

cigarettes a Rhode Island tax stamp prior to sale are illegal, and to enjoin these violations of State law.

II. The Parties

2. Plaintiff is the State of Rhode Island.

3. Defendant Narragansett Indian Tribe of Rhode Island also known as the Narragansett Tribe of Indians is a federally recognized Indian Tribe.

III. Jurisdiction

4. Jurisdiction is invoked pursuant to R. I. Gen. Laws § 8-2-13.

5. Venue is proper in this Court as the illegal acts have occurred or are threatened to occur within this county.

Count I (Declaratory Relief)

6. Defendants and/or others acting with, for or on their behalf have publicly declared and have sold certain products, including cigarettes, to the public without a retail sales tax permit and without charging, collecting or remitting to the State applicable State taxes, including, but not limited to sales tax and cigarette tax from a structure located on Route 2 across from 4510 South County Trail in Charlestown, Rhode Island. Said sales violate State law including, but not limited to R.I. Gen. Laws § 44-18-1 *et seq.* and § 44-19-1 *et seq.* (Sales and use tax); and § 44-20-1 *et seq.* (Cigarette tax).

7. In particular, cigarettes were sold without the required permits and without the required tax stamps. See R I Gen Laws §§ 44-20-2, and 44-20-12. A search warrant was executed at the premises described above and unstamped cigarettes were confiscated. The cigarettes that were seized are contraband

pursuant to R.I. Gen. Laws § 44-20-37. Further, the importation of cigarettes to evading the payment of State tax is a misdemeanor. R. I. Gen. Laws § 44-20-45.

8. These activities constitute a violation of state law. Further if these activities are not enjoined they result in irreparable harm to the State of Rhode Island. Each sale of untaxed cigarettes presents a violation of State law. In addition, Rhode Island will immediately and permanently lose tax revenue that it may be unable to recover from the Tribe.

9. Plaintiff is entitled to a declaration from this Court pursuant to R.I. Gen. Laws § 9-30-1 that the above referenced sales without proper licensing or taxing violate State law and are illegal.

Count Two (Injunctive Relief)

10. Plaintiff repeats and incorporates paragraphs 1-9 as if set forth fully herein.

11. The sales and acts described above without proper licenses and without the collection of all applicable State taxes constitute separate and continuing violations of state law.

12. These violations of State law constitute immediate and irreparable injury.

13. Monetary damages are likely unavailable to compensate Rhode Island for injuries resulting from Defendants' violations as described above.

14. There is no adequate remedy at law to prevent further violation of these laws since each subsequent sale presents individual violations of law.

15. Plaintiff is entitled to a temporary restraining order and preliminary and permanent injunctive relief ordering the Tribe, its members and all those individuals and/or entities acting on its behalf or on the Settlement Lands, or elsewhere, and each of them, not to sell cigarettes or other items without all applicable licenses issued by the State of Rhode Island and without charging, collecting and remitting to the State of Rhode Island all applicable sales, use, tobacco or other applicable tax on each sale and without affixing to each pack of cigarettes a Rhode Island tax stamp prior to sale.

PRAYER FOR RELIEF

WHEREFORE, the State of Rhode Island requests that the Court grant it the following relief:

- (1). Declaratory Judgment pursuant to R.I. Gen. Laws § 9-30-1 and Super. Ct. R. Civ. P. 57 that the Tribe, its members and all those individuals and/or entities acting on its behalf or on the Settlement Lands, or elsewhere, and each of them, can not lawfully sell cigarettes or other items without all applicable licenses issued by the State of Rhode Island and without charging, collecting and remitting to the State of Rhode Island all applicable sales, use, tobacco or other applicable tax on each sale and without affixing to each pack of cigarettes a Rhode Island tax stamp prior to sale;
- (2). A temporary restraining order, preliminary and permanent injunctions pursuant to Super. Ct. R. Civ. P. 65 ordering the Tribe, its members and all those individuals and/or entities acting on its behalf or on the Settlement Lands, or elsewhere, and each of them, not to sell cigarettes or other items without all

applicable licenses issued by the State of Rhode Island without charging,
collecting and remitting to the State of Rhode Island all applicable sales, use,
tobacco or other applicable tax on each sale and without affixing to each pack of
cigarettes a Rhode Island tax stamp prior to sale;

(3) Such other relief as the Court may deem just and proper.

Respectfully submitted,

STATE OF RHODE ISLAND

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