

JANUARY 2005 CROW TRIBAL LEGISLATURE

BILL NO. CLB05-07

**INTRODUCED BY CARL E. VENNE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

A BILL FOR AN ACT ENTITLED:

**“AN ACT
CREATING A TAX ON THE SALE OF TOBACCO PRODUCTS ON THE
RESERVATION, AND AUTHORIZING THE TRIBAL CHAIRMAN TO NEGOTIATE
A COOPERATIVE AGREEMENT WITH THE STATE OF MONTANA FOR
COLLECTION OF THE TAX SUBJECT TO FINAL APPROVAL OF THE CROW
LEGISLATURE”**

WHEREAS, Article V, Section 2 of the Constitution and Bylaws of the Crow Tribe of Indians authorizes the Tribal Legislature to provide for the levying of taxes and licensing members and non-members for various purposes; and

WHEREAS, the Crow Law and Order Code does not currently contain codified provisions for the levying of tobacco taxes for the benefit of the Crow people; and

WHEREAS, Article IV, Section 3(a) of the Constitution authorizes the Executive Branch and its Chairman to represent the Crow Tribe in negotiations with Federal, State and local governments in matters of welfare and economic development; and

WHEREAS, the State of Montana levies a sales tax on cigarettes and tobacco products but the State tax does not apply to the sale of cigarettes to Tribal members on the Reservation; and

WHEREAS, the Crow Tribe and the State of Montana currently have a cooperative agreement dated January 1, 2001 providing for an annual quota of cigarettes to be sold to Indians on the Crow Reservation free of the State tax; and

WHEREAS, under the current tax-free quota agreement, the Tribe does not receive any tax revenue compared to the substantial tax revenue it would receive if the Tribe taxed sales of tobacco products in a manner similar to the State; and

WHEREAS, creating a Tribal tobacco products tax and entering into a new cooperative agreement with the State of Montana for the collection of the tax will result in substantial

01.21.05

Section 3. Codification Instructions. The Crow Law and Order Code is amended to add the Tribal Tobacco Products Tax adopted by Section 2 as Chapter ___ of Title 13 – Taxation.

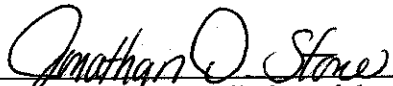
CERTIFICATION

I hereby certify that this Bill was duly approved by the Crow Tribal Legislature with a vote of 13 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 21st day of January, 2005.



Speaker of the House
Crow Tribal Legislature

ATTEST:

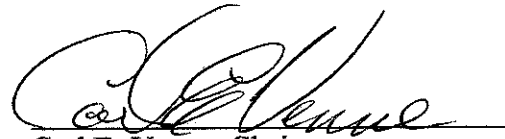


Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby
 approve,
 veto

this Bill pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 31st day of JANUARY, 2005.



Carl E. Venne, Chairman
Crow Tribal Executive Branch

01.21.05

Bill # 12

Taxation on Tobacco Products

Bill or Resolution Number CLB05-07 Introduced by: Executive Date of Vote 1-21-05
Representative

	Yes	No	Abstain
B. Cloud	<u>X</u>	<u> </u>	<u> </u>
C. Goes Ahead	<u>X</u>	<u> </u>	<u> </u>
O. Costa	<u> </u>	<u> </u>	<u> </u>
V. Crooked Arm	<u>X</u>	<u> </u>	<u> </u>
R. Iron	<u>X</u>	<u> </u>	<u> </u>
J. Stewart	<u>X</u>	<u> </u>	<u> </u>
E. Fighter	<u> </u>	<u> </u>	<u> </u>
L. Costa	<u>X</u>	<u> </u>	<u> </u>
L. Hogan	<u>X</u>	<u> </u>	<u> </u>
D. Old Elk	<u>X</u>	<u> </u>	<u> </u>
K. Real Bird	<u> </u>	<u> </u>	<u> </u>
E. Pease	<u>X</u>	<u> </u>	<u> </u>
S. Medicine Horse	<u>X</u>	<u> </u>	<u> </u>
L. Not Afraid	<u>X</u>	<u> </u>	<u> </u>
P. Real Bird	<u> </u>	<u> </u>	<u> </u>
D. Wilson	<u> </u>	<u> </u>	<u> </u>
J. Stone	<u>X</u>	<u> </u>	<u> </u>
<i>Secretary of the House</i>			
W. Plain Feather	<u>X</u>	<u> </u>	<u> </u>
<i>Speaker of the House</i>			
Totals:	<u>13</u>	<u>0</u>	<u>0</u>

Results of Vote: Passed Not Passed Tabled Veto Override

Signature of Officer: David R. LaForte Date: 1-21-05

Tribal tax revenue and help discourage the non-ceremonial use of tobacco products by Tribal members;

NOW, THEREFORE, BE IN ENACTED BY THE CROW TRIBAL LEGISLATURE:

Section 1. The Chairman of the Crow Tribe is authorized to negotiate on behalf of the Tribe a new cooperative agreement with the State of Montana, Department of Revenue, providing for the collection of Tribal tobacco products taxes on a portion of the cigarette and other tobacco products sales on the Crow Indian Reservation, and related purposes, according to the terms specified in Section 2, subject to approval of the final agreement by the Crow Legislature.

Section 2. The Crow Law and Order Code is amended to add the following Tobacco Products Tax as Chapter ___ of Title 13 – Taxation, *provided, however*, that the effective date of the Tribal Tobacco Products Tax shall coincide with the effective date of an Agreement with the Montana Department of Revenue.

TITLE 13

TAXATION

Chapter 1. Tobacco products.

13.1.100 **Limitation.** The Tribe's tax on tobacco products shall only be effective as long as the Crow Nation and the State of Montana have a mutually agreed tobacco tax compact in force. Nothing in this Chapter or in any state-tribal compact involving taxation shall preclude the Crow Nation from reassuming its sovereign power to administer applicable taxes, including tobacco taxes on qualifying activities occurring on the Crow Reservation. This Chapter and any related state-tribal tobacco taxation compact shall not be construed to waive any legal claims that the Crow Nation may have against the State of Montana regarding tobacco taxes collected prior to this Act.

13.1.101 **Sec. 101 Definitions.** As used in this chapter, unless otherwise noted, the following definitions apply:

- (1) "Agreement" means the Crow Tribe-Montana Tobacco Tax Agreement.
- (2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of nontobacco paper or any other substance or material except tobacco.
- (3) "Insignia" means the impression, mark, or stamp approved by the State for use on cigarette packages.
- (4) "Moist snuff" means any finely cut, ground, or powdered tobacco,

01.21.05

other than dry snuff, that is intended to be placed in the oral cavity.

(5) "Person" means an individual, firm, partnership, corporation, association, company, or other business entity, however formed.

(6) "Reservation" means the Crow Indian Reservation.

(7) "Sale" or "sell" means any transfer of tobacco products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

(8) "State" means the State of Montana, Department of Revenue.

(9) "State tobacco taxes" means the taxes on sales of tobacco products imposed by the State of Montana.

(10) "Tobacco product" means a substance other than cigarettes that is intended for human consumption and contains tobacco.

(11) "Tribal tobacco taxes" means the Crow Tribe's taxes on tobacco products imposed by this chapter.

(12) "Tribe" means the Crow Tribe of Indians of the Crow Indian Reservation.

(13) "Wholesaler" means a person who sells tobacco products for resale on the Reservation, including any persons defined as a "wholesaler" under the State cigarette and other tobacco tax statutes.

(14) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or other reduction.

13.1.102 Cigarette Tax Imposed.

(1) A Tribal cigarette tax is imposed on the sale of cigarettes within the Reservation for consumption, use or any purpose other than resale in the regular course of business. The tax is equal to One Dollar and Seventy Cents (\$1.70) for each package of cigarettes containing twenty (20) cigarettes. Whenever packages contain other than twenty (20) cigarettes, there is a tax on each cigarette equal to one-twentieth (1/20th) of the tax on a package containing twenty (20) cigarettes. The amount of the tax may be changed from time to time to correspond with the amount of tax assessed by the State of Montana.

(2) A wholesaler selling cigarettes for resale within the Reservation must pre-collect and pay the Tribal cigarette tax through the purchase of State tax insignia as provided in 13.1.103.

(3) With respect to pre-collected Tribal cigarette taxes, a wholesaler must report to the State and to the Tribe the same information that would be required under Montana laws and regulations with respect to pre-collected State cigarette taxes.

(4) The tax computed under subsection (1) applies to illegally packaged cigarettes

01.21.05

13.1.103 Tax insignia.

A State tax insignia must be affixed to all cigarettes sold within the Reservation. A wholesaler selling cigarettes subject to the Tribal cigarette tax shall comply with Montana laws and regulations on the requirements for purchasing and affixing State tax insignia. In calculating any insignia discount, sales subject to the State cigarette tax and sales subject to the Tribal cigarette tax should be combined.

13.1.104 Records of wholesalers.

All wholesalers making sales of tobacco products subject to the Tribal cigarette tax must maintain for five (5) years and make available for examination by the State and the Tribe the same books and records as are maintained with respect to cigarette sales subject to the Montana cigarette tax.

13.1.105 Licenses.

All wholesalers must be licensed by the State of Montana before selling tobacco products for resale within the Reservation

13.1.106 Tax on other tobacco products.

(1) A Tribal tax is imposed on the sale of other tobacco products on the Reservation. The tax is equal to fifty percent (50%) of the wholesale price of all tobacco products, other than moist snuff. The tax on moist snuff is 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. The amount of the tax may be changed from time to time to correspond with the amount of tax collected by the State of Montana.

(2) A wholesaler making sales of tobacco products for resale within the Reservation must pre-collect and pay to the State the Tribal tax on other tobacco products. A wholesaler may reduce the amount of the Tribal tax on other tobacco products the wholesaler pays by two and one-half percent (2.5%) to compensate for such person's collection and administrative expenses. The amount of this defrayment may be changed from time to time to correspond with the amount of defrayment allowed by the State of Montana.

(3) With respect to the pre-collected Tribal tax on other tobacco products, a wholesaler must report to the State and the Tribe the same information that is required under Montana laws and regulations with respect to the State tax on other tobacco products.

13.1.107 Agreement with the State of Montana

The Tribe may enter into an agreement with the State to collect and distribute to the Tribe the revenues generated by this tax on tobacco products and may from time to time negotiate other agreements beneficial to the Tribe. Nothing in any agreement may (a) preclude the Tribe from taking future action to establish its own taxing authority for the purpose of collecting the tribal tax on tobacco products or (b) waive, renounce, or diminish the rights of the Tribe as a sovereign nation from establishing, levying, or enforcing taxation provisions in accordance with applicable law, except as specifically provided herein.

01.21.05