

## CHAPTER 32

### STOCKBRIDGE-MUNSEE TRIBAL LAW TOBACCO ORDINANCE

#### Section 32.1 Definitions

- (A) “Cigarette” means any roll of tobacco wrapped in paper or any substance other than tobacco.
- (B) “Cigarette License” means a revocable permit issued by the Tribe.
- (C) “Court” means the Stockbridge-Munsee Tribal Court.
- (D) “Distributor” or “jobber” means any person who stores cigarettes or tobacco products and/or sells them to retailers for resale.
- (E) “Person” means any and all arms of the Tribal government, any business, corporation, sole-proprietor, enterprise, or any other entity.
- (F) “Retailer” means any person within the Stockbridge-Munsee jurisdiction licensed by the Tribe, who sells, exposes for sale, or possesses with intent to sell to consumers any cigarettes or tobacco.
- (G) “Sale” means the transfer of ownership, title, or possession to another in exchange for a consideration and includes the transfer of possession on a consignment basis.
- (H) “Tobacco” means any and all products that are suitable for smoking or chewing, and are prepared from tobacco, but does not include cigarettes.
- (I) “Tribal Council” means the elected officials of the Stockbridge-Munsee Community.
- (J) “Tribe” means the Stockbridge-Munsee Community.

#### Section 32.2 Exclusive Distributor and Applicability

- (A) The Tribe shall be the exclusive vendor of cigarettes and tobacco products for retail sales.
- (B) This Ordinance applies to all persons who offer cigarettes or tobacco products for sale on Stockbridge-Munsee lands.

### **Section 32.3 License Application**

(A) For the privilege of retailing cigarettes or tobacco products each and every retailer shall first secure and maintain a Tribal Retailer's Cigarette License from the Tribal Treasurer.

(1) An application fee of \$10.00 shall be submitted with the application, and with each renewal application to the Tribal Treasurer.

(B) Tribal Retailer's Cigarette Licenses shall be valid for no longer than two years, and shall expire on September 30 of each odd numbered year (2001, 2003, etc.).

(C) It shall be the duty of the retailer to obtain a new Tribal Retailer's Cigarette License prior to the expiration of each license.

(D) The Tribal Retailer's Cigarette License shall be prominently displayed in the retailer's place of business.

(E) Upon recommendation from the Tribal Treasurer, the Tribal Council may by Resolution issue, renew, suspend, or revoke a Tribal Retailer's Cigarette License to the retailer.

### **Section 32.4 Cigarette Distribution**

(A) All cigarette and tobacco products offered for sale shall be acquired through the Tribe. The Tribe shall order all cigarettes and tobacco products for all licensed retailers.

(1) The retailer has the responsibility to communicate to the Tribe what the retailer's cigarette and tobacco product needs are.

(2) It shall be the retailer's responsibility to pay the Tribe for all amounts due for each delivery, either on the date of delivery or before.

(a) Under no circumstances shall the Tribe order a shipment for the retailer, if the retailer has any amounts past due to the Tribe. For the purposes of this subsection, past due amounts include license application fees, Tribal taxes, fines, and purchases of cigarette and tobacco products that the Tribe has not received payment for.

(B) Retailers are prohibited from selling cigarettes or tobacco products to another retailer, distributor or jobber.

### **Section 32.5 Violations and Enforcement**

(A) The Tribal Treasurer has the right to inspect retailer's records, inventory, or facilities in order to enforce this Ordinance.

(1) Inspections shall be at reasonable business hours.

(2) Refusal by a retailer to allow the Tribal Treasurer to inspect the retailer's records, inventory, or facilities in order to enforce this Ordinance shall be a violation of the Ordinance.

(B) Penalties for violations of this Ordinance shall include a fine up to \$100.00 per day, suspension of cigarette and tobacco product deliver, and/or suspension or revocation of cigarette license.

(C) The Court shall have jurisdiction over all violations of this Ordinance.

(1) In addition to the penalties described in Section 32.6(B), the Court may grant such other relief as is necessary to enforce this Ordinance.

### **Section 32.6 Effective Date; Severability**

(A) The provisions of this Ordinance shall take effect 15 calendar days after approval from the Bureau of Indian Affairs.

(B) If any provision of this Ordinance is ruled illegal by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain unaffected.

### **Legislative History**

Tobacco Ordinance adopted by Tribal Resolution No. 0818, July 26, 1982.

Approved by BIA August 4, 1982

Approval rescinded by BIA August 5, 1982 due to "six word errors" and "six typographical errors," requesting to make changes and return for approval.

Approval rescinded by BIA November 3, 1982, due to "confusion over terms which may cause practical problems in attempting to implement the ordinance."

Adopted by Tribal Council on January 20, 2000, Resolution No. 04-2000.

BIA approval, February 2, 2000.

Amended section 32.3(A)(1) to reduce application fee from \$30.00 to \$10.00 by Tribal Council on April 18, 2000, Resolution No. 022-2000.

Amendment approved by BIA April 27, 2000.