



November 2, 2009

The Honorable Harry Reid
Majority Leader
United States Senate
S-221, U.S. Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-231, U.S. Capitol
Washington, DC 20510

Dear Leaders Reid and McConnell:

On behalf of America's leading retailers of gasoline and diesel fuel, we are writing in opposition of two pieces of legislation recently approved by the Senate Committee on Indian Affairs that would extend federal recognition to several Native American tribes. Both bills, S. 1178, the Indian Tribes of Virginia Federal Recognition Act and S. 1735, the Lumbee Recognition Act, could permit Native American Tribes to circumvent the law by allowing tribes to sell both fuel and tobacco products to customers tax-free. This practice constitutes an unfair, competitive advantage for tribal retailers and threatens to compete against existing retailers who are not granted state tax exemptions. We are requesting that these bills be amended to address these concerns before they are debated on the Senate floor.

Under current law, Native American tribes are exempt from charging state excise taxes from the sales of fuel or tobacco products to members of the tribe. However, many tribal retailers have been found to take advantage of this exemption by also selling tax-free goods to non-tribe members. Such practices allow these retailers to unfairly compete with businesses located near the reservation, who must charge all applicable state excise and sales taxes. Without clear provisions allowing the states to enforce their tax laws it will be difficult, if not impossible, for the states to ensure the proper collection and remittance of state taxes on sales by the tribes and tribal retailers.

Given the potential for unfair competition as a result of these two bills, we request that these bills not be brought before the full Senate without safeguards to ensure that federal recognition does not permit tribal retailers to avoid charging state taxes on products sold to non-tribe members on the reservation. Such safeguards would ensure fairness and provide all retailers an equal opportunity to compete.

Thank you for your attention to this important issue.

Sincerely,



Lyle Beckwith
Senior Vice President, Government
Relations
National Association of Convenience Stores



Lisa Mullings
President and CEO
NATSO, Representing America's Travel
Plazas and Truckstops



Dan Gilligan
President
Petroleum Marketers Association of
America



Kenneth Doyle
Executive Vice President
Society of Independent Gasoline Marketers
of America