



Council of the Cherokee Nation

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

Legislation Text

File #: LA-05-06, Version: 1

Committee: Full Council

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Date: 3-06-06 Committee Date: 3-13-06

Sponsor: Meredith Fraley

An Act

Legislative Act 5-06

A LEGISLATIVE ACT AMENDING TITLE 68 CHAPTER 4 OF THE CHEROKEE NATION CODE ANNOTATED - TOBACCO TAX; AND ADDING DEFINITIONS

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

(Title) This Act shall be known as the "Tobacco Tax Act of 2005" and codified as (Section) of the Cherokee Nation Code Annotated (CNCA).

Section 2. Purpose

This Act is to establish a surtax on certain tobacco sales, intended to further reduce the smoking rate within the Cherokee Nation, thus lowering health care costs. Revenues generated under this Act will be utilized to extend and enhance governmental services to the Cherokee people, specifically earmarked for prevention and treatment of diabetes and cancer.

Section 3. Legislative History

CNCA Chapter 4 contains existing Tobacco Tax provisions. The Tobacco Compact between the Cherokee Nation and the State of Oklahoma was filed with the Oklahoma Secretary of State on February 10, 2004,

Section 4. Definitions

The definition of "Contraband" is hereby added to 68 CNCA 41 as:

"Contraband" means any cigarette, tobacco or related products upon which all applicable Cherokee Nation taxes have not been paid.

Section 5. Substantive provisions

I. The following sections of CNCA Title 68 shall be amended as follows:

5. Distribution of tax revenue

A. At least seventy-five percent (75%) of all tax appropriations, except as provided in part B. of this section, shall be dedicated for the purpose of Education, Health and Human Services, Housing Program and Projects and Economic Development.

B. One hundred percent 110(1%) 0(1%) of the surtax collected by the Commission under 68 CNCA 42 B. shall be allocated and made available until expended or initiatives administered by the Nation to prevent and treat diabetes and cancer.

42. Tax on cigarettes

A. There is hereby levied upon the sale, use, gift, possession or consumption of cigarettes occurring in Cherokee country a tax of five cents (\$0.05) for each package of cigarettes containing twenty-five (25) cigarettes or less. On any individual package containing more than twenty-five (25) cigarettes there is hereby levied an additional tax of five cents (\$0.05) for each additional twenty (20) cigarettes or fraction thereof.

8. There is hereby levied a surtax on any cigarette transaction occurring between retailer, if the retailer selling tobacco to any other tribal retailer is the boundaries of the Nation, The surtax is applied upon the sale, use, gift, possession or consumption of cigarettes occurring in Cherokee country of not less than \$1.15 for each package of cigarettes containing twenty-five (25) cigarettes or less. On any individual package containing more than twenty-five (25) cigarettes there is hereby levied an additional tax of fifteen cents (\$0.15) for each additional twenty (20) cigarettes or fraction thereof.

The wholesaler is responsible for collecting and remitting the base tax in paragraph 1 of this section. The retailer selling tobacco to any other tribal retailer shall be responsible for collecting and remitting the surtax in paragraph 2 of this section.

53 of Title 68 is hereby repealed.

54. Wholesale Collection of tax

Wholesalers may only sell cigarettes and tobacco products to retailers licensed by the Commission and retailers may only buy cigarettes and tobacco products from entities licensed by the Commission. The Commission may require the wholesaler or retailer to collect and remit tax to the Commission. Such tax collected and remitted shall be deemed an advance payment of the tax for the credit of the retailer. There is hereby created a fund not to exceed One Million Dollars (\$1,000,000), to make loans available to tobacco retailers that are adversely and wrongfully affected by the Oklahoma Tax Commission emergency rules passed on February 22, 2006, The Nation will be repaid for such loans through the rebate amount that the Oklahoma Tax Commission sends in the Nation. The appropriate staff of the legislative and Executive branches are hereby directed to produce procedures for the fair and equitable allocation of these funds, In addition, the following provisions are hereby enacted:

a. Criminal Penalties

It is a crime to possess contraband cigarettes as defined in 611 CNCA 49 A.

b. Sunset Provision

This Act will automatically terminate upon effective date of a new or amended compact between the Cherokee Nation and the State of Oklahoma.

c. Implementation

The Tax Commission is hereby authorized to implement this Act, including developing rules and regulations, reports or other documentation

required of licensees.

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

This Act shall become effective April 1, 2006. Section 9. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation, 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 13th day of March 2006.

ATTEST:

Don Garvin, Secretary Council of the Cherokee Nation

Approved and signed by the Principal Chief this 17th day of MARCH, 2006

Chadwick Smith, Principal Chief Cherokee Nation

Callie Catcher, Secretary/Treasurer Cherokee Nation

YEAS AND NAYS AS RECORDED:

Audra Smoke-Conner	YEA	Melvina Shotpouch		Absent
Bill John Baker	YEA	Meredith A. Frailey	YEA	
Joe Crittenden	YEA	John F. Keener	NAY	
Jackie Bob Martin	YEA	Cara Cowan Watts	YEA	
Phyllis Yargee	YEA	Buel Angles		YEA
David W. Thornton, Sr.	NAY	William G. Johnson	YEA	
Don Garvin		YEA	Charles "Chuck" Hoskin	YEA
Linda Hughes-O'Leary	Absent			