

**TRIBAL COUNCIL ACT 4.1**

**AN ACT RELATING TO  
CIGARETTE SALES AND TAXATION**

**BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL**

**SECTION 1.0—TITLE AND CODIFICATION**

This Chapter shall be known as the Snoqualmie Tribal Cigarette Sales and Taxation Act and shall be codified as Title 4, Chapter 1 of the Snoqualmie Tribal Code.

**SECTION 2.0—STATUTORY AUTHORITY**

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of laws of the Tribe. This authority includes the authority to negotiate with and enter into agreements with the State on behalf of the Tribe, to manage the economic affairs and enterprises of the Tribe, and to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. 1 (a), (e), (h), and (j).

**SECTION 3.0—PURPOSE AND SCOPE**

The purpose of this Chapter is to regulate the sale of cigarettes on Snoqualmie Tribal lands to protect the health and wellbeing of Tribal members as well as visitors to Snoqualmie Tribal lands. The Tribal Council finds that imposing a tax on the sale of cigarettes on Snoqualmie Tribal lands is necessary and essential to the Tribe's ability to provide goods and services to its members.

This Chapter shall apply to all cigarette sales and purchases that take place on Snoqualmie Tribal lands. Any person who resides, conducts business, or otherwise engages in a business transaction on Snoqualmie Tribal lands, or who receives benefits from Tribal governmental services of any kind whatsoever, shall be deemed to have consented to the jurisdiction of the Snoqualmie Indian Tribe.

#### **SECTION 4.0—DEFINITIONS**

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**AUDITOR** means an independent third party auditor selected pursuant to Section 10.0 of this Chapter.

**CARTON** or **CARTON OF CIGARETTES** means a carton of two hundred (200) cigarettes.

**CIGARETTE** means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

**COMPACT** means the contract entered into between the Snoqualmie Indian Tribe and the State of Washington concerning the sale of cigarettes on Snoqualmie Tribal lands.

**DEPARTMENT** means the Washington Department of Revenue.

**ESSENTIAL GOVERNMENTAL SERVICES** means services provided by the Tribal government such as police, fire, healthcare, social services, housing, education, jobs, utilities, environmental, land use, or economic development services of any kind whatsoever.

**STATE AND LOCAL RETAIL SALES TAX** means the combined Washington State and local retail sales taxes applicable in the area.

**PERSON** means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

**RETAIL SELLING PRICE** means the ordinary, customary, or usual price paid by the consumer for each package of cigarettes, which price includes the Tribal cigarette tax.

**SELF-CERTIFIED TRIBAL WHOLESALER** means a wholesaler who is a federally recognized Indian tribe or a member of a federally recognized Indian tribe, who is not required to be licensed under any state law, and who has by letter certified to the Department that it will abide by the terms of the Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

**SELF-CERTIFIED WHOLESALER** means an out-of-state wholesaler who is not a self-certified tribal wholesaler and who has by letter certified to the Department that it will abide by the terms of the Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

**SNOQUALMIE INDIAN RESERVATION** means the area of land recognized as the Snoqualmie Indian Reservation by the United States Department of the Interior.

**SNOQUALMIE TRIBAL LANDS** include lands over which the Snoqualmie Indian Tribe exercises jurisdiction, including but not limited to, the Snoqualmie Indian Reservation, trust lands (Tribal and individual), lands subject to treaty-reserved rights, and lands within the federal definition of "Indian Country" set forth in 18 U.S.C. § 1151.

**STATE** means the State of Washington.

**STATE CIGARETTE TAX** means the State tax imposed on each cigarette, which is expressed in cents per cigarette.

**TOBACCO PRODUCTS** mean cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, except that tobacco products do not include cigarettes.

**TRIBAL CIGARETTE TAX** means the tax or taxes enacted as a provision of Tribal law on the units of cigarettes sold and on the purchase of cigarettes by retail buyers, which will be set, and may thereafter be adjusted, by Tribal Council Resolution, subject to the requirements of Section 6.0 of this Chapter.

**TRIBAL COUNCIL** means the Snoqualmie Tribal Council.

**TRIBAL MEMBER** means a person duly enrolled as a member of the Snoqualmie Indian Tribe.

**TRIBAL RETAILER** means a cigarette retailer wholly owned by the Snoqualmie Indian Tribe and located on Snoqualmie Tribal lands. A cigarette retailer wholly owned by a Snoqualmie Tribal member does not qualify as a Tribal retailer under this Chapter.

**TRIBAL TAX STAMP** means the stamp or stamps that indicate the Snoqualmie Tribal cigarette tax imposed under the Compact has been paid or that identify those cigarettes with respect to which no tax or other Tribal tax is imposed.

**TRIBE** or **TRIBAL** means or refers to, unless otherwise indicated, the Snoqualmie Indian Tribe.

**WHOLESALE** means every person who purchases, sells, or distributes cigarettes for the purpose of resale only.

## SECTION 5.0—CIGARETTE COMPACT WITH WASHINGTON STATE

This Chapter authorizes the Tribe to enter into a Compact with the State of Washington in regards to the sale and taxation of cigarettes on Snoqualmie Tribal lands and the provisions of the Compact shall govern all cigarette sales on Snoqualmie Tribal lands. The Compact shall set forth the following terms and conditions:

- (a) The Tribe shall not engage in any mail order sales, such as those sales made done via Internet, catalog, or telephone solicitation to Washington residents outside of Snoqualmie Tribal lands, unless and until the Tribe and the State have entered into a memorandum of agreement in regard to the taxation of such mail order sales.
- (b) If the Tribe wishes to grant a new Tribal retailer the privilege of selling cigarettes on Snoqualmie Tribal lands, the Tribe shall notify the Department thirty (30) days prior to the initiation of cigarette sales by the new Tribal retailer.
- (c) The Tribe will provide information regarding the status of land upon which any new Tribal retailer is located at least thirty (30) days prior to the initiation of cigarette sales by the new Tribal retailer.
- (d) Tribal retailers may purchase cigarettes for sale on Snoqualmie Tribal lands only from the following entities:
  - (1) Wholesalers or manufacturers licensed to do business in the State of Washington;
  - (2) Self-certified wholesalers who meet the requirements of the Compact;
  - (3) Self-certified tribal wholesalers who meet the requirements of the Compact; and
  - (4) The Tribe or Tribal enterprises functioning as a Tribal manufacturer.
- (e) All cigarettes sold by the Tribal retailer shall bear a Tribal tax stamp, including cigarettes subject to the Tribal cigarette tax and cigarettes exempt from the Tribal cigarette tax. The stamps shall be purchased and affixed in accordance with the terms of the Compact.
- (f) The Tribe or its designee shall notify the Department seventy-two (72) hours in advance of all shipments of cigarettes purchased by the Tribal retailers. Such notice shall include: who is making the shipment (i.e., who is the wholesaler under subsection (d) of this Section), detail regarding both the quantity and brand, and the invoice order number.
- (g) No person shall sell, give, or permit to be sold or given, cigarettes to any person under the age of eighteen (18). If a violation of this requirement is reported to the Tribe:

- (1) The Tribe shall investigate the allegation; and
- (2) If there is probable cause to believe that a violation has occurred, the Tribe will cite the person who is alleged to have made a sale or gift in violation of this subsection and apply the following penalties:
  - (A) For a first violation, assess a fine of \$250.00.
  - (B) For a second violation within any one-year period, assess a fine of \$500.00.
  - (C) For a third violation within any one-year period, assess a fine of \$750.00.
  - (D) For a fourth violation within any two-year period, assess a fine of \$1000.00.
  - (E) For a fifth violation within any two-year period, assess a fine of \$1000.00 and termination from employment. In addition, the person shall no longer be permitted to make cigarette sales on Snoqualmie Tribal lands for a period of not less than one year.
- (3) It shall not be a defense to a citation for a violation of this subsection that the purchaser acted, or was believed by the defendant to have acted, as an agent or representative of another.
- (4) It shall be a defense to a citation for a violation of this subsection that the person making the sale reasonably relied upon officially issued identification that shows the purchaser's age and bears their signature and photograph.

#### **SECTION 6.0—TRIBAL CIGARETTE TAX**

- (a) Beginning no later than the date provided for in the Compact, the Tribe shall impose taxes in accordance with the provisions of this Section, on all sales of cigarettes by Tribal retailers to all purchasers on Snoqualmie Tribal lands.
- (b) The Tribal cigarette tax rate shall be no less than the sum of an amount equal to one hundred (100) percent of the State cigarette tax plus an amount equal to one hundred (100) percent of the State and local retail sales tax.
- (c) During the term of the Compact, upon any future increase in the State cigarette tax, State retail sales tax, or local retail sales tax, the Tribal cigarette tax shall be increased to a minimum of no less than one hundred (100) percent of the then-current combined State cigarette tax and State and local retail sales tax.

- (d) During the term of the Compact, upon any future decrease in the State cigarette tax, State retail sales tax, or local retail sales tax, the Tribal cigarette tax may be decreased to a minimum of no less than one hundred (100) percent of the then-current combined State cigarette tax and State and local retail sales tax.
- (e) The following cigarette sales shall not be subject to a general Tribal sales tax levy under other provision of Tribal law:
  - (1) All cigarettes manufactured by the Snoqualmie Tribe or any Tribal enterprises on Snoqualmie Tribal lands.
  - (2) All other cigarettes whenever a Tribal cigarette tax is imposed on those cigarettes during the term of a compact with the State of Washington.

#### **SECTION 7.0—CIGARETTE TAX EXEMPTIONS**

The following shall not be subject to the cigarette tax levy:

- (a) Sales of tobacco products;
- (b) Sales of cigarettes manufactured by the Snoqualmie Indian Tribe or Snoqualmie Tribal enterprises on Snoqualmie Tribal lands.
- (c) Mail order type sales of cigarettes, such as those sold via the Internet, catalogs, or by telephone to purchasers outside of Snoqualmie Tribal lands and outside of Washington State.

#### **SECTION 8.0—CIGARETTE TAX PAYMENT AND COLLECTION; PENALTY FOR NONPAYMENT**

- (a) Every person engaged in retail sales of cigarettes on Snoqualmie Tribal lands who is liable for collecting the Tribal cigarette tax levy shall maintain accurate written records of the purchase, stamping, and retail sales of cigarettes, and shall make such records available for inspection by the Tribal Finance Department and/or Auditor retained by the Tribe. Records shall be managed and retained in accordance with the Tribal Central Records and Public Access Act and shall be maintained for no less than three (3) years after the audit is accepted by the appropriate federal oversight agency.
- (b) All applicable taxes shall be paid prior to the sale, distribution, or transfer of possession of any cigarettes. During the term of the Compact, the terms of the Compact regarding the purchase, stamping, transportation, and sale of cigarettes shall apply.

- (c) Whenever cigarette taxes are paid by any person other than the consumer, user, or possessor, that payment shall be considered a pre-collection of such taxes due. When the tax is prepaid by another, this amount is part of the retail selling price of the cigarette to the retail purchaser.
- (d) A penalty of one percent of the amount of taxes incurred is hereby imposed and shall be collected for every thirty (30) days of non-compliance with the provisions of this Chapter.

#### **SECTION 9.0—USE OF TRIBAL TAX LEVY**

- (a) Except as stated in subsection (b) of this Section, Tribal cigarette tax revenue shall be used exclusively for essential governmental services and may not be used to subsidize Tribal cigarette and food retailers. For the purposes of this Section, “subsidize” means that proceeds from the Tribal cigarette tax cannot be expended on the enterprise activities of the Tribal retail cigarette business. In addition, where the cigarette business is collocated with a retail food business, the proceeds cannot be expended to support that business.
  - (1) “Enterprise activities” include paying wages, benefits, bonuses or expenses, related to the maintenance and operation of the retail facility or typically considered to be part of a business’ operating expenses and overhead.
  - (2) “Non-enterprise activities” include, but are not limited to governmental services to provide and maintain infrastructure such as sidewalks, roads, and utilities; services such as fire protection and law enforcement; the costs of administering deductions and exemptions similar to those available to retailers, wholesalers and others under State law; Tribal administration activities such as tax functions, contracting for health benefits, economic development, natural resources, and the provision of job services; and distribution of monies related to trust funds, education, and general assistance.
- (b) A portion of the Tribal cigarette tax revenues intended to approximate the Tribal cigarette tax revenues from sales to Tribal members is not required to be used for essential governmental services, but rather may be used at Tribal Council’s discretion. That portion will be calculated by the Tribal Finance Department based on the allocation allowance described in the Compact, which is calculated based on the number of Tribal members and the national consumption rate of cigarettes per person. For purposes of calculating the allocation allowance only, spouses of Tribal members who are enrolled members of other federally recognized Indian tribes may be included in the number of Tribal members. The Tribe’s General Manager, Attorney, and/or CFO are hereby authorized to annually provide the number of Tribal members to the Department for purposes of calculating the allocation allowance.

**SECTION 10.0—CIGARETTE TAX AUDIT**

The Tribe shall retain a third-party, independent auditor for the purposes of verifying compliance with the Compact. The Auditor shall perform all work required under the Compact.

**SECTION 11.0—PERMISSION OF CIGARETTE SALES**

Tribal retailers are the only retail businesses authorized to sell cigarettes on Snoqualmie Tribal lands.

**SECTION 12.0—REPEALER**

All prior Tribal Council Resolutions and Acts concerning the levy of Tribal cigarette taxes are hereby superseded by this Chapter.

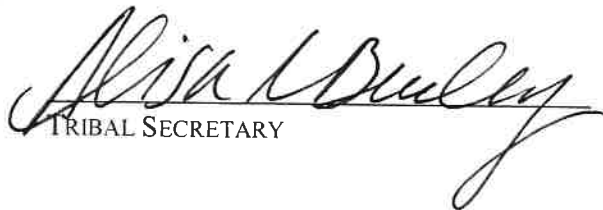
**SECTION 13.0—SEVERABILITY**

If any provision of this Chapter, or its application to any person under any circumstances, is held invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall remain in full force and effect.

**ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 23<sup>RD</sup> DAY OF OCTOBER 2008, IN SESSION DULY MET WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 152-2008.**

**CODIFIED BY THE SECRETARY OF TRIBAL AFFAIRS ON THE 27<sup>TH</sup> DAY OF OCTOBER, 2008.**

**AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 28<sup>TH</sup> DAY OF JULY 2017, IN SESSION DULY MET WITH 6 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 145-2017.**

  
TRIBAL SECRETARY