

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JUL 11 2019

ORDINANCE NO.: 658 (2019)

WHEREAS, the Eastern Band of Cherokee Indians is committed to protecting its arts and culture and in telling the Tribe's story accurately and truthfully; and

WHEREAS, some arts and crafts sellers on the Qualla Boundary display and sell items that are represented as being the arts and crafts of the EBCI or of other Native American tribes, but in fact the items have no connection to Cherokee artists or Cherokee history or to other tribes; and

WHEREAS, there are other laws which intend to address this problem, including the federal Indian Arts and Crafts Act (P.L. 101-644), but these laws have not prevented inauthentic Cherokee goods and goods falsely purporting to be of other tribes from being displayed and sold; and

WHEREAS, for the betterment of the Tribe and the protection of its arts and culture on the Qualla Boundary, the Tribe should create its own arts and crafts act to require truth-in-advertising for items represented as Indian arts and crafts on the Qualla Boundary; and

WHEREAS, in accordance with Resolution 573 (2019), enacted by Tribal Council and ratified by the Principal Chief, the Office of the Attorney General submitted this legislation for Tribal Council's consideration to prevent the problem described above; and

WHEREAS, in order to clarify the Cherokee Code to reflect the policy of protecting the arts and culture of the Eastern Band of Cherokee Indians and other tribes, as well as the members of the public who unknowingly purchase inauthentic goods believing them to be truthful and accurate works, a Cherokee Arts and Crafts Act should be enacted; 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 in order to prohibit the sale of inauthentic and counterfeit Cherokee and other Native American goods, Cherokee Code Chapter 106 shall be hereby amended by adding the following Article:

Secs. 106-51 – 106-59. – Reserved.

ARTICLE III. – Cherokee Arts and Crafts Act.

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48 **Sec. 106-60. – Purpose.**

- 49 (a) This Article shall be known as the “Cherokee Arts and Crafts Act.” The purpose of this
50 Article shall be to prohibit misrepresentation in the marketing of Cherokee arts, crafts, and
51 goods so as to protect and promote the authenticity and integrity of Cherokee culture and
52 members of the public engaged in commerce on the Qualla Boundary. The Tribe is
53 committed to protecting its arts and culture and in telling the Tribe’s story accurately and
54 truthfully.
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56 **Sec. 106-61. – Definitions.**

- 57 (a) Terms used in this Article shall have the following meanings:
58 (1) *Cherokee, Tribe, or Tribal* shall mean or refer to the Eastern Band of Cherokee
59 Indians.
60 (2) *Enrolled member* shall mean an enrolled member of the Eastern Band of Cherokee
61 Indians.
62 (3) *Goods* shall mean tangible or movable personal property other than money,
63 especially articles of trade or items of merchandise.
64 (4) *Native* shall mean or refer to the Eastern Band of Cherokee Indians or another
65 federally-recognized Indian tribe.
66

67 **Sec. 106-62. – Prohibition of misrepresentation of Cherokee goods.**

- 68 (a) It is unlawful to offer, display for sale, or sell any good in a manner that falsely suggests it
69 is Cherokee produced, a Cherokee product, or the product of a particular enrolled member,
70 the Tribe, or a Tribal arts and crafts organization.
71

72 **Sec. 106-63. – Prohibition of misrepresentation of Native goods.**

- 73 (a) It is unlawful to offer, display for sale, or sell any good in a manner that falsely suggests it
74 is Native produced, a Native product, or the product of a particular member of a federally
75 recognized Indian tribe, a federally-recognized Indian tribe, or a Native arts and crafts
76 organization.
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78 **106-64. – Enforcement of this Article.**

- 79 (a) Any person who knowingly violates any provisions of this Article shall be guilty of Trading
80 in Inauthentic Goods. Each violation of this Article shall be punishable by a fine not to
81 exceed \$1,000.00, and term of imprisonment not to exceed six months, or both.
82 (b) Any person or business entity who knowingly violates any provision of this Article may
83 have its Tribal business license revoked by the Business Committee.
84 (c) This section does not preclude the Tribe from seeking recourse in any other lawful manner,
85 including but not limited to actions to enforce copyright or trademark protections.
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87 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
88 are rescinded, and this ordinance shall become effective upon ratification by the
89 Principal Chief.
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91 *Submitted by the Office of the Attorney General*