

ONEIDA NATION
PUBLIC COMMENT PERIOD NOTICE
Due to the COVID-19 Public Health Emergency
Only Written Comments Will Be Accepted Until:
THURSDAY, MAY 7, 2020

Find Public Meeting Materials at
[Oneida-nsn.gov/government/register/public meetings](http://Oneida-nsn.gov/government/register/public%20meetings)



Send Public Comments to
LOC@oneidanation.org
Ask Questions here
LOC@oneidanation.org

TOBACCO LAW AMENDMENTS

The purpose of this law is to regulate the sale, possession and distribution of cigarettes within the Reservation.

The Tobacco law amendments will:

1. Define “tobacco products”;
2. Clarify that cigarettes, electronic cigarettes, and tobacco products shall not be sold to any person under the age of twenty-one (21);
3. Clarify that no person other than an authorized employee shall sell cigarettes, electronic cigarettes, or tobacco products at an Oneida retail location;
4. Clarify that the process and procedure contained in the Nation’s Citations law governs citations issued under this Law; and
5. Provide authority to the Oneida Business Committee to adopt through resolution a fine and penalty schedule for citations issued as a result of violations of this Law.


PUBLIC COMMENT PERIOD CLOSES THURSDAY, MAY 7, 2020


The Nation’s COVID-19 Team issued a declaration on March 27, 2020, titled “*Suspension of Public Meetings under the Legislative Procedures Act.*” This declaration provides that the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 public health emergency. Although there will be no public meeting, the public comment period will still occur, and individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org.

PROVIDING EFFECTIVE PUBLIC COMMENTS

Providing public comment is an important way to make your voice heard in decision making. Public comments can strengthen a decision or provide different perspectives. The Legislative Operating Committee wants to hear from you!



 **READ THE PUBLIC MEETING MATERIALS:** Before you provide comments familiarize yourself with the legislation. A public meeting packet is made for all proposed legislation and includes 1) a notice with the public comment period end date, 2) a draft of the proposed legislation, and 3) a plain language review of the legislation and its impact on the Oneida Nation.

 **PREPARE YOUR COMMENTS:** When you are familiar with the legislation, start to prepare comments. The LOC is responsible for reviewing every comment received. To get your message across effectively, frame your comment clearly and concisely. Here is an example of how to create an effective comment:

Least Effective Comment	More Effective Comment	Most Effective Comment
The Nation doesn't need a Tobacco law.	The penalties for violations of this Law are not strong enough.	Section 115.8-2 of this Law should be expanded to include other penalties in addition to citations, seizure, and disciplinary action.



AMENDMENTS TO THE TOBACCO LAW LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
Intent of the Amendments	<ul style="list-style-type: none">▪ Provide a definition for “tobacco products;”▪ Clarify that all tobacco products, and not just cigarettes and electronic cigarettes, shall not be sold to any person under the age of twenty-one (21) years;▪ Clarify that no person other than an authorized employee shall sell tobacco products, and not just cigarettes and electronic cigarettes, at an Oneida retail location;▪ Clarify that process and procedure contained in the Nation’s Citations law will govern citations issued under this Law; and▪ Provide authority to the Oneida Business Committee to adopt through resolution a fine and penalty schedule for citations issued as a result of a violation of this Law.
Purpose	The purpose of this Law is to regulate the sale, possession and distribution of cigarettes within the Reservation [1 O.C. 115.1-1].
Affected Entities	Oneida Retail Enterprise, Oneida Judiciary, Oneida Police Department
Related Legislation	Oneida Personal Policies and Procedures, Citations law
Public Meeting	A public comment period will be held open until May 7, 2020. A public meeting will not be held in accordance with the Nation’s COVID-19 Team’s declaration titled, “ <i>Suspension of Public Meetings under the Legislative Procedures Act.</i> ”
Fiscal Impact	A fiscal impact statement has not yet been requested.

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. **Background.** The Tobacco law (“the Law”) regulates the sale, possession, and distribution of cigarettes within the Reservation. [1 O.C. 115.1-1]. The Oneida Business Committee originally adopted this Law on March 15, 1976. The Law was most recently amended on an emergency basis on February 26, 2020.
- B. **Emergency Amendments.** On February 26, 2020, the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-02-26-20-A. The emergency amendment raised the minimum age for the sale of cigarettes and electronic cigarettes from eighteen (18) to twenty-one (21).
- The Oneida Business Committee is allowed to temporarily enact an emergency law where legislation is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and the enactment or amendment of legislation is required sooner than would be possible by utilizing the standard legislative process [1 O.C. 109.9-5].
 - An emergency amendment to the Law was pursued based on President Trump’s December 20, 2019, action to sign into law an amendment to the Federal Food, Drug, and Cosmetic Act which raised the legal age to purchase tobacco products to at least twenty-one (21) years old, effective immediately. The Oneida Retail Enterprise began implementing this change on January 1, 2020.
 - The Oneida Business Committee determined emergency adoption of the amendment to the Law was necessary for the preservation of the public health and general welfare of the Reservation population because it ensures the Nation is in compliance with federal law. Additionally, the Oneida Business Committee found that observance of the requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest.

- The emergency amendment to the Law will expire on August 26, 2020. The Legislative Procedures Act allows a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments of the Nation participated in the development of this Law and legislative analysis:
 - Oneida Retail Enterprise;
 - Community Health Services Department; and
 - Oneida Law Office.
- B. The following laws of the Nation were reviewed in drafting this analysis:
 - Oneida Personnel Policies and Procedures; and
 - Citations law.

SECTION 4. PROCESS

- A. Thus far, this Law has followed the process set forth in the Legislative Procedures Act.
 - The Tobacco law emergency amendments was added to the Legislative Operating Committee's Active Files List on February 5, 2020.
 - The Oneida Business Committee adopted the emergency amendments on February 26, 2020, through the adoption of resolution BC-02-26-20-A.
 - The emergency amendments will expire on August 26, 2020.
- B. At the time this legislative analysis was developed the following work meetings had been held regarding the development of these amendments:
 - January 30, 2020: Work meeting with LOC and Oneida Law Office.
 - March 2, 2020: Work meeting with Oneida Retail Enterprise and Community Health Services Department.
 - March 4, 2020: Work meeting with LOC.

SECTION 5. CONTENTS OF THE AMENDMENTS

- A. **Definition of Tobacco Products.** The proposed amendments add a definition for "tobacco products" to the Law. [1 O.C. 115.3-1(h)]. Previously, the Law only defined and referenced "cigarettes" and "electronic cigarettes" and was silent as to other tobacco products. The Oneida Retail Enterprise uses the same minimum age for the sale of tobacco products as cigarettes and electronic cigarettes, the Law just did not reflect this practice.
 - *Effect.* The addition of the definition and reference to tobacco products better reflects the Oneida Retail Enterprise's current practices, and informs the reader that tobacco products are treated in the same manner as cigarettes and electronic cigarettes.
- B. **Minimum Age of Sale.** The proposed amendments provide that cigarettes, electronic cigarettes, and/or other tobacco products shall not be sold to any person under the age of twenty-one (21). [1 O.C. 115.6-3]. Prior to the adoption of the emergency amendments, the Law only stated that cigarettes and electronic cigarettes shall not be sold to any person under the age of eighteen (18).
 - *Effect.* This proposed amendment permanently adopts the emergency amendment which raised the minimum age of sales of cigarettes and electronic cigarettes from eighteen (18) to twenty-one (21). This amendment also clarifies that the minimum age for the sale of tobacco products is twenty-one (21). Although the current version of the Law does not reference tobacco products other than cigarettes and electronic cigarettes, this amendment reflects the Oneida Retail Enterprise's current practice.
- C. **Sale by Authorized Employees Only.** The proposed amendments provide that no person other than an authorized employee shall sell cigarettes, electronic cigarettes, and/or other tobacco products at an

Oneida retail location. [1 O.C. 115.6-3]. Previously, the Law only referenced cigarettes and electronic cigarettes in this section.

- *Effect.* This amendment clarifies that the restriction of sales to authorized employees applies to the sale of tobacco products at Oneida retail locations. Although the current version of the Law does not reference tobacco products other than cigarettes and electronic cigarettes, this amendment reflects the Oneida Retail Enterprise's current practice.

D. **Citations Issued for Violations of this Law.** The proposed amendments provide that an individual who violates a provision of this Law may be issued a citation by the Oneida Police Department. [1 O.C. 115.8-1]. The Law goes on to provide that citations, which may include fines and other penalties, shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations. [1 O.C. 115.8-1(a)-(b)]. The proposed amendments also delegate authority to the Oneida Business Committee to adopt through resolution a fine and penalty schedule for citations issued as a result of a violation of this Law. [1 O.C. 115.8-1(c)]. Previously, the Law provided that violators subject to the jurisdiction of the Nation shall be subject to a fine of not more than ten dollars (\$10) per pack of unstamped cigarettes to be issued by the Oneida Police Department and paid to the Nation. The Law also previously provided that all fines assessed 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.

- *Adoption of a Citations Law.* In February 2020 the Oneida Business Committee adopted a Citations law for the purpose of providing a consistent process that governs all citations that fall under the jurisdiction of the Oneida Nation. [8 O.C. 807.1-1].
- *Effect.* The proposed amendments better clarify that the process and procedure contained in the Nation's Citations law will govern citations issued under this Law. The proposed amendment's removal of language specific to fines and penalties from the Law to instead be placed into a resolution containing a fine and penalty schedule is also consistent with the Nation's recent legislative drafting practices.

SECTION 6. EFFECT ON EXISTING LEGISLATION

A. **Reference to other Laws of the Nation.** The following laws of the Nation are referenced in this Law:

- *Oneida Personnel Policies and Procedures.* This Law provides that an employee who violates this Law shall be subject to disciplinary action in accordance with the Nation's laws and policies governing employment. [1 O.C. 115.8-2(b)].
 - The Oneida Personnel Policies and Procedures is the Nation's law which governs employment. The Oneida Personnel Policies and Procedures provides the process for handling complaints, disciplinary actions, and grievances. [Section V.D.].
 - A supervisor would have to follow the disciplinary action procedure contained in the Oneida Personnel Policies and Procedures if holding an employee accountable for a violation of this Law.
- *Citations law.* This Law provides that a citation for a violation of this Law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.
 - The Citations law is the Nation's law governing citations. The Citations law provides how a citation action is started – such as who has the authority to issue a citation, the requirements of the form of the citation, and how a citation is served and filed; stipulations for the settlement of a citation; and the citation hearing procedures. [8 O.C. 807].
 - Any citations issued by the Oneida Police Department for a violation of this Law must comply with the requirements and procedures of the Citations law.

SECTION 7. ENFORCEMENT AND ACCOUNTABILITY

- 121 A. **Enforcement.** This Law is enforced in the following ways:
- 122 ▪ *Procedures and Policies.* The Oneida Retail enterprise is the entity responsible for carrying
- 123 out the process, procedures, and responsibilities of this Law.
- 124 ▪ *Issuance of a Citation.* The Oneida Police Department is authorized to issue a citation for a
- 125 violation of this Law. [1 O.C. 115.8-1].
- 126 ▪ *Seizure of Unstamped Cigarettes.* The Oneida Police Department is authorized to seize any
- 127 cigarettes acquired, owned, possessed, sold, or distributed in violation of this Law. [1 O.C.
- 128 115.8-2(a)].
- 129 ▪ *Disciplinary Action.* A supervisor may utilize disciplinary action in accordance with the
- 130 Oneida Personnel Policies and Procedures for any employee who violates this Law. [1 O.C.
- 131 115.8-2(b)].
- 132

133 SECTION 8. OTHER CONSIDERATIONS

- 134 A. **Timeframe for Permanent Adoption of Amendments.** The emergency amendment to this Law, as
- 135 adopted by the Oneida Business Committee through resolution BC-02-26-20-A, will expire on August
- 136 26, 2020. The Legislative Procedures Act allows a one-time extension of up to an additional six (6)
- 137 months. [1 O.C. 109.9-5(b)]. This means that the Legislative Operating Committee has until February
- 138 21, 2021, at the latest to adopt the permanent amendments to this Law before the emergency
- 139 amendments expire.
- 140 B. **Fine and Penalty Schedule.** This Law provides that the Oneida Business Committee shall hereby be
- 141 delegated the authority to adopt through resolution a fine and penalty schedule for citations issued as a
- 142 result of a violation of this Law. [1 O.C. 115.8-1(c)]. The fine and penalty schedule resolution for the
- 143 Tobacco law is currently under development. The Legislative Operating Committee intends to bring
- 144 this proposed fine and penalty schedule resolution to the Oneida Business Committee at the time these
- 145 amendments are up for adoption.
- 146 C. **Fiscal Impact.** A fiscal impact statement has not yet been requested.
- 147 ▪ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation
- 148 except emergency legislation [1 O.C. 109.6-1].
- 149 ▪ A fiscal impact statement shall be submitted by agencies as directed by the Legislative
- 150 Operating Committee and may be prepared by any agency who may receive funding if the
- 151 legislation is enacted; who may administer a program if the legislation is enacted; who may
- 152 have financial information concerning the subject matter of the legislation; or by the Finance
- 153 Office, upon request of the Legislative Operating Committee [1 O.C. 109.6-1(a and b)].
- 154

Title 1. Government and Finances - Chapter 115**Oy&=kwa> Olihw@=ke
matters concerning tobacco
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, BC-01-25-17-B, and BC-02-26-20-A, and BC- - - - .

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.

(h) "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; 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.

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. 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 an Oneida retail location.

115.6-3. Cigarettes ~~and,~~ electronic cigarettes, and/or other tobacco products shall not be sold to any person under the age of twenty-one (21) ~~).~~ Cigarettes ~~and,~~ electronic cigarettes, and/or other tobacco products 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, and/or other tobacco products 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. Issuance of a Citation. An individual who violates a provision of this law may be issued a citation by the Oneida Police Department.

(a) A citation for a violation of this law and/or any orders issued pursuant to this law may include fines and other penalties, as well as conditional orders made by the Trial Court.

(b) A citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.

(c) The Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a fine and penalty schedule for citations issued as a result of a violation of this law.

115.8-2. Additional Penalties. In addition to the issuance of a citation and the resulting fine and/or penalty, an individual who violates a provision of this law may be subject to the following:

(a) Seizure. All cigarettes acquired, owned, possessed, sold, or distributed in violation of this law are unlawful property and subject to seizure by ~~any~~the Oneida ~~law enforcement officer~~Police Department.

~~(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~~Disciplinary Action. An employee who ~~violate~~violates 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-~~303~~-15-76-A

Adopted - BC-09-07-77-B

Adopted - BC-09-04-79-C

Adopted - BC-11-18-81-A

Amended - BC-10-10-07-A

Amended - BC-04-09-14-F

Amended - BC-01-25-17-B

~~Adopted - BC-9-7-77-B~~ ~~Amended - BC-10-10-07-A~~ Emergency Amended - BC-02-26-20-A

~~Adopted - BC-9-4-79-C~~ ~~Amended - BC-04-09-14-F~~ - - -

Title 1. Government and Finances - Chapter 115**Oy&=kwa> Olihw@=ke
matters concerning tobacco
TOBACCO**

115.1. Purpose and Policy
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115.5. Purchase of, Title to And Possession of Tobacco Products
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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, BC-01-25-17-B, BC-02-26-20-A, and BC-____-____-____.

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.

(h) “Tobacco products” means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; 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.

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 an Oneida retail location.

115.6-3. Cigarettes, electronic cigarettes, and/or other tobacco products shall not be sold to any person under the age of twenty-one (21). Cigarettes, electronic cigarettes, and/or other tobacco products for sale at an Oneida retail location shall be on display behind a counter. No person other than an authorized employee shall sell cigarettes, electronic cigarettes, and/or other tobacco products 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. *Issuance of a Citation.* An individual who violates a provision of this law may be issued a citation by the Oneida Police Department.

(a) A citation for a violation of this law and/or any orders issued pursuant to this law may include fines and other penalties, as well as conditional orders made by the Trial Court.

(b) A citation for a violation of this law shall be processed in accordance with the

procedure contained in the Nation's laws and policies governing citations.

(c) The Oneida Business Committee shall hereby be delegated the authority to adopt through resolution a fine and penalty schedule for citations issued as a result of a violation of this law.

115.8-2. *Additional Penalties.* In addition to the issuance of a citation and the resulting fine and/or penalty, an individual who violates a provision of this law may be subject to the following:

(a) *Seizure.* All cigarettes acquired, owned, possessed, sold, or distributed in violation of this law are unlawful property and subject to seizure by the Oneida Police Department.

(b) *Disciplinary Action.* An employee who violates this law shall be subject to disciplinary action in accordance with the Nation's laws and policies governing employment.

End.

Adopted - BC-03-15-76-A

Adopted - BC-09-07-77-B

Adopted - BC-09-04-79-C

Adopted - BC-11-18-81-A

Amended - BC-10-10-07-A

Amended - BC-04-09-14-F

Amended - BC-01-25-17-B

Emergency Amended – BC-02-26-20-A

Amended – BC-__-__-__-__