

## Title 1. Government and Finances - Chapter 115

### TOBACCO

#### Oyú·kwa? Olihwá·ke

*matters concerning tobacco*

- 
- 115.1. Purpose and Policy
  - 115.2. Adoption, Amendment, Repeal
  - 115.3. Definitions
  - 115.4. Oneida Retail Locations

- 115.5. Purchase of, Title to And Possession of Tobacco Products
  - 115.6. Restrictions on Sales
  - 115.7. Liability
  - 115.8. Violations
- 

### **115.1. Purpose and Policy**

115.1-1. *Purpose.* The purpose of this law is to regulate the sale, possession and distribution of cigarettes within the Reservation.

115.1-2. *Policy.* It is the policy of the Nation to ensure that all cigarette sales on the Reservation are conducted in a lawful manner.

### **115.2. Adoption, Amendment, Repeal**

115.2-1. This law was adopted by the Oneida Business Committee by resolution BC- 11-18-81-A and amended by resolution BC-10-10-07-A, BC-04-09-14-F, and BC-01-25-17-B.

115.2-2. This law may be amended or repealed by the Oneida Business Committee and/or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

115.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

115.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

115.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

### **115.3. Definitions**

115.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size, 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.

(b) “Electronic cigarette” means a device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. “Electronic cigarette” shall not include any device that is prescribed by a healthcare professional.

(c) “Employee” means a person employed by the Oneida Nation working in an Oneida retail location.

(d) “Nation” means the Oneida Nation.

(e) “Oneida Retail Location” means an Oneida Nation retail sales business selling stamped cigarettes within the Oneida Nation Reservation.

(f) “Reservation” means all land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any land added thereto pursuant to federal law.

(g) "Stamped Cigarettes" means cigarettes bearing valid Wisconsin tax stamps.

#### **115.4. Oneida Retail Locations**

115.4-1. The Nation shall maintain Oneida retail locations within the Reservation as it deems necessary to provide adequate service to consumers of stamped cigarettes.

115.4-2. Each Oneida retail location established hereunder shall be managed and operated by the Oneida Nation.

#### **115.5. Purchase of, Title to and Possession of Tobacco Products**

115.5-1. The Nation shall purchase stamped cigarettes from such suppliers as it may choose and shall take title and possession on delivery to an Oneida retail location on the Reservation (the title shall be subject to any purchase money security interest). Possession of the stamped cigarettes (but not title) shall be transferred to the manager of the Oneida retail location to be held for sale to the consumers. The Nation shall retain title to stamped cigarettes until sold to a consumer.

#### **115.6. Restrictions on Sales**

115.6-1. The Nation shall be the exclusive retailer of cigarettes bearing the Wisconsin Tribal Cigarette tax stamp within the Reservation. Furthermore, only the Nation may claim the tax refunds on cigarettes sold on the Reservation as provided for under state law.

115.6-2. The Nation reserves the right to restrict sales, volume, pricing and profit margin of stamped cigarettes sold at a Oneida retail location.

115.6-3. Cigarettes and electronic cigarettes shall not be sold to any person under the age of eighteen (18). Cigarettes and electronic cigarettes for sale at an Oneida retail location shall be on display behind a counter. No person other than an authorized employee shall sell cigarettes and electronic cigarettes at an Oneida retail location.

115.6-4. No person may sell or offer for sale unstamped cigarettes on the Reservation.

#### **115.7. Liability**

115.7-1. The Nation shall be responsible for all risks to the stamped cigarettes and shall carry full insurance against fire, theft, and other hazards, and such insurance shall include as a beneficiary any person owning a purchase money security interest in the products to the extent his or her interest may appear.

#### **115.8 Violations**

115.8-1. All cigarettes acquired, owned, possessed, sold, or distributed in violation of this law are unlawful property and subject to seizure by any Oneida law enforcement officer.

(a) Violators subject to the jurisdiction of the Nation shall be subject to a fine of not more than ten dollars (\$10) per pack of un-stamped cigarettes to be issued by the Oneida Police Department and paid to the Nation.

(b) Employees who violate this law shall be subject to disciplinary action in accordance with the Nation's laws, rules, and policies governing employment.

115.8-2. All fines assessed under this section shall be paid within sixty (60) days of issuance of the citation, unless the person contests the citation with the Nation's judicial system before the fine is to be paid.

*End.*

---

Adopted - BC-3-15-76-A

Adopted - BC-11-18-81-A

Amended - BC-01-25-17-B

Adopted - BC-9-7-77-B

Amended - BC-10-10-07-A

Adopted - BC-9-4-79-C

Amended - BC-04-09-14-F