,000	83,000		
	74,000				
49	74,500	78,500	83,500		
50	75,500	79,000	84,000		
	51	80,000	84,500		
	76,000				

52	76,500	80,500	85,000
	53	81,000	86,000
	77,500		
54	78,000	81,500	86,500
55	78,500	82,500	87,000
	56	83,000	87,500
	79,500		
57	80,000	83,500	88,000
	58	84,000	89,000
	59	85,000	89,500
	60	85,500	90,000

B. Except as to gross limits the table in subsection A of this section shall not apply to a truck-tractor and dump semitrailer when used as a combination unit. In no event shall the maximum load in pounds carried by any set of tandem axles exceed thirty-four thousand (34,000) pounds for vehicles exempt from the table- however any vehicle operating with split tandem axles or tri-axes shall adhere to the table.

C. Special permits may be issued as provided in this title for divisible loads for vehicle configurations in excess of six (6) axles. The permits may not exceed the Table "B" federal weights formula imposed by Title 23, U.S. Code, Section 127. Vehicles moving under the permits shall not traverse H-15 bridges or less without the express approval of the Secretary of Transportation.

D. Except for loads moving under special permits as provided in this title, no department or agency of this state or any county, city, or public entity thereof shall pay for any material that exceeds the legal weight limits moving in interstate or intrastate commerce in excess of the legal load limits of this state.

E. Exceptions to this section will be:

1. Utility or refuse collection vehicles used by counties cities or towns or by private companies contracted by counties, cities or towns if the following conditions are met:

a. calculation of weight for a utility or refuse collection vehicle shall be "Gross Vehicle Weight". The "Gross Vehicle Weight" of a utility or refuse collection vehicle may not exceed the otherwise applicable weight by more than fifteen percent (15%). The weight on individual axles must not exceed the manufacturer's component rating which includes axle, suspension, wheels, rims, brakes, and tires as shown on the vehicle certification label or tag, and

b. utility or refuse collection vehicles operated under these exceptions will not be allowed to operate on interstate highways;

2. Vehicles transporting timber pulpwood and chips in their natural state, vehicles transporting oil field fluids, oil field equipment, or equipment used in oil and gas well drilling or exploration, and vehicles transporting grain, if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the gross limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways; and

3. Vehicles transporting rock, sand, gravel and coal if the following conditions are met:

a. the vehicles are registered for the maximum allowable rate,

b. the vehicles do not exceed five percent (5%) of the axle limits set forth in subsection A of this section, and

c. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.

F. Utility or refuse collection vehicles, vehicles transporting timber, pulpwood, and chips in their natural state vehicles transporting oil field equipment or equipment used in oil and gas well drilling or exploration, vehicles transporting rock, sand, gravel, and coal and vehicles transporting grain, operating under exceptions shall purchase an annual special overload permit for One Hundred Dollars (\$100.00).

G. For purposes of this section, "utility vehicle" shall mean any truck used 12y a private utility company county city or town for the purpose of installing or maintaining electric water, or sewer systems.

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 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 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.

Enacted by the Council of the Cherokee Nation on the 11th day of September, 2006.

Meredith A. Frailey, Speaker Council of the Cherokee Nation

ATTEST: Don Garvin, Secretary Council of the Cherokee Nation

Approved and signed by the Principal Chief this 19th day of September, 2006.

Chadwick Smith, Principal Chief Cherokee Nation

ATTEST: Melanie Knight, Secretary of State Cherokee Nation

YEAS AND NAYS AS RECORDED:

Audra Smoke-Conner	Yea	Meredith A. Frailey	Yea	
Bill John Baker	Yea	John F. Keener	Yea	
Joe Crittenden	Yea	Cara Cowan Watts	Yea	
Jackie Bob Martin	Yea	Buel Anglen		Yea
Phyllis Yargee	Yea	William G. Johnson	Yea	
David W. Thornton, Sr.	Yea	Charles "Chuck" Hoskin	Yea	

Don Garvin		Yea	Taylor Keen		Yea
Linda Hughes-O'Leary	Yea	Jack D. Baker		Yea	
Melvina Shotpouch		Yea			

Cara Cowan-Watts
Resolution Presenter:
Council Sponsor: NARRATIVE:
ADMINISTRATIVE CLEARANCE:
Department Director:
Signature Date
Group Leader:

Government Resources Group:
Administration Approval:

LEGISLATIVE CLEARANCE

Legislative Aide:
Standing Committee:
Next Meeting Date
Chairperson:
Returned to Presenter:

Date
Resolution
Act
Cherokee Nation
Act/Resolution Proposal Form
(See Attached Outline for Information Needed)

This Act is regarding traffic laws of the Cherokee Nation it also contains a Bond Schedule for traffic violations. This Act will create standards for traffic fines and has several new traffic violations that the Cherokee Nation needs. We used the Oklahoma Statues for this code because the Justice Department wanted uninterrupted traffic laws for our citizens. These laws are well known to citizens because they already have to follow these laws for the State.

TITLE: 2006 Motor Vehicle Code Update and Cherokee Nation Bond Schedule
Department Contact: Justice Department
RECEIVEDAUG 17 2006

GOVERNMENT RESOURCES