

TITLE 21
LUMMI NATION CODE OF LAWS
TOBACCO CODE

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**TITLE 21
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TOBACCO CODE**

Chapter 21.01 General Provisions

21.01.010 Title and Purpose

This Title shall be known as the Tobacco Code. The Lummi Nation finds that the regulation of Cigarettes and Tobacco Products is necessary to protect the health and welfare of the Lummi Nation and its members. The Lummi Nation further finds that a tax base, supported in part by the taxes imposed in this Title, is essential for providing governmental services for, and protecting the health, safety, and welfare of, all individuals who reside within or visit the Lummi Reservation and lands held in trust by the United States for the benefit of the Lummi Nation.

21.01.020 Applicability

The provisions of this Title and all rules and regulations under it shall apply within the exterior boundaries of the Lummi Reservation and within the exterior boundaries of all lands held in trust for the Lummi Nation by the United States regardless of location.

21.01.030 Compliance with Cigarette Tax Compact

In addition to the laws prescribed in this Title, the retail sales of Cigarettes by the Lummi Nation shall be conducted in compliance with the Cigarette Tax Compact, unless or until such Compact is terminated or expired. Such Compact does not apply to the retail sales of Tobacco Products.

Chapter 21.02 Definitions

21.02.010 Definitions

As used in this Title, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context clearly indicates otherwise:

(a) "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.

(b) "Cigarette Tax" means the tax or taxes imposed by the Lummi Nation enacted as a provision of Lummi Nation Code of Laws on the units of Cigarettes sold and on the purchase of Cigarettes by retail buyers.

(c) "Cigarette Tax Compact" means the Cigarette Tax Compact Between the Lummi Nation and the State of Washington, first entered into on November 1, 2004 and any amendments made thereafter.

(d) "Essential Governmental Services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.

(e) "LIBC" means the Lummi Indian Business Council, the governing body of the Lummi Nation.

(f) "Local Retail Sales Tax" means the combined Washington local retail sales taxes applicable in the area.

(g) "Nation" shall mean the Lummi Nation.

(h) "State" means the State of Washington.

(i) "Tax Stamp" shall mean the stamp or stamps that indicate the Cigarette Tax imposed by the Lummi Nation under this Title has been paid or that identifies those Cigarettes with respect to which no tax or another Lummi Nation tax is imposed. Such stamp shall either be a Washington State Tribal Compact Stamp or a Lummi Nation Tax Stamp.

(j) "Tobacco Products" means 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 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. "Tobacco Product" does not include Cigarettes.

(k) "Tobacco Products Tax" shall mean the tax or taxes imposed by the Lummi Nation enacted as a provision of the Lummi Nation Code of Laws on the units of Tobacco Products sold and on the purchase of Tobacco Products by retail buyers.

(l) "Tribal Member" means an enrolled member of the Lummi Nation.

(m) "Wholesale Distribution Price" shall mean the price paid for each Tobacco Product by the Nation together with all freight charges and other expenses incurred by the Nation in their receipt and distribution.

Chapter 21.03 Retail Sales of Cigarettes and Tobacco Products

21.03.010 Non-Governmental Sales Prohibited

Only retailers wholly owned by the Lummi Nation shall be permitted to make retail sales of Cigarettes or Tobacco Products within the exterior boundaries of the Lummi Reservation or the lands held in trust for the Lummi Nation by the United States regardless of location.

21.03.020 Wholesale Purchases - Requirements

(a) Retailers permitted to make retail sales of Cigarettes pursuant to this Title shall only purchase Cigarettes from:

- (1) Wholesalers or manufacturers licensed to do business in the state of Washington;
- (2) Self-certified wholesalers who meet the requirements of the Part VI, Section 2 of the Cigarette Tax Compact;
- (3) Self-certified tribal wholesalers who meet the requirements of Part VI, Section 3 of the of the Cigarette Tax Compact; and
- (4) The Lummi Nation or its enterprises as a tribal manufacturer.

(b) The terms "wholesaler", "self-certified wholesaler", and "self-certified tribal wholesaler" shall have the same meaning as set forth in Part I of the Cigarette Tax Compact.

Chapter 21.04 Cigarette Tax

21.04.010 Cigarette Tax

(a) The Lummi Nation shall impose a tax, which shall be known as the Cigarette Tax, upon the retail sales of all Cigarettes which occur on lands within the exterior boundaries of the Lummi Reservation or on the lands held in trust for the Lummi Nation by the United States regardless of location.

(b) The Cigarette Tax shall be equal to one hundred (100) percent of the Washington State cigarette tax which is expressed in cents per Cigarette, plus an amount equal to 100 percent of the State and local retail sales taxes.

21.04.020 Tax Stamp

All Cigarettes sold at any location within the exterior boundaries of the Lummi Reservation or on lands held in trust by the United States for the benefit of the Lummi Nation shall bear a Tax Stamp.

21.04.030 Cigarette Tax Revenue

(a) Revenue from the Cigarette Tax collected from individuals who are not enrolled members of the Lummi Nation shall be expended solely for Essential Governmental Services. Cigarette Tax revenue may not be used to subsidize cigarette retailers as defined in Part XIII, Section 7(b) of the Cigarette Tax Compact.

(b) Revenue from the Cigarette Tax collected from enrolled members of the Lummi Nation may be expended for any purpose.

Chapter 21.05 Tobacco Products Tax

21.05.010 Tobacco Products Tax

(a) The Lummi Nation shall impose a tax, which shall be known as the Tobacco Products Tax, upon the retail sales of all Tobacco Products which occur on the lands within the exterior boundaries of the Lummi Reservation or on the lands held in trust for the Lummi Nation by the United States regardless of location.

(b) Tobacco Products Tax Rate. The LIBC shall, from time to time, establish or modify the Tobacco Products Tax rate in a duly enacted resolution. In the absence of a rate set by duly enacted resolution of the LIBC, such rate shall default to zero percent (0%). Actions to gather and report information regarding funds collected from the Tobacco Products Tax do not become effective until a tax rate greater than 0% is set by resolution.

21.05.020 Tobacco Products Tax Revenue

Revenue from the Tobacco Products Tax collected from any purchaser may be expended for any purpose.

Chapter 21.06 Distribution

21.06.010 Wholesale Distribution

Wholesale distribution of Cigarettes or Tobacco Products by the Lummi Nation to a retailer shall be upon a cash basis for the Wholesale Distribution Price which shall have added to it the applicable Cigarette Tax levied under LCL §21.04.010 or the Tobacco Products Tax levied under LCL §21.05.010.

Chapter 21.07 Sales Restrictions

21.07.010 Minimum Age for Purchase

Cigarettes and Tobacco Products shall not be sold to any person under the age of eighteen (18) years. All purchasers appearing under the age of forty (40) shall be required to present photo identification to a retailer prior to the

purchase of Cigarettes or Tobacco Products.

Chapter 21.08 Severability

21.08.010 Severability

If any provision of this Title or its application to any persons or circumstance is held invalid, the remainder of this Title, or the application of the provision to other persons or circumstances is not affected.

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