



Cherokee Nation Tax Commission

P.O. Box 948 Tahlequah, OK 74465

Steve Wilson,
Tax Commissioner

Fan Robinson,
Tax Commissioner

Michael Doublehead
Tax Commissioner

CHEROKEE NATION TAX COMMISSION

Cherokee Nation Tax Commission

Munson House Conference Room

September 12, 2018

4:20 PM

Commissioner Present: Commissioner Wilson, and Commissioner Robinson

Staff Present: Sharon Swepston, Tammy Latta, Shelia Sawney, and Fonda Gritts

Visitors: Shannon Buhl – CNMS, Whitney Woodruff – BIA, Jamie Hummingbird - CNGC, Paiten Taylor-Qualls - AG Office

Meeting was called to order by Chairman Wilson at 4:43PM. Quorum established with Commissioner's Robinson and Wilson.

The Commission began with agenda item #1 – Approval of Minutes June 20, 2018.

Commissioner Robinson made a motion to approve the minutes and Chairman Wilson seconded the motion. Motion carried.

Agenda #2 – Broken Arrow Licensing - The business license has been changed from Donald Dobbs, over to his daughter Donna Evans. This lease will be for five years. All documents have been submitted and Shelia Sawney recommends approval for the Broken Arrow Smoke Shop license.

Commissioner Robinson made a motion to approve the license, and Chairman Wilson seconded the motion. Motion carried.

Agenda #3 – Discussion on CBD Oil – Sharon stated that Tax Commission request an opinion from the Attorney General's office regarding smoke shops being able to sell the CBD oil if they had an Oklahoma license. The answer was no. Both medical marijuana and CBD oil are illegal under Cherokee Nation law and because the smoke shops are located on restricted or trust land, they are subject to tribal law, not state. The "legalization" of medical marijuana by the state does not make it legal on tribal land. The license retailers had a meeting and Sharon had Shelia to announce this information to the retailers that had attended the meeting. She stated they also, sent out a letter to each licensed smoke shops stating it is not legal.

Sharon had a memo from a of the smoke shop owners stating, "*DEA Says Hemp Derived CBD Oil Products are Federally Legal*". Sharon told him she would send this to the Attorney General's office and they would check this statement out.

Officer Buhl with Cherokee Nation Marshall Service stated that he ask Whit Woodruff – Special Agent from BIA to join us in today's meeting to help answer any questions that the Commission may have.

Officer Buhl stated any product that derives from the marijuana plants (stem, roots, seeds, leaves.....etc.) if it comes from any part of the marijuana plant whether or not it has THC in it, it is against tribal law. Special Agent Woodruff added that the Feds mirror that with exception of the stalk. Textiles are made with the stalk. Any part of the plant is a schedule I narcotic.

Officer Buhl stated if the smoke shops have the CBD oil in the shops; Cherokee Nation Marshal Service will prosecute them. By the Cherokee Statute 75 C.N.C.A. 2101 tribal code states ANY part of the plant including the stalk is illegal to sell, posses, or manufacture. He stated as long as it is illegal federally and Cherokee Nation receives federal funding it will always be illegal in Cherokee Nation until the Federal changes that decision.

Paiten Qualls states their office was asking a question a couple of weeks ago. There is Federal legislation underway to make the agriculture production legal. Under Oklahoma law the Universities can grow it and use it for certain things. The agriculture production cultivation of hemp is still illegal under State of Oklahoma and Tribal Laws.

Sharon said she will send the same letter to the wholesalers that were sent to the retailers. That it is not legal for the tribal licensed smoke shops to sell. And if the wholesalers are on tribal property with the product they can be prosecuted also.

Agenda #4 – MV: 01-1-104 Documents Required for Registration

Agenda #5 – MV: 01-2-231 Non Commercial Vehicles

Agenda #6 – MV: 01-2-235.6 Private Trailer

Agenda #7 – MV: 01-2-235.7 Travel Trailer

Agenda #8 –MV: 01-2-235.8 Motorcycle

Agenda #9 –MV: 01-2-235.9Moped

Agenda #10 –MV: 01-2-235.10 Recreational Vehicle

Agenda #11 –MV: 01-2-250 Foreign Vehicles

Agenda #12 –MV: 01-3-312 Rental Vehicle Titles

Agenda #13 –MV: 01-3-322 Body Changes

Agenda #14 –MV: 01-3-324.1 Affidavit for when Assigned title is Lost

Agenda #15 –MV: 01-3-325.1 Releasing Liens

Chairman Wilson made a motion to approve the Motor Vehicle Rules and Regulation changes and additional language for Agenda's #4-15.

Commissioner Robinson had some questions on Tobacco Rules and Regulations that were presented.

Agenda #16 -RT: 01-1-100-Definitions

Agenda #17 –RT: 07-7-700 – Sales to Minors

Agenda #18 –RT: 07-7-700.1 –Employee – Employer Compliance of Youth Access to Tobacco and /or Vapor Products

There was a discussion on the agenda items and Sharon suggested to table agenda's 16–18. Sharon, Shelia and Paiten can meet and review the offense charges and make some suggestions, and send those suggestions out to the Commission before the December 12th meeting. Commissioner Robinson stated she thinks all three commissioners should vote on these items, so they will wait and discuss these with Commissioner Doublehead in the December meeting.

Chairman Wilson made a motion to table Agenda's #16-18 for December 12th meeting. Commissioner Robinson seconded the motion. Motion carried.

Agenda #19 - RT-02 Employee Knowledge and Compliance Permit-

Commissioner Robinson had a question regarding the "Employee Permit". She asked why we request a Social Security number on this form. Sharon said that can be changed. We could use a driver's license number in place of the Social Security number.

The Commission agreed agenda item #19 should also be included with the agenda items tabled. Commissioner Robinson made a motion to table item # 19. Chairman Wilson seconded the motion. Motion carried.

Agenda #20 – Monthly Reports-

Sharon stated on the June year to date Motor Vehicle report shows approximate 10 percent increase, and July is 10 to 11 percent increase.

On Tobacco, June year to date there is a decrease on cigarettes and tobacco. Alcohol Retail Sales increase less than 1% year to date.

Motor vehicle continues to grow at the rate of 10 to 11 percent per year. We are still continuing to look at our offices. Budget has been approved for FY "19".

Council has asked Sharon regarding our Catoosa office, this office is the busiest office next to Tahlequah office. And it is next to the smallest office we have. The Nation does own some property across the road; she said they are possibly talking to them about

building a building on that property. Catoosa office is growing so fast that there isn't enough room for customers to sit.

Sharon stated she has spoken with Human Resources on the Tax Commission Agent salary schedule to be upgraded. There was a brief discussion on salaries.

Agenda #21 – Consideration, discussion, and possible approval regarding any matter not known about or which could not have reasonably been foreseen prior to the time of posting.

Jamie Hummingbird - Cherokee Nation Gaming Commission. The Tax Commission had questions regarding keeping track of alcohol from warehouse to the retailer with in CNE. Jamie stated he may be able to help answer some questions but probably not to the extent what the commission is looking for. As far as the records and tracking the Gaming Commission is at a distance on that part. He stated they had an audit and his auditing cited operations for not having sufficient documentation and policies pertaining to alcohol. It was relayed to the Gaming Commission at that time questioning whether or not Gaming had the authority to question anything on alcohol due them being gaming. He stated even though the Gaming Compact has the responsibility to make sure all alcohol is bought, sold, and served is include with State and Tribal law. He said they have in the past licensed bartenders, server staff, anyone associated with alcohol they have licensed. This is part of Gaming Commission procedures. A year and half ago they used to license vendors for the distributors. That changed and now its nongaming and they do not have authority to do that.

The operation is supposed to be keeping very detail records. They do have transactional records on how much they have purchase from distributors, how much they have sold, what their shrinkage, spoilage verses all the taxes. They should have the ability to supply all that information through their accounting systems.

Chairman Wilson asks who is in charge of the alcohol. Tax Commission would be primarily in charge for the alcohol. At the present comping of alcohol that includes 3.2 beer is illegal. It is possible you could get free alcohol connected with a promotional activity or private event. If a player would ask to have his meal with a bottle of wine, the meal could be comp, but cannot comp the wine, and the player would need to pay for the wine. The Oklahoma Attorney of General opinion that says provision of free alcohol is against State law. The reason it extends down to 3.2 beer for the Nation due to the definition in liquor ordinance states that the finest liquor is anything .5% or higher. The definition of "comp" is given to the player for free item or service. Definition of shrinkage is broken, disappears (a product that doesn't get sold).

Sharon said she needs to speak with whoever is over food and beverage and see what kind of formulas they have and explain to them what Tax Commission needs in reporting to be able to calculate the tax. Sharon said its 2% and this is less than what the state charges. Sharon said Tax Commission does not keep any of the alcohol money. An alcohol tax automatically goes to the Health department. Tax Commission is the regulator therefore we collect the taxes. It is budgeted in Tax Commission budget, and shows an automatic out, and goes to the Health Department. Commissioner Robinson said they need to review that and raise the amount in the law. Sharon said they discussed a few years ago about a MOU between the Gaming and Tax Commissions due to the fact

that Jamie has staff at the casinos 24/7 and Sharon has a staff of three. If there is a way for both commissions to work that mutual agreement Gaming could alert the Tax Commission and we could work with them.

Sharon said the only time the State comes in is if they get a report and it suggests that they are selling to minors. They will come in at that time and they can fine them because the casinos are licensed with a state and tribal license. The State gets 6% and Cherokee Nation is getting 2% which the total tax is 8%.

Jamie explain in 2005 when Gaming first got that responsibility they started looking at how they were going to be able to combine Tax Commission and Gaming responsibilities. Gaming had the structure and personnel and discussed that with Tax Commission at that time. Since Gaming is already at the casinos, Tax Commission didn't have to duplicate as far as coming up with a new licensing process.

He said his request that he will be sending in a few days may answer the question of possibly getting an Attorney General's opinion. A question he has is, if Gaming is doing all these things this is how they see all their responsibilities are unfolding under the alcohol service portion of their compact. If this is not right then it would need to come back to Tax Commission. It depends on the opinion Jamie gets on his questions.

Sharon needs to speak with Paul Jerrell, with Food & Beverage, and Doug Evans with C.N.E. regarding Alcohol.

Sharon said we do not have a compact with alcohol. It's not addressed in our Tobacco compact or Motor Vehicle compact. The only place it is addressed briefly is in the Gaming compact. And that's why we have always worked with Gaming.

Other Old Business- The listed items in this section is the Rules and Regulations that we covered in the last Tax Commission meeting in June. They came up after the agenda was posted. Commissioner Doublehead requested for those items to be on this agenda as "Old Business" so it can be documented. Tammy said all of it has been posted for the 30-day review and there were not any comments.

Commissioner Robinson made a motion to approve the "Old Business" items. Chairman Wilson seconded the motion. Motion carried.

Chairman Wilson made a motion to adjourn. Commissioner Robinson seconded the motion. Motion carried.

Adjournment at 5:40 P.M.


Commission Approval