

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0145-20__

SPONSOR: Daniel E. Tso

TITLE: An Action Relating To An Emergency For The Navajo Nation; Opposing Liquor License Application Filed By Family Dollar Store In The Community Of Saint Michaels, Arizona Locate Within The Territorial Jurisdiction Of The Navajo Nation

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0145-20

DATE: June 29, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; OPPOSING LIQUOR LICENSE APPLICATION FILED BY FAMILY DOLLAR STORE IN THE COMMUNITY OF SAINT MICHAELS, ARIZONA LOCATED WITHIN THE TERRITORIAL JURISDICTION OF THE NAVAJO NATION

PURPOSE: This Resolution, if adopted, opposes the liquor license application filed by Family Dollar Store in the Community of Saint Michaels, Arizona located within the Territorial Jurisdiction of the Navajo Nation.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Prime Sponsor)


TRACKING NO. 0145-20

AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; OPPOSING
LIQUOR LICENSE APPLICATION FILED BY FAMILY DOLLAR STORE IN THE
COMMUNITY OF SAINT MICHAELS, ARIZONA LOCATED WITHIN THE
TERRITORIAL JURISDICTION OF THE NAVAJO NATION

WHEREAS:

A. Pursuant to 2 N.N.C. §164 (A)(16) “[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.”

B. Actions taken contrary to Navajo Nation law threaten the sovereignty of the Navajo Nation.

C. Federal law provides a comprehensive scheme of liquor regulation on tribal lands. 18 U.S.C. §§ 1154, 1155, 1156, 1161, 3113, 3488, and 3669. Federal law recognizes the authority of a tribe to regulate liquor sales within its “Indian Country.” 18 U.S.C. § 1161. “Indian Country,” for purposes of federal laws regulating liquor, includes fee patented land within the exterior boundaries of a tribe’s reservation, unless the fee patented land is within a non-Indian community. 18 U.S.C. §§ 1151 and 1154(c).

1 D. The Navajo Nation is a sovereign nation. The government seeks to protect the health,
2 safety and welfare of all its tribal members, as well as all residents living within the
3 boundaries of the Navajo Nation. Within Navajo Indian Country, the Navajo Nation has
4 jurisdiction to enforce its civil and criminal laws and regulations related to the
5 distribution, sale, and possession of liquor, including the Navajo Nation Liquor
6 Regulations.

7 E. Under Navajo Nation law, it is illegal to possess, transport, manufacture, and sell
8 liquor on the Navajo Nation, unless subject to limited exceptions, and then only with
9 authorization of the Navajo Nation government. 17 N.N.C. §§ 410 and 411. The
10 exceptions are as follows. The Nation permits the sale, manufacture, delivery, and
11 transport of liquor if it is intended for scientific, sacramental, medicinal, or mechanical
12 purposes. 17 N.N.C. § 412(A). The Nation also permits the sale, delivery,
13 transportation, and consumption of alcoholic beverages at Antelope Point Resort and
14 Marina Business Site Lease and within Navajo Nation Gaming Enterprise properties,
15 subject to certain limitations, and only in conformity with Navajo Nation, state, and
16 federal laws. 17 N.N.C. §§ 412(C) and (D).

17 F. The Navajo Tax Commission was empowered by the Navajo Nation Council to
18 regulate liquor on the Nation. 17 N.N.C. § 412. Through resolution TAX-08-208, the
19 Navajo Tax Commission adopted the Navajo Nation Liquor Regulations, which were
20 then certified by the Secretary of the Interior, and published in the Federal Register on
21 December 24, 2008. The Regulations apply to Indians and non-Indians alike. Navajo
22 Nation Liquor Regulations § 1.106(B). The Office of the Navajo Tax Commission is
23 delegated the authority to enforce these regulations. *Id.* § 1.105(B). The Regulations
24 allow for the sale and consumption of liquor at Navajo casino facilities and at Antelope
25 Point, subject to certain restrictions and licensing requirements. *Id.* § 1.108. Most
26 notably, package sales and sales for resale are expressly prohibited on the Nation. *Id.* §
27 1.109.

28 G. The Navajo Division of Behavioral and Mental Health has summarize the problem of
29 alcohol in Native Americans throughout the United States as follows:
30

1 "Alcohol and Substance Use has a profound effect on the American Indian/Alaska
2 Native (AI/AN) population. It impacts families and communities leading to
3 increases in domestic violence, drug overdoses, public intoxication, crimes, child
4 and elder abuse cases, chronic health conditions, fetal alcohol syndrome,
5 unintentional injuries, and suicide ideations and attempts, and ultimately, leading
6 to death. The adverse effects of alcohol and substance use puts a burden on
7 public safety, health care facilities, the judicial systems, raises the level of
8 poverty, and unemployment, and increases education risk factors such as dropping
9 out of school."

10 H. Family Dollar Store is a Virginia-based discount store. As its name suggests, it caters
11 to low income people. The company has over 8,000 stores across the United States,
12 including stores within the exterior boundaries of the Navajo Nation. To increase sales
13 and profits, the national chain has recently decided to expand its business to include the
14 sale of packaged liquor in certain stores. Family Dollar Store, no. 32091, located in the
15 community of Saint Michaels, Arizona within the Navajo Nation, is one of these stores.
16 On June 16, 2020, this store provided notice that it applied to the state of Arizona Liquor
17 Board for an Arizona liquor license. The Navajo Nation strongly opposes all efforts of
18 Family Dollar to sell packaged liquor within the exterior boundaries of the Navajo
19 Nation.

20 I. Saint Michaels is a community within the Navajo Nation. Family Dollar sits on fee
21 land in the center of this community and is surrounded by tribal trust land and other fee
22 patented parcels. See attached Exhibit A, a descriptive satellite map of the area. Within
23 very close proximity of the Family Dollar, there are churches, a Catholic school (Saint
24 Michael Indian School) and a federal building next to it (within a few feet and sharing the
25 same entrance from the highway). There is also an entire residential neighborhood right
26 next to the business, with a playground for children. Aside all the other hazards that will
27 result, property values of fee land in this neighborhood will certainly drop due to sales of
28 liquor within the area.

29 J. Other property interests and public service entities immediately adjacent to Family
30 Dollar include a U.S. Post Office in Saint Michael, the Karigan Professional Building

1 Complex (housing a number of tribal programs, such as Tax Commission, Human Rights
2 Office, Business Development and the Navajo Nation Bar Association), a radio station –
3 KTNN, a Child Care operated by Christian Health Care Services, the Saint Michaels
4 Senior Citizens Program, the Toyei Industries (providing services for developmental
5 disabilities and mental illness), and the Ch’ihootso Baptist Church. These entities
6 providing the essential services are within and less than one mile of Family Dollar. None
7 of this vital information is provided in Family Dollar’s liquor license application. Yet
8 these are all factors that the Apache County Board of Supervisors and the Arizona Liquor
9 Board should consider.

10 K. Family Dollar sits adjacent to a major state highway, 264. On this highway, to the
11 east, there is the city of Gallup, New Mexico. At the other end, there is Tuba City in
12 Arizona (within the Navajo Nation). Alcohol sales present hazards associated with
13 driving. There have been fatalities on 264 due to drunk driving. Selling liquor along this
14 major highway will certainly increase drunk driving collisions. There is also the concern
15 over pedestrians crossing the same highway. Pedestrians, intoxicated, have been hit and
16 killed on this stretch of highway.

17 L. Within the Navajo Nation, 55% of calls for help and assistance concern public
18 intoxication. Of communities within the Navajo Nation, Tuba City and Window Rock
19 receive the highest number of calls concerning public intoxication. Both of these
20 communities are along highway 264, with Saint Michaels located within 2 miles of
21 Window Rock. *Data/Statistics, Navajo Division of Behavioral and Mental Health*
22 *Services*. Elements in respect to the offense of Public Intoxication include the inability,
23 in a public place, to “care for [one’s] own safety” (due to intoxication).

24 M. The sale of alcohol at Family Dollar in Saint Michaels will unquestionably contribute
25 to an increase in drunk driving crashes, as well as an increase in the number of
26 pedestrians killed due to intoxication.

27 N. Alcohol is a major problem within the Navajo Nation. The harm caused by alcohol
28 on members of the Navajo Nation has been devastating. Members of the Navajo Nation
29 have died from the consumption of alcohol or been killed because of it. The rate of
30 alcoholism is alarming within the Navajo Nation. There is a moral and legal obligation

1 of governments to protect its citizens. Considering the devastating impact and harm
2 alcohol has had on members of the Navajo Nation, it would be unconscionable to grant a
3 license to Family Dollar to sell liquor within the community of Saint Michaels or any
4 other place within the Navajo Nation.

5 O. The short comment period of 20 days for an Arizona liquor license is much too short.
6 This is unfair to the public, residents living within the area that would be affected and
7 businesses operating and providing services to the public. In the interest of public safety
8 and fair opportunity to be heard, the state of Arizona should consider amending this short
9 20-day period. Further, there should be more strict requirements placed on liquor license
10 applicants in providing information as to its location and a description of the surrounding
11 area, including demographics. This burden should not be placed on those who would be
12 affected, although opportunity for public comment is provided.

13
14 **NOW THEREFORE BE IT RESOLVED:**

15 The Navajo Nation hereby OPPOSES the Arizona liquor license application
16 submitted by Family Dollar Store no. 32091, located within the exterior boundaries of the
17 Navajo Nation. Apache County and the State of Arizona must respect the Nation's
18 sovereign authority and recognize that Family Dollar's proposed retail sales of packaged
19 liquor would violate Navajo Nation laws and regulations. On behalf of our Navajo
20 People, the Nation requests that the Apache County Board of Supervisors recommend
21 denial of Family Dollar's application and that the Arizona State Liquor Board deny the
22 application.