

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: MAR 14 2019

ORDINANCE NO. 520 (2019)

WHEREAS, Cherokee Code §14-34.17 makes it unlawful for a convicted felon to purchase, own, possess or have in his custody, care or control a firearm or other dangerous device as defined in the Code; and

WHEREAS, this section needs to be amended to add language regarding the applicable penalty for violations.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians in Tribal Council assembled, at which a quorum is present, that Cherokee Code §14-34.17 shall be amended to read as follows:

Sec. 14-34.17. - Possession of firearms, etc. by felon prohibited.

- (a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any firearm or any dangerous device as defined in C.C. Section 14-34.12(b).
- (b) For the purposes of this section, a firearm is any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. Firearm does not include an antique firearm, a BB gun, stun gun, air rifle, or air pistol.
- (c) Prior convictions which cause disqualification under this section shall include only the following: violations of criminal laws of other federally recognized Indian tribes, of the states, or of the United States, that are substantially similar to the crimes covered in Cherokee Code Chapter 14 which are punishable by imprisonment for a term exceeding one year.
- (d) When a person is charged under this section, that person's records of prior convictions of any offense, regardless of whether the prior convictions were in the Cherokee Court, in a court of another federally recognized Indian tribe, in a state court, or in the courts of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is authorized, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified by the custodian of records of such documents in the jurisdiction where the conviction or plea was entered shall be prima facie evidence of the facts so certified.
- (e) This section does not apply to a person who, pursuant to the law of the jurisdiction in which the conviction occurred, has been pardoned or has had his or her firearms rights restored if

1 such restoration of rights could also be granted under the law of the Eastern Band of Cherokee
2 Indians.

3 (f) This section does not apply and there is no disentitlement to the possession of firearms under
4 this section if the felony conviction is a violation under the laws of the Cherokee Court, a
5 court of another federally recognized Indian tribe, a state court, or the courts of the United
6 States, that pertains to antitrust violations, unfair trade practices, or restraints of trade.

7 (g) Violation of this section shall be punishable by a fine not to exceed \$15,000.00, by a term of
8 imprisonment not to exceed three years, or both.
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10 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
11 rescinded, and that this ordinance shall become effective when ratified by the
12 Principal Chief.
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15 *Submitted by the Office of the Attorney General*
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