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Cherokee Council House
Cherokee North Carolina

Date: AUG 04 2022

Ordinance No.: 366 (2022)

An ordinance amending Cherokee Code Section 18B-302 to expand valid identification cards to include tribal enrollment identification cards of the Eastern Band of Cherokee Indians as a valid identification card to purchase alcohol and tobacco products.

WHEREAS, the Eastern Band of Cherokee Indians is a federally-recognized Indian tribe with sovereign powers of self-government such as the power to issue tribal enrollment identification cards stating membership and blood degree of the Eastern Band of Cherokee Indians; and

WHEREAS, the tribal enrollment identification cards are valid forms of identification as they provide a color photo, physical address, date of birth, issuance date, expiration date, holographic security feature, tribal seal, signature, blood degree, and enrollment number for the Eastern Band of Cherokee Indians; and

WHEREAS, by amending the Cherokee Code to include tribal enrollment identification cards produced by the Eastern Band of Cherokee Indians, the tribe is exercising its tribal sovereignty and self-governance; and

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled at which a quorum is present, that Tribal Council hereby amends Chapter 18B, in recognition of the legitimate tribal government-issued enrollment identification card as a valid form of identification for alcohol and tobacco purchases.

BE IT FINALLY ORDAINED, that all resolutions and ordinances inconsistent with this ordinance are rescinded, and this ordinance shall become effective upon ratification by the Principal Chief.

Sec. 18B-302. - Sale to or purchase by underage persons.

(a) *Sale*. It shall be unlawful for any person to:

(1) Sell malt beverages or unfortified wine to anyone less than 21 years old; or

(2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(a1) *Give*. It shall be unlawful for any person to:

(1) Give malt beverages or unfortified wine to anyone less than 21 years old; or

(2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) *Purchase, possession, or consumption*. It shall be unlawful for:

(1) A person less than 21 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or

(2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages; or

(3) A person less than 21 years old to consume any alcoholic beverage.

46 (c) *Aider and abettor.*

47 (1) *By underage person.* Any person who is under the lawful age to purchase and who aids or
48 abets another in violation of subsection (a), (a1), or (b) of this section shall be guilty of a misdemeanor.

49 (2) *By person over lawful age.* Any person who is over the lawful age to purchase and who aids
50 or abets another in violation of subsection (a), (a1), or (b) of this section shall be guilty of a misdemeanor.

51 (d) *Defense.* It shall be a defense to a violation of subsection (a) of this section if the seller:

52 (1) Shows that the purchaser produced a driver's license, a special identification card issued under
53 G.S. § 20-37.7, a military identification card, ~~or a~~ passport, or a tribal identification card issued by the
54 Eastern Band of Cherokee Indians or any other federally recognized tribe which issues an identification
55 card with a color photo, physical address, date of birth, issuance date, expiration date, holographic
56 security feature, tribal seal and signature, showing his age to be at least the required age for purchase and
57 bearing a physical description of the person named on the card reasonably describing the purchaser; or

58 (2) Produces evidence of other facts that reasonably indicated at the time of sale that the
59 purchaser was at least the required age.

60 (e) *Fraudulent use of identification.* It shall be unlawful for any person to enter or attempt to enter a place
61 where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or
62 to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection (b) of
63 this section, by using or attempting to use any of the following:

64 (1) A fraudulent or altered driver's license.

65 (2) A fraudulent or altered identification document other than a driver's license.

66 (3) A driver's license issued to another person.

67 (4) An identification document other than a driver's license issued to another person.

68 (5) Any other form or means of identification that indicates or symbolizes that the person is not
69 prohibited from purchasing or possessing alcoholic beverages under this section.

70 (f) *Allowing use of identification.* It shall be unlawful for any person to permit the use of the person's
71 driver's license or any other form of identification of any kind issued or given to the person by any other
72 person who violates or attempts to violate subsection (b) of this section.

73 (g) *Conviction report sent to Division of Motor Vehicles.* The court shall file a conviction report with the
74 North Carolina Division of Motor Vehicles indicating the name of the person convicted and any other
75 information requested by the Division if the person is convicted of any of the following:

76 (1) A violation of subsection (e) or (f) of this section.

77 (2) A violation of subsection (c) of this section.

78 (3) A violation of subsection (b) of this section, if the violation occurred while the person was
79 purchasing or attempting to purchase an alcoholic beverage.

80 (4) A violation of subsection (a1) of this section.

81 (h) *Handling in course of employment.* Nothing in this section shall be construed to prohibit an underage
82 person from selling, transporting, possessing or dispensing alcoholic beverages in the course of
83 employment, if the employment of the person for that purpose is lawful under applicable youth
84 employment statutes and Commission rules.

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86 *Submitted by: Callie Phillips, Office of the Attorney General*