

TABLED

Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: MAY 02 2019

ORDINANCE NO. 565 (2019)

WHEREAS, Cherokee Code (C.C.) Chapter 18B gives the Tribal Alcoholic Beverage Control Commission (TABCC) authority to regulate the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages on EBCI trust lands; and

WHEREAS, C.C. Sec. 18B-804 states that pricing for spirits sold to TABCC permittees and the public shall be the same uniform price as published by Sec. 18B-804 of the North Carolina General Statutes (N.C.G.S.); and

WHEREAS, N.C.G.S. Sec. 18B-804 requires uniform pricing for spirituous liquor sales in the state. The pricing is made up of multiple components, including an undefined markup for local boards; and

WHEREAS, C.C. Sec. 18B-804 states that the TABCC may "impose the same tax or markup as a Tribal tax or markup, where appropriate, and to utilize such tax or markup in operations of TABCC and profits after operation shall be distributed as determined by Tribal Council"; and

WHEREAS, the TABCC imposes a 30% tax or markup, which it also refers to as a surcharge; and

WHEREAS, the Tribal Casino Gaming Enterprise (TCGE) has contracted with Experientia Development Partners to bring new restaurants and other retail development to Cherokee in connection with the casino. Experientia has informed the TCGE that the 30% tax or markup or surcharge is too high in comparison to neighboring venues, such as Gatlinburg, Tennessee, puts Cherokee at a competitive disadvantage, and is limiting Experientia's ability to recruit tenants to Cherokee; and

WHEREAS, C.C. Sec. 18B-804 should be amended to delete the tax or markup or surcharge imposed by TABCC so Cherokee can be competitive in the marketplace.

NOW THEREFORE BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians assembled, at which a quorum is present, that C.C. Sec. 18B-804 is amended to read as follows:

1 Sec. 18B-804. - Alcoholic beverage pricing.
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3 The uniform pricing of spirits sold to permittees and the public shall be the same
4 uniform price as published by North Carolina General Statutes Sec. 18B-804,
5 except that the price shall not include and the TABCC shall not impose any tax or
6 markup or surcharge on alcoholic beverages (malt beverages, spiritous liquor,
7 fortified wines and unfortified wines). ~~Where a tax or markup is imposed in this~~
8 ~~section, the TABCC is authorized to impose the same tax or markup as a Tribal~~
9 ~~tax or markup, where appropriate, and to utilize such tax or markup in operations~~
10 ~~of TABCC and profits after operation shall be distributed as determined by Tribal~~
11 ~~Council.~~
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13 BE IT FURTHER ORDAINED that this amendment shall be effective upon ratification
14 by the Principal Chief, and all prior ordinances and resolutions that are
15 inconsistent with this ordinance are rescinded.
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18 *Submitted by Principal Chief Richard G. Sneed*
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