

TRIBAL CODE
CHAPTER 71
MOTOR VEHICLE CODE

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HISTORY NOTE:

Current Ordinance

Adopted August 6, 1986, Resolution No. 286(86).
Secretarial approval September 3, 1986.
Section 71.108(4) amended March 14, 1988, Resolution
No. 70(88).
Amended July 26, 1993, Resolution No. 230(93)
Section 71.103, 341.12 amended February 28, 1994, Resolution No.50(94).

Prior Ordinances

Portions of the Law and Order Ordinance dealt with motor vehicles. See History Note to Tribal Code Ch. 70.

Tribal Traffic Code approved November 28, 1983, Resolution No. 327(83), contingent upon Executive Board approval.

Interim Tribal Traffic Code adopted January 30, 1984, Resolution No. 55(84). Amended March 26, 1984, Res No. 127(84).

Cases: County of Vilas v. Chapman, 122 Wis. 2d 211, 361 N.W.2d 699 (1985). State has noncriminal traffic jurisdiction over Indians of LdF Reservation until Tribe is enforcing its own code.

TRIBAL CODE

CHAPTER 71

MOTOR VEHICLE CODE

71.101 Scope and Purpose.

(1) The purpose of this code is to govern the activities of all Indians within the exterior boundaries of the Lac du Flambeau Band of Lake Superior Chippewa Indian Reservation with respect to motor vehicles owned or operated on the reservation by incorporating and applying state law to such activities and to provide for tribal regulation of speed, size, weight, and load limits for all persons on tribally maintained roads.

(2) This code is applicable to all Indians within the exterior boundaries of the Lac du Flambeau Band of Lake Superior Chippewa Indian Reservation, except the provisions of Sec. 71.106(5) and 71.108(3) relating to tribally maintained roads apply to all persons.

(3) By this Code, the Tribe asserts its exclusive jurisdiction over the noncriminal activities of its members with respect to motor vehicles owned or operated by its members on the reservation.

(4) This code incorporates and applies state law in effect at the time of adoption of this ordinance. Any changes in state law shall automatically be incorporated and applied in this Code. It is contemplated that the governing body of the Tribe shall periodically review any changes in state law and reject any changes in the state law that do not further the purposes of this Code.

71.102 Definitions.

(1) The definitions contained in Chapter 340 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

(2) As used in this ordinance:

(a) "Member" means a person enrolled in the Tribe.

(b) "Non-criminal" means punishable by forfeiture or loss of privileges and not by fine and/or imprisonment.

(c) "Reservation" means the area within the external boundaries of the Lac du Flambeau Band of Lake Superior Chippewa Indians.

(d) "Tribe" means the Lac du Flambeau Band of Lake Superior Chippewa Indians.

(e) "Tribal Court" means the Lac du Flambeau Tribal Court.

71.103 Motor Vehicle Registration.

(1) All motor vehicles owned or operated by members residing on the reservation may be registered with the Tribe. Motor vehicles owned or operated by other than members residing on the reservation may be registered with the Tribe. Registration with the Tribe shall be in accordance with this ordinance that incorporates by reference as if fully set forth the provisions of Chapter 341 of the Wisconsin Statutes except that references to "the State" shall be construed to "the department" shall be construed as referring to the Lac du Flambeau Motor Vehicle Department.

(2) The following changes are made in Chapter 341 of the Wisconsin Statutes to clarify that the Tribe shall operate its own Motor Vehicle Department for the purpose of registration of motor vehicles:

Revise:

341.05 (3) Is operated in accordance with s. 341.405 through the State of Wisconsin.

Add:

341.05 (25) Qualifies and has registered pursuant to s.341.14 (1m), Wis. Stats.

Revise:

341.12 Design, procurement and issuance of registration plates.

(1) The Lac du Flambeau Motor Vehicle Department upon registering a vehicle pursuant to Tribal ordinance shall issue and deliver prepaid to the applicant 2 registration plates for an automobile, motor truck, motor bus, school bus, self-propelled mobile home or dual purpose motor home and one plate for other vehicles. The department upon registering a vehicle pursuant to any other section shall issue one plate unless the department determines that 2 plates will better serve the interests of law enforcement.

(2) The department shall purchase plates.

- (3) All registration plates shall have displayed upon them the following:
 - (a) The registration number or letters assigned to the vehicle or owner.
 - (b) The name "Lac du Flambeau Ojibwe Nation".
 - (c) An indication of the period for which the specific plate is issued or the date of expiration of registration.
- (4) All registration plates issued shall be treated with a reflectorized material or substance.
- (5) Registration plates issued for trucks shall have an identification number prefaced by the letter "T".
- (6) Registration plates issued to a veteran of the military shall bear the designation "VETERAN".

Omit:

341.13 (a)

Revise:

341.14 Application for and issuance of special plates.

Delete all, and replace with provision that: (1) A tribal member requiring disabled plates for a vehicle is exempt from the requirements of Tribal Code 71.101 (2), provided that the member registers the vehicle pursuant to 341.14, Wis. Stats.

Revise:

341.17 (4) Upon request, the department shall distribute free of charge registration lists compiled under this section to the State of Wisconsin.

Omit:

- 341.265 Antique motor Vehicles
- 341.266 Special interest vehicles
- 341.267 Driver education vehicles
- 341.268 Reconstructed and homemade vehicles
- 341.3 Municipal or county vehicle registration

Revise:

341.405 (1) The tribe shall effectuate the international registration plan through the State of Wisconsin.

Omit:

341.409 Reciprocal registration exemption agreements for federally recognized Indian tribes or bands.
(Not applicable).

Omit:

Subchapter IV: Registration of dealers, distributors, manufacturers, transporters, and finance companies, 341.47 through 341.57.

Revise:

Subchapter V: Penalty for fraudulent practices, 341.60 through 341.64. The penalty for any of the practices enumerated subchapter V shall be a fine of not to exceed \$500.00.

(3) Nothing contained herein shall alter the exemption of Tribally-owned motor vehicles from the registration requirements of Chapter 341 of the Wisconsin Statutes.

71.104 Vehicle Title.

(1) Title to motor vehicle owned or operated by members on the reservation shall be maintained and transferred by the State of Wisconsin in accordance with the provisions of Chapter 342 of the Wisconsin Statutes.

(2) All non-criminal provisions of Chapter 342 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

71.105 Operator's Licenses.

(1) Unless otherwise provided herein, no member may operate a motor vehicle on the reservation unless such member shall have a license for the operation of such motor vehicle issued by the State of Wisconsin in accordance with the provisions of Chapter 343 of the Wisconsin Statutes.

(2) Unless otherwise provided herein, all non-criminal provisions of Chapter 343 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

(3) No suspension or revocation of an operator's license by the State of Wisconsin shall effect driving privileges on the reservation if such suspension or revocation resulted from the action of a state court for an incident which occurred on the reservation.

71.106 Rules of the Road.

(1) No member may operate a motor vehicle on the reservation in violation of the rules of the road contained in Chapter 346 of the Wisconsin statutes.

(2) All non-criminal provisions of Chapter 346 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

(3) No member may operate a vehicle on the reservation in violation of a traffic regulation adopted by a local authority pursuant of the powers conferred upon such local authority by Chapter 349 of the Wisconsin Statutes. The Program Manager of the Tribal Roads Department is hereby authorized to set and post speed limits on all tribally maintained roads. No person may operate a motor vehicle on such tribally maintained roads in excess of any speed limit posted.

(4) All traffic regulations adopted by a local authority pursuant to the powers conferred upon such local authority by Chapter 349 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

71.107 Equipment of Vehicles.

(1) No member may operate a motor vehicle on the reservation in violation of the vehicle equipment provisions in Chapter 347 of the Wisconsin Statutes.

(2) All non-criminal provisions of Chapter 347, of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

71.108 Size, Weight, and Load.

(1) No member may operate a motor vehicle on the reservation in violation of the vehicle size, weight, and local provisions contained in Chapter 348 of the Wisconsin Statutes.

(2) All non-criminal provisions of Chapter 348 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

(3) The Program Manager of the Tribal Roads Department is hereby authorized to set and post size, weight, and load limits on all tribally maintained roads. No person may operate a motor vehicle on such tribally maintained roads in violation of any limits so posted.

(4) The Program Manager of the Tribal Roads Department is hereby authorized to require the posting of bond or other security by and operator of motor vehicles for which the gross weight imposed upon the road by the wheels of any one axle exceeds 8,000 pounds. The bond or other security shall be in such amount as is necessary to protect the Tribe against the cost of repair to any road occasioned by such use. The bond or other security shall be forfeit and expended for road repair if in the judgment of the Program Manager such repair is necessary due to the use of the roads by the vehicles covered by the bond or other security. Such security shall not be required for school buses or vehicles of infrequent use. It shall, however, be required of frequent road users such as loggers or contractors.

71.109 Snowmobiles.

(1) Snowmobiles shall be owned or operated on the reservation by members in accordance with the provisions of Chapter 350 of the Wisconsin Statutes.

(2) All non-criminal provisions of Chapter 350 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.

(3) No member may operate a snowmobile on the reservation in violation of a town or county ordinance regulating snowmobiles adopted pursuant to Wisconsin Statutes Sec. 350.18 and filed pursuant to Wisconsin Statutes Sec. 350.047.

(4) All town and county snowmobile ordinance adopted pursuant to Wisconsin Statutes Sec. 350.18 and filed pursuant to Wisconsin Sec. 350.047 and hereby incorporated by reference as if fully set forth herein.

71.110 Jurisdiction and Procedure.

(1) Jurisdiction is hereby conferred upon the Tribal Court over prosecutions for violation of this Code.

(2) Proceedings for violation of this Code shall be governed by Chapters III and IV of the Tribal Court Code, Tribal Code Ch. 80; provided, that proceedings may be instituted by issuance of a Wisconsin uniform traffic citation pursuant to Wisconsin Statutes Sec. 345.11 citing a violation of the state law provision incorporated into this Code by reference.

71.111 Enforcement and Penalties.

(1) The provisions of this Code shall be enforced by all Tribal law enforcement officers. In addition, every officer empowered by the laws of the State of Wisconsin to issue uniform citations for violation of Wisconsin traffic regulations is hereby authorized to enforce this Code and issue citations to Tribal Court.

(2) Violations of the provisions of this Code shall be punishable by a civil remedial money penalty of no more than the lesser of \$500.00 or the maximum forfeiture authorized by state law for the offense.

(3) In addition to a civil remedial money penalty, the Tribal Court shall suspend or revoke driving privileges on the reservation in accordance with Wisconsin Statutes, Sec. 343.25 through 343.40, inclusive; provided, that no demerit points resulted from the action of a state court for an incident which occurred on the reservation.

(4) Notice of any conviction under this Code shall be sent by the Clerk of Court to the Wisconsin Department of Transportation.

(5) In addition to a civil remedial money penalty, the court upon conviction shall order payment of court costs in the amount of \$20.00.