



**Upstate Citizens for Equality
Niagara Frontier Chapter**

836 Indian Church Road
West Seneca, NY 14224-1235
<http://www.upstate-citizens.org>

October 8, 2004

Hon Joseph Bruno
LOB 909
Albany, NY 12247

VIA FAX: 518 455-2448

Hon. Sheldon Silver
LOB 932
Albany, NY 12248

Via Fax: (518) 455-5459

RE: Bill S6822 and taxation of non-members on Indian land

Dear Senator Bruno and Speaker Silver,

I am writing to you to inquire on the status of the above referenced bill that was passed back in June. According to the Senate's website this bill has not yet been delivered to the Governor.

It has been recently reported that the Governor has no intention of collecting these taxes.
(http://www.fingerlakes1.com/wireready/stories/01269_State_Says_It_Won-t_Collect_Indian_Tax_104338.php)

Previously Upstate Citizens for Equality called on the State Legislature to impeach the governor for his refusal to faithfully execute the laws of this state. The Governor has admitted that his policy of non-enforcement violates his oath of office. Specifically in his May 22, 1997 press release.

Instead of pursuing this course of action our membership was satisfied with the introduction and passage of S6822 which would in effect remove all discretion from the executive branch on this issue. This issue is getting to a critical point.

Recently Erie County Executive Joel Giambra has asked state legislative representatives for support in increasing Erie County's sales tax rate by 1%. His justification for this increase is that the county's funding of state mandated Medicaid has increased to the point that it is equivalent to the revenue generated by property taxes in the county. Mr. Giambra also stated that an increase in sales tax would be fairer than an increase in property taxes.

The state has steadily increased the taxes imposed on cigarettes under the rubric of defraying Medicaid related expenses. The current tax imposed on cigarettes is \$1.50 plus the sales tax rate of 8.25%.

Earlier this year a study was released by F.A.C.T. (Fair Application of Cigarette Taxes website: <http://www.factalliance.org>) that addressed the lost revenue by the State's failure to collect taxes from non-members on Indian land. (This includes people of Indian descent who are not a member of the Indian nation or tribe whose land the purchase takes place.) The study concluded:

* collecting taxes on Native American sales would reduce total cigarette consumption by 5 percent and save 1,250 lives a year in New York. The state would collect \$410 million in additional cigarette taxes per year and save \$215 million in annual Medicaid costs;

* shift 24 million cartons of local consumption from tax-avoiding sources to tax-paying sources;



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- * reduce Internet sales, including out-of-state sales;
- * and reduce smoking in the state by 2.5 million to 3 million cartons;

These changes in market conditions would create a direct net increase of 1,300 to 1,400 jobs in the retail cigarette market, with higher labor earnings of \$35 million to \$40 million. Indirect effects - from industries that supply or service cigarette retailers - combined with direct impacts would bring total job expansion to between 1,900 and 2,000, with a total net gain of \$55 million to \$60 million in taxable wages.

Although there is little doubt that major reform is needed in this state, this state should not increase the taxes on law-abiding citizens to benefit a few favored by the Governor.

Absent the presentation of this bill to the Governor and the legislature overriding any veto, our organization will have no choice but to pursue impeachment of the Governor and removal from office of those that support this policy.

Sincerely,

Daniel T. Warren
Chair
Niagara Frontier Chapter, Upstate Citizens for Equality

Cc: Hon. William Stachowski (by e-mail and fax (518) 426-6851)
Hon. Michael Nozzolio (by e-mail and fax (315)568-2090)
Hon. Dale Volker (by e-mail and fax (716) 656-8961)