

TRIBAL CODE

CHAPTER 74:

MOTOR VEHICLE CODE

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HISTORY NOTE:

Current Ordinance:

Adopted February 18, 1992, Tribal Resolution 2-18-92B, Enacting Tribal Chapter 74: Motor Vehicle Code, effective immediately.

Reenacted as part of the Tribal Code July 5, 1995, Resolution No. 95-89

Prior Ordinances:

Tribal Motor Vehicle Code, being Chapter Five of the Tribal Law and Order Code, enacted by Tribal Resolution 6-22-83A. Repealed by the current ordinance, §74.117.

Amendments to Chapter Five of the Tribal Law and Order Code, enacted by Tribal Resolution 8-10-87A. Repealed by the current ordinance, §74.117.

Snowmobile Ordinance, Chapter Eight, Tribal Civil Jurisdiction Code, enacted by Tribal Resolution 01-22-91. Repealed by the current ordinance, §74.117.

Winter Traffic Ordinance, Chapter Nine, Tribal Civil Jurisdiction Code, enacted by Tribal Resolution 01-22-91A. Repealed by the current ordinance, §74.117.

Amendments:

Tribal Resolution 98-16 adopted February 4, 1998, amended §74.109 (1),(2) and §74.110 (1), (2).

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74.101 Scope and Purpose.

The purpose of this Chapter is to govern the activities of all persons using motor vehicles owned or operated on the tribal aki by incorporating and applying the laws of the State of Michigan as tribal law to such activities, and to provide for tribal regulation of such activities.

74.102 Definitions.

(1) The definitions contained in the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., are hereby incorporated by reference as if fully set forth herein.

(2) As used in this Chapter:

(a) "Civil infraction" means an act or omission prohibited by law which is not a crime, and for which civil sanctions may be ordered.

(b) "Crime" (or "Criminal") means (or refers to) an act or omission forbidden by law which is punishable upon conviction by imprisonment, fine not designated as a civil fine, or other penal discipline.

(c) "Indian" means any person who is subject to federal criminal jurisdiction under the Major Crimes Act, 18 U.S.C. §1153.

(d) "Member" means a person enrolled in the Tribe pursuant to the Tribe's Membership Ordinance, Tribal Code Chapter 11.

(e) "Tribal aki" means the area over which the Tribe exercises civil and criminal regulatory jurisdiction, and includes the following:

(i) all lands within the exterior boundaries of the Tribe's reservation; and

(ii) all lands held in trust for the Tribe by the United States; and

(iii) all lands owned by the Tribe which are 'dependent Indian communities' as that term is employed in 18 U.S.C. §1151.

(f) "Tribal Court" means the Sault Ste. Marie Tribe of Chippewa Indians Tribal Court, as established pursuant to Tribal Code Chapter 80.

(g) "Tribe" (or "Tribal") means (or refers to) the Sault Ste. Marie Tribe of Chippewa Indians.

74.103 Motor Vehicle Registration.

(1) All motor vehicles owned or operated within the tribal aki shall register with the State of Michigan in accordance with the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq.

(2) All provisions of the Michigan Motor Vehicle Code related to motor vehicle registration, including without limitation M.C.L. §257.801 through .810a, are hereby incorporated by reference as if fully set forth herein.

74.104 Motor Vehicle Title.

(1) Title to motor vehicles owned or operated within the tribal aki shall be maintained and transferred by the State of Michigan in accordance with the provisions of the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq.

(2) All provisions of the Michigan Motor Vehicle Code related to title to motor vehicles, including without limitation M.C.L. §257.201 through .259, are hereby incorporated by reference as if fully set forth herein.

74.105 Operator's License.

(1) No person may operate a motor vehicle within the tribal aki unless such person shall have a license for the operation of such motor vehicle issued by the State of Michigan in accordance with the provisions of the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq.

(2) All provisions of the Michigan Motor Vehicle Code related to operators licenses, including without limitation M.C.L. §257.301 through .328, are hereby incorporated by reference as if fully set forth herein.

74.106 Rules of the Road.

(1) No person may operate a motor vehicle within the tribal aki in violation of any traffic regulation provision of the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., or any traffic regulation adopted by a local unit of government pursuant to lawful authority.

(2) All provisions of the Michigan Motor Vehicle Code relating to the rules of the road, including without limitation M.C.L. §257.601 through .682b, and all traffic regulations adopted by a local unit of government pursuant to lawful authority, are hereby incorporated by reference as if

fully set forth herein.

(3) The Program Director of the Tribal Public Safety Department is hereby authorized to set and post speed limits, parking regulations, and other traffic regulations on all roads within the tribal aki. No person may operate a motor vehicle within the tribal aki in violation of any such regulation. Violations of such regulations shall constitute civil infractions.

(4) From December 15 of each year through April 1 of the following year no person except for emergency vehicles on emergency calls shall park a motor vehicle on any street or alley within the tribal aki between the hours of 3:00 a.m. and 6:00 a.m.

(5) The Program Director of the Tribal Public Safety Department is hereby authorized to enter emergency orders prohibiting traffic or parking on any street or road or portion thereof within the tribal aki when conditions so require. The Department shall give such notice of any emergency order as is reasonable under the circumstance.

(6) A violation of sub. (4) or any emergency order entered pursuant to sub. (5) shall be a civil infraction punishable by a civil fine of not more than \$10.00. If necessary for the removal of snow or the safety of the public the Program Director of the Tribal Public Safety Department may order a motor vehicle parked in violation of sub. (4) or an emergency order entered pursuant to sub. (5) to be removed and stored at the owner's expense.

74.107 Equipment of Vehicles.

(1) No person may operate a motor vehicle within the tribal aki in violation of the vehicle equipment provisions of the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq.

(2) All provisions of the Michigan Motor Vehicle Code related to the equipment of vehicles, including without limitation M.C.L. §257.683 through .715a, are hereby incorporated by reference as if fully set forth herein.

74.108 Size, Weight and Load.

(1) No person may operate a motor vehicle within the tribal aki in violation of the vehicle size, weight and load provisions contained in the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., or any size, weight or load regulation adopted by a local unit of government pursuant to lawful authority.

(2) All provisions of the Michigan Motor Vehicle Code related to size, weight and load restrictions on motor vehicles, including without limitation M.C.L. §257.716 through .750, and all such restrictions adopted as regulations by a local unit of government pursuant to lawful authority, are hereby incorporated by reference as if fully set forth herein.

(3) The Program Director of the Tribal Public Safety Department is hereby authorized to set and post size, weight and load restrictions on tribally maintained roads within the tribal aki. No

person may operate a motor vehicle within the tribal aki in violation of any such regulation.

(4) The Program Director of the Tribal Public Safety Department is hereby authorized to set and post speed limits, parking restrictions, and other regulations of traffic on all roads within the tribal aki. No person may operate a motor vehicle within the tribal aki in violation of any such regulation. A violation of such a regulation shall constitute a civil infraction.

74.109 Off Road Recreation Vehicles.

(1) No person shall operate an off road recreation vehicle within the tribal land in violation of any provision of the Natural Resources and Environmental Protection Act, M.C. L. 324.81101 et seq., or a regulation governing off road recreation vehicles adopted by a local unit of government pursuant to lawful authority.

(2) All provisions of the Natural Resources Environmental Protection Act, M.C. L. 324.81101 through .81150 and all such regulations adopted by a local unit of government pursuant to lawful authority, are hereby incorporated by reference as if fully set forth herein.

(3) The Program Director of the Tribal Public Safety Department is hereby authorized to set and post regulations governing the operation of off road recreation vehicles within the tribal aki. No person may operate an off road recreation vehicle within the tribal aki in violation of any such regulation. Such violations constitute civil infractions.

74.110 Snowmobiles.

(1) No person shall operate a snowmobile within the tribal land in violation of any provisions of the Natural Resources and Environmental Protection Act, M.C.L. 324.82101 et seq., or a regulation governing snowmobiles adopted by a local unit of government pursuant to lawful authority.

(2) All provisions of the Natural Resources and Environmental Protection Act, relating to the ownership and operation of snowmobiles, including without limitation M.C.L. 324.821011 through .82159 and all such regulations adopted by a local unit of government pursuant to lawful authority, are hereby incorporated by reference as if fully set forth herein.

(3) The Program Director of the Tribal Public Safety Department is hereby authorized to set and post regulations governing the operation of snowmobiles within the tribal aki. No person may operate a snowmobile within the tribal aki in violation of any such regulation. Such violations shall constitute civil infractions.

(4) No person shall operate a snowmobile within the tribal aki unless each person aboard the snowmobile is wearing a protective helmet. A violation of this subsection shall be a civil infraction punishable by a civil fine of not to exceed \$150.00.

74.111 Civil Liability and Financial Responsibility.

The provisions of the Civil Liability Act, M.C.L. §257.501 et seq., and the Financial Responsibility Act, M.C.L. §257.501 et seq., shall apply to the owners and operators of motor vehicles within the tribal aki.

74.112 Delegation of Authority.

The Tribe hereby authorizes the Michigan Secretary of State, or any other officer, agency or department of the State of Michigan, to exercise any authority and take any action as provided in any provision of the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., incorporated by reference as tribal law in this Chapter. Any such authority or action shall be deemed to be the authority or action of the Tribe or exercised or taken on behalf of the Tribe.

74.113 Jurisdiction and Procedure.

(1) Jurisdiction is hereby conferred upon the Tribal Court over prosecutions for criminal violations and civil infractions of this Chapter.

(2) Violations of this Chapter which constitute a crime under the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., shall be treated in the following manner for purposes of this Chapter:

(a) Such violations shall constitute criminal violations of this Chapter if committed by a member, any other Indian, or any other person to the extent that such jurisdiction is permitted by federal law.

(b) Such violations shall constitute civil infractions of this Chapter if committed by any person over whom the Tribe is not permitted by federal law to exercise criminal jurisdiction. Such violations shall be punishable by a civil fine as provided in sub. (3). No imprisonment or other penal discipline shall be imposed by such civil infractions.

(3) Violations of this Chapter which constitute civil infractions under the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq., or which are treated as civil infractions under sub. (2)(b), or which are denominated as civil infractions by this Chapter, shall constitute civil infractions of this Chapter punishable by a civil fine which is the lesser of:

(a) the amount specifically provided for the offense in this Chapter; or

(b) \$1,000.00; or

(c) the maximum fine or other penalty which may be imposed for violation of the cognate provision of the Michigan Motor Vehicle Code.

(4) Notice of any conviction under this Chapter shall be sent by the Clerk of the Tribal Court

to the Michigan Secretary of State when applicable pursuant to the laws of the State of Michigan or any agreement between the Tribe and the State of Michigan or the Michigan Secretary of State.

(5) Proceedings for violations of this Chapter shall be governed by Chapters Two and Three of the Law and Order Code, Tribal Code Chapters 81 and 82. Proceedings involving civil infractions of this Chapter may be instituted by the issuance of a Tribal Uniform Traffic Citation issued by a duly authorized peace officer citing a provision of state law or local regulation incorporated by reference into this Chapter.

74.114 Enforcement and Penalties.

(1) The provisions of this Chapter shall be enforced by all Tribal law enforcement officers. In additions, every officer empowered by the State of Michigan to issue uniform traffic citations for violation of Michigan traffic laws is hereby authorized to enforce the provisions of this Chapter and issue citations to Tribal Court.

(2) In addition to the penalties authorized by §74.112, the Tribal Court shall suspend or revoke driving privileges within the tribal aki in accordance with the Michigan Motor Vehicle Code, M.C.L. §257.1 et seq.

(3) In addition to any penalty imposed by the Tribal Court, the Court upon conviction shall order payment of court costs in the amount of \$10.00.

74.115 Authority.

This Chapter is adopted pursuant to Article VII, Sections 1 (g), (h), and (n) of the Tribal Constitution.

74.116 Effective Date.

This Chapter shall take effect immediately upon its enactment by resolution of the Tribal Board of Directors.

74.117 Repealer.

(1) Chapter Five of the Tribal Law and Order Code; the Snowmobile Ordinance and the Winter Traffic Ordinance, being Chapters Eight and Nine of the Tribal Civil Jurisdiction Code; and Tribal Resolutions 6-22-83A, 8-10-87A, 01-22-91, and 01-22-91A, are hereby repealed in their entirety, except to the extent necessary for the completion of prosecutions for violations thereof prior to the effective date of this Chapter.

(2) When this Chapter imposes greater restrictions than those contained in other tribal ordinances, codes or resolutions, the provisions of this Chapter shall govern.

74.118 Interpretation.

In its interpretation and application the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed as a limitation upon or repeal of any other tribal power or authority.

74.119 Severability and Non-Liability.

(1) If any section, provision or portion of this Chapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

(2) The Tribe declares that there is no liability on the part of the Tribe, its agencies, agents or employees for any damages which may occur as a result of reliance upon or conformity to this Chapter. The Tribe by the adoption of this Chapter does not waive its sovereign immunity in any respect.

74.120 Implied Consent.

Entry upon the tribal aki without the permission of the Tribe is prohibited. Such permission when given is expressly conditioned upon the consent of the person entering the tribal aki to the jurisdiction of the Tribe for purposes of enforcing this Chapter. Entry made not in conformity with the provisions of this Chapter is made without consent. Any person who enters upon the tribal aki shall be deemed to have given consent to the jurisdiction of the Tribe for purposes of enforcing this Chapter.

74.121 Effect of Incorporation by Reference.

Whenever any provision of state or local law is incorporated herein by reference, such incorporation is not intended to be limited to the law incorporated in effect upon the effective date of this Chapter, but shall include all future amendments and additions to such law as may from time to time thereafter be made.