



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:	A LEGISLATIVE ACT AMENDING TITLE 21, SECTION 1835.1 AND CREATING TITLE 21, SECTION 1835.2 OF THE CHEROKEE NATION CODE ANNOTATED - RELATING TO OFFENSES AGAINST PROPERTY				
Sponsors:	Mike Shambaugh, Rex Jordan, Candessa Tehee, Keith Austin, Dora Patzkowski, Joe Deere				
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11/18/2022	2	OFFICE OF THE CHIEF	Signed	
11/14/2022	2	TRIBAL COUNCIL	Approved	Pass
10/27/2022	2	RULES COMMITTEE	Approved and Forwarded to Council	Pass
9/29/2022	1	RULES COMMITTEE	Tabled	Pass
8/25/2022	1	RULES COMMITTEE	Tabled	Pass
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6/30/2022	1	RULES COMMITTEE	Tabled	Pass

A LEGISLATIVE ACT AMENDING TITLE 21, SECTION 1835.1 AND CREATING TITLE 21, SECTION 1835.2 OF THE CHEROKEE NATION CODE ANNOTATED - RELATING TO OFFENSES AGAINST PROPERTY

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION 1. TITLE AND CODIFICATION

This Act shall be known as the “Cherokee Nation Trespassing Act” and codified under Title 21 Sections 1835.1 and 1835.2 of the Cherokee Nation Code Annotated (CNCA).

SECTION 2. PURPOSE

The purpose of this Act is to criminalize trespassing on tribal property after being forbidden.

SECTION 3. SUBSTANTIVE LAW

Title 21 of the Cherokee Nation Code Annotated shall be amended as follows:

§ 1835.1. Entry or presence upon premises of place of business of persons convicted of certain crimes

- A. Every person, partnership, corporation or other legal entity engaged in any public business, trade, or profession of any kind wherein merchandise, goods or services are offered for sale may forbid the entry or presence of any person upon the premises of the place of business, if the person has been convicted of a crime involving entry only or criminal acts occurring upon any real property owned, leased, or under the control of such person, partnership, corporation or other legal entity. Such crimes shall include, but are not limited to, shoplifting, vandalism, and disturbing the peace while upon the premises of any place of business of the person, partnership, corporation, or other legal entity.
- B. In order to exercise the authority conferred by subsection (A) of this section, the owner or an agent of the owner of a public business, trade, or profession must notify the person whom the owner or agent desires to prohibit from such owner's place of business.
- C. No person shall willfully enter or remain upon the premises after being expressly forbidden to do so in the manner provided for in this section. Any person convicted of violating the provisions of this section, upon conviction, shall be guilty of trespass and shall be punished by a fine of not more than ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars or by confinement in the penal institution for a term of not more than thirty (30) days, or by both such fine and imprisonment.
- D. The provisions of this section shall not preclude any other remedy allowed by law.

§ SECTION 1835.2 Criminal Trespass on tribal property after being forbidden

- A. The Cherokee Nation Marshal Service and/or Cherokee Nation Security Services may forbid, ban or exclude the entry or presence of any person upon the premises of any property owned or operated by the Cherokee Nation upon the commission of a crime or a disruption to business operations.
- B. No person shall willfully enter or remain upon the premises, including buildings, grounds, parking lots, roads, and walkways of any property owned, administered, or operated by the Cherokee Nation or any of its subsidiaries or component units after having been forbidden, banned or excluded. Properties include but are not limited to, government-owned or leased buildings.
- C. In order to exercise the authority conferred by subsection (A) of this section, an agent of the Cherokee Nation must notify the individual that he or she has been forbidden, banned or excluded from tribal property. Such notice shall include the duration of exclusion and shall not deprive an individual from reasonable access to services from the Cherokee Nation.

D. No person shall willfully enter or remain upon the premises after being expressly forbidden to do so in the manner provided for in this section. Any person convicted of violating the provisions of this section, upon conviction, shall be guilty of trespass and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by confinement in the penal institution for a term of not more than thirty (30) days, or by both such fine and imprisonment.

E. The provisions of this section shall not preclude any other remedy allowed by law.

SECTION 4. PROVISIONS 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

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

SECTION 7. 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.