



## UNITED SOUTH AND EASTERN TRIBES, INC.

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USET Resolution No. 2004:048

### **H.R. 2824 -THE INTERNET TOBACCO SALES ENFORCEMENT ACT**

- WHEREAS,** United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-four (24) federally recognized tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member tribe, as the Board of Directors comprises delegates from the member tribes' leadership; and
- WHEREAS,** the Judiciary Committee in the House of Representatives recently approved H.R. 2824, the Internet Tobacco Sales Enforcement Act, which would make sweeping changes to the Jenkins Act; and
- WHEREAS,** H.R. 2824 would abrogate tribal sovereign immunity by authorizing State governments to sue not just businesses located in Indian country but the actual governments of federally recognized Indian tribes relative to the enforcement of the Jenkins Act; and
- WHEREAS,** Congress has never authorized a state government to sue a federally recognized Indian nation government and the United States Supreme Court has consistently recognized that Indian nations possess the same common-law immunity from suit traditionally enjoyed by all sovereign governments (*see Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978)) ; and
- WHEREAS,** the GAO Report that served as the impetus for this legislation did not recommend this draconian action but recommended that enforcement be transferred to the Bureau of Alcohol, Tobacco, Firearms and Explosives, an entity that clearly has jurisdiction in Indian country and which has been undertaking enforcement actions in Indian country; and
- WHEREAS,** the House Judiciary Committee has included in H.R. 2824 this precedent setting provision without convening a single hearing in which any tribal representatives or scholars in the field of Indian law were invited to testify; and
- WHEREAS,** enforcement of federal statutes in Indian Country is the exclusive prerogative of the United States, consistent with its longstanding trust responsibility towards Indian nations to shield them from intrusions by state and local governments; and
- WHEREAS,** the federal government has historically demonstrated its ability to enforce all federal statutes in Indian Country, including the Jenkins Act, without assistance from state governments; and
- WHEREAS,** the House Judiciary Committee declined to address the numerous tribal sovereignty issues raised by H.R. 2824; and
- WHEREAS,** the House Resources Committee has requested the right to review and approve H.R. 2824 in order that it may discharge its congressionally-mandated responsibility to examine all legislative proposals affecting Indian nations; now; therefore, be it
- RESOLVED** that USET urges that the House Parliamentarian, consistent with House Rule X, Clause 1 (I), grant Chairman Pombo's request for a referral of H.R. 2824 to the House Resources Committee, the committee with jurisdiction over all matters concerning Indian nations; and, be it further

*“Because there is strength in Unity”*

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**RESOLVED** that USET opposes any legislation that would diminish the sovereign rights of any Tribe.

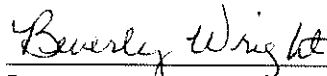
**CERTIFICATION**

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present in Choctaw, VA, Thursday, February 5, 2004.



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Keller George, President  
United South and Eastern Tribes, Inc.



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Beverly Wright, Secretary  
United South and Eastern Tribes, Inc.