

CHAPTER 10
TOBACCO

10-1 TITLE

This chapter shall be known as the Kootenai Tobacco Act

10-2 DEFINITIONS

10-2.01 For purposes of this chapter, unless otherwise required by the context, the following words and phrases shall have the following meanings:

(1) "Tobacco Products" shall mean cigarettes, cigars, pipe or other smoking tobacco, snuff, chewing tobacco, and other forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

(2) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, mixed with any other ingredient, or otherwise adulterated, where such roll has a wrapper or cover made of paper or any material, except where such wrapper or cover is wholly or in the greater part made of natural leaf tobacco in its natural state.

(3) "Tobacco Outlet" or "Operator" shall mean the Kootenai River Inn licensed by the Council to sell tobacco products on trust lands or such other entity as the Council may designate.

(4) [Repealed]

(5) "Tribal License" or "Tobacco License" or "Tobacco Outlet License" shall mean the license issued to the operator pursuant to this chapter by the Council.

(6) "Retail Selling Price" shall mean that price paid by the ultimate consumer to the operator for the tobacco product.

(7) "Excise Tax" shall mean the tax levied by the Council on each sales unit (e.g. pack, carton, etc.) which is to be collected by the operator from the ultimate consumer and remitted to the Tribe.

(8) "Cigarette Package" shall mean the individual package, box, or other container in or

from which retail sales of cigarettes are normally made or intended to be made.

10-3 LICENSING OF TOBACCO OUTLETS

10-3.01 The Council hereby licenses the Kootenai River Inn, located on Kootenai tribal trust lands, to sell cigarettes and tobacco products. Such license shall be valid until revoked by Tribal Council.

10-4 NATURE OF OUTLET

10-4.01 The licensed outlet shall be managed by the Kootenai River Inn pursuant to the provisions of this chapter and the tribal license granted hereunder.

10-5 [REPEALED]

10-6 TOBACCO OUTLET LICENSE

10-6.01 The license shall entitle the Kootenai River Inn to establish and maintain one tobacco outlet at its current location.

10-7 [REPEALED]

10-8 EXCISE TAX IMPOSED UPON THE SALE OR DISTRIBUTION OF TOBACCO PRODUCTS

10-8.01 There is levied and there shall be collected and remitted by the operator to the authorized representative of the Council, a tax upon the distribution of all cigarettes or other tobacco products sold or otherwise distributed in an amount approximately equal to the rate prevailing under Idaho Code or as determined by Council.

10-8.02 [Repealed]

10-8.03 Taxes levied hereunder shall be added to the retail selling price of the tobacco product.

10-8.04 The excise tax owed the Tribe by the operator shall be remitted monthly to the authorized representative of the Council together with reports on forms approved by the Tribal Council.

10-9 PERFORMANCE BOND FOR EXCISE TAX

10-9.01 The operator shall, if required by the Council or its authorized representative, furnish a satisfactory bond to the Tribe in the amount of \$10,000 or less, but sufficient to guarantee payment of the excise tax.

10-10 LICENSES AND LIABILITY FOR BILLS

10-10.01 A tobacco outlet license issued by the Council does not represent any promise or commitment by the Tribe to assume responsibility for the business. The operator is responsible for the payment of all tobacco outlet bills and is forbidden to represent or give the impression to any supplier that he is an official representative of the Tribe. The license issued by the Tribe under this chapter is contingent on the agreement of the operator to hold the Tribe harmless from all claims and liability related to the operation of the tobacco outlet.

10-10.02 The Council may revoke the operator's tribal license if the tobacco outlet is not operated in a business-like manner or does not remain financially solvent or if the operator does not pay the tobacco outlet's operating expenses and other bills.

10-10.03 The operation of a tribally-owned tobacco outlet is not to be deemed a waiver of sovereign immunity of the Tribe.

10-11 AUDITS - TRIBAL REGULATIONS

10-11.01 The operator shall provide the authorized representative of the Council copies of all tobacco outlet purchase invoices.

10-11.02 The books and other business records of a tobacco outlet may be available for inspection by the Council, its authorized representative, or any other person authorized by the Council, at any reasonable times and shall be especially inspected by the Council or its authorized representative proper to a renewal of a tobacco outlet license. Failure of the operator to maintain adequate business records is reason for the revocation or renewal of his tobacco outlet license, as contemplated in Section 10-14 of this chapter.

10-11.03 Net profits of tribally-owned outlets shall be used to meet the Council's governmental

obligation to promote the health, security, and general welfare of the Kootenai Tribe and members.

10-12 OTHER BUSINESS BY OPERATOR

10-12.01 An operator may conduct other businesses on the premises of the tobacco outlet, provided separate books of accounts are maintained so that the amount of the excise tax collectable and payable to the Tribe can be determined.

10-13 CIGARETTE PACKAGE POSSESSION

10-13.01 No person within Kootenai Tribal jurisdiction shall be in possession of more than one hundred (100) cigarette packages which do not have affixed thereto a valid state or Kootenai Tribe Tobacco Tax stamp, unless the packages are in transit and are being delivered either to an operator or a state authorized wholesaler or retailer. Violators will be subject to the penalties in Section 4-5.13 and/or Section 5-3.09.

10-14 REVOCAION OF TOBACCO OUTLET LICENSE

10-14.01 Failure of an operator to abide by the provisions of this chapter shall result in the revocation of his Tobacco Outlet License by the Council and the enforcement of the penalties provided in Section 10-15 of this chapter.

10-15 VIOLATION - PENALTIES

10-15.01 Any person or operator violating the provisions of this chapter shall be guilty of an offense and subject to a fine as provided in Chapter 4 and/or 5 of this code.

10-16 SEVERABILITY

10-16.01 If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected.

10-17 KOOTENAI TRIBE TOBACCO TAX STAMP

10-17.01 All cigarette packages sold by a tobacco outlet licensed by this chapter must bear a tribal tax stamp which stamp shall be issued by the Kootenai Tribe of Idaho.

10-17.02 It is a misdemeanor for a licensed tobacco outlet owner to possess in its outlet inventory or to in any manner offer for sale cigarettes which are not in stamped packages.

10-17.03 It is a misdemeanor for anyone subject to the jurisdiction of the Kootenai Tribe of Idaho to sell or offer for sale cigarettes which are not in stamped packages.