

The Chippewa Cree Tribe of the Rocky Boy's Reservation

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96 Clinic Road
Box Elder, Montana 59521

Resolution No. 171-21

HEREBY ADOPTS ORDINANCE NO. 01-21 ON TAXATION ON GASOLINE AND VEHICLE FUELS SALES WITHIN THE ROCKY BOY'S INDIAN RESERVATION.

WHEREAS, the Business Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Federal Indian Reservation, located in Box Elder, Montana, ("Tribe") by the authority of the Constitution and Bylaws of the Tribe approved on November 23, 1935; and

WHEREAS, pursuant to the Tribe's inherent sovereignty and Constitution and Bylaws of the Tribe, the Business committee is charged with the duty to promote and protect the health, security, and general welfare of the Tribe; and

WHEREAS, the State of Montana and the Tribe entered into the Chippewa Cree Tribe – Montana Gasoline Tax Agreement on December 23, 2005, and the State and the Tribe entered into the First Amendment to the Chippewa Cree Tribe – Montana Gasoline Tax Agreement on May 24, 2006, and the State and Tribe entered into the Second Amendment to the Chippewa Cree Tribe – Montana Gasoline Tax Agreement in September, 2011; and the State and the Tribe entered into the Third Amendment to Chippewa Cree Tribe – Montana Gasoline Tax Agreement on January 18, 2012 (hereinafter collectively "Agreement"); and

WHEREAS, the Agreement requires the Tribe to adopt and keep in force an ordinance imposing taxes equal to the Montana gasoline license tax, which tax shall apply to gasoline sold to all persons within the Tribe's jurisdiction on the Reservation in a manner similar to Montana taxes; and

WHEREAS, the Business Committee agree to incorporate and codify the attached Ordinance No. 01-21 within Title XXIII (23), Chapter 5, of the Chippewa Cree Tribal Law and Order Code; and

WHEREAS, the Business Committee affirms that all resolutions, or parts of the same, are consistent with the provisions with this Resolution, are hereby repealed to the extent of such inconsistency; and

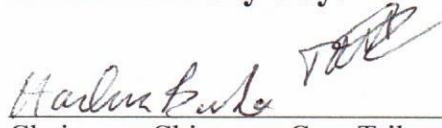
NOW, THEREFORE, BE IT RESOLVED that the Business Committee hereby adopts Ordinance No. 01-21 on Taxation on Gasoline and Vehicle Fuels Sales, governing the taxation of motor fuels sales within the exterior boundaries of the Rocky Boy's Indian Reservation.

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FURTHER, BE IT RESOLVED, the effective date of the adopted Taxation on Gasoline and Vehicle Fuels Ordinance No. 01-21 shall be thirty (30) days from the date of certification. The thirty (30) days public comment period, which shall expire upon the effective date.

CERTIFICATION

We, the undersigned, as the Chairman and as the Secretary of the Business Committee of the Chippewa Cree Tribe hereby certify that the Business Committee is composed of nine (9) members of whom six(6) members constituting a quorum were present at the meeting thereof, duly and specially called, noticed, convened and held this 11th day of November, 2021, and that the foregoing Resolution was duly adopted at said meeting by the affirmative vote of five(5) members for and zero(0) members against, zero(0) members abstained and that the Resolution has not been rescinded or amended in any way.



Chairman, Chippewa Cree Tribe



Secretary-Treasurer, Chippewa Cree Tribe

TAXATION ON GASOLINE AND VEHICLE FUELS

Ordinance No. 01-21. TAXATION ON GASOLINE AND FUEL SALES

Codified within Title XXIII (23), Chapter 5 of the Chippewa Cree Tribal Law and Order Code

Third and final reading approved during the monthly Business Committee meeting held on November 11, 2021, and was adopted by Resolution No. 171-21.

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Sec. 101. Declaration of Policy.

The Chippewa Cree Tribal Business Committee’s authority to adopt the ordinance codified in this title is found in the Tribal Constitution and in the inherent sovereignty of the Chippewa Cree Tribe to regulate its own territory and activities therein.

The Chippewa Cree Tribal Business Committee finds that regulation of the sale of motor vehicle fuels is essential to the health and welfare of the Chippewa Cree Tribe and its members. The Business Committee further finds that tax revenues are essential to the Tribe’s ability to provide goods and services, and to finance government operations and economic development, for the safety, health and welfare of the Chippewa Cree Tribe, its members, and those who work in, live in, and visit the Tribe’s Indian country.

The Chippewa Cree Tribal Business Committee Council finds that there are substantial unmet needs in funding for road construction and maintenance, transportation services, public safety, infrastructure, and governmental programs that serve Tribal members, employees, customers, and other residents of and visitors to Indian country.

In particular, due to an increase in visits to Indian country by nonmember Indians and non-Indians for the purposes of enjoying the Tribe's cultural and enterprises attractions and employment with the Tribe, the Chippewa Cree Tribal Business Committee finds that there are new and increased unmet needs for infrastructure development and improvement, including road construction and maintenance, transportation services, sidewalks, lighting, signage, water, and wastewater treatment. The Chippewa Cree Tribal Business Committee finds that fuel tax collection is an important element of a plan to fill those unmet needs.

Therefore, in the public interest and for the welfare of the people of the Chippewa Cree Tribe, its employees, the residents of and visitors to Indian country, the Chippewa Cree Tribal Business Committee, in the exercise of its authority under the Tribal Constitution, declares its purpose by the provisions of this Ordinance to regulate the sale of motor vehicle fuel and to impose, collect and administer taxes on the distributors of motor vehicle fuel.

Sec. 102. Scope.

- A. Application. This Ordinance shall apply to the full extent of the sovereign jurisdiction of the Chippewa Cree Tribe in Indian country.
- B. Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the Indian country under the jurisdiction of the Chippewa Cree Tribe, shall be deemed thereby to have consented to the following:
 - 1. To be bound by the terms of this Ordinance;
 - 2. To the exercise of civil jurisdiction by the Chippewa Cree Tribal Court over said person in legal actions arising pursuant to this Ordinance; and
 - 3. To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Ordinance.

Sec. 103. Definitions.

The following definitions apply throughout this Ordinance unless otherwise specified or the context clearly indicates otherwise:

"Court" means the Chippewa Cree Tribal Court, and includes the Chippewa Cree Tribe Court of Appeals.

"Distributor" means:

- 1. a person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline or special fuel for sale, use, or distribution;
- 2. an importer who imports gasoline or special fuel for sale, use, or distribution;
- 3. a person who engages in the wholesale distribution of gasoline or special fuel in this state and chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

"Essential government services" mean services that the Chippewa Cree Tribe provides to its members and to residents of and visitors to Indian country in order to fulfill its governmental responsibilities.

"Fuel manufacturing" means:

1. The blending of motor vehicle fuel to which federally required detergents and other additives have not been added, with those federally required detergents and other additives to render the fuel suitable for use in a motor vehicle;
2. The blending of motor vehicle fuel with soy-based additives, denatured alcohol or other similar additives in industry-recommended quantities for the purpose of improving performance, environmental or other aspects of the fuel or of increasing the octane of the resulting product;
3. The blending of number 2 diesel fuel with premium diesel additives in industry-recommended quantities for the purpose of improving performance, environmental, or other aspects of the fuel;
4. The blending of diesel fuel with soy-based or other additives to improve the lubricity or performance of the resulting product; or
5. Other similar processes by which motor vehicle fuels and other ingredients are blended to create a new, improved, or different product.

"Indian country," consistent with the meaning given in 18 U.S.C. 1151 means:

1. All land within the limits of the Rocky Boy Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and
2. All Indian allotments or other lands held in trust for a Rocky Boy Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Motor vehicle fuel" means and includes all fuels normally sold for use in a motor vehicle, including gasoline and diesel products.

"Non-Indian" means an individual who is neither a Tribal member nor a nonmember Indian.

"Nonmember Indian" means an enrolled member of a federally recognized Indian Tribe other than the Chippewa Cree Tribe.

"Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

"Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption outside Montana.

"Importer" means a person who transports or arranges for the transportation of gasoline or special fuel into Montana for sale, use, or distribution.

"Rocky Boy Reservation" or "reservation" means the area recognized as the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation by the United States Department of the Interior.

"State" means the state of Montana.

"State motor vehicle fuel tax" means the Montana State motor vehicle fuel tax.

"Tribal Council" means the Chippewa Cree Tribal Business Committee.

"Tribal member" means an enrolled member of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation.

"Tribe" or "Tribal" means or refers to the Chippewa Cree Tribe.

Sec. 104. Fuel tax—Levy— Tribal Tax Rate.

- A. Effective immediately, the Tribe shall impose taxes, pursuant to the terms of this section, on all distributors of motor vehicle fuel for the privilege of engaging in and carrying on business within the Tribe and the State of Montana.
- B. The Tribe (with the assistance by the State pursuant to the Agreement) may collect at the time of sale and delivery of any motor vehicle fuel a tax in an amount equal to:
 - a. for each gallon of gasoline, includes ethanol and ethanol blended gasolines, distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor:
 - i) 32 cents in fiscal years 2020 and 2021;
 - ii) 32.5 cents in fiscal year 2022; and
 - iii) 33 cents in fiscal year 2023 and thereafter;
 - b. for each gallon of special fuel, included biodiesel, distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor:
 - i) 29.45 cents in fiscal years 2020 and 2021;
 - ii) 29.55 cents in fiscal year 2022; and
 - iii) 29.75 cents in fiscal year 2023 and thereafter; and

- c. 5 cents for each gallon of aviation fuel, includes avgas and jet fuel, other than fuel sold to the federal defense fuel supply center.

Sec. 105. Fuel tax—Collection and payment of.

Every person engaged in retail sales of motor vehicle fuel in Indian country is liable for collecting the Tribal fuel tax levy. That person shall maintain accurate written records of the purchase and retail sales of motor vehicle fuel, and shall make such records available for inspection by the Tribal finance officer and/or third-party auditor retained by the Tribe. Records shall be maintained for no less than three years after the audit is accepted by the appropriate federal oversight agency.

Sec. 106. Fuel tax—Use of Tribal levy.

Tribal motor vehicle fuel tax revenue shall be used only for essential government services, including, but not limited to: planning, construction, and maintenance of roads and transit services; government services to provide and maintain infrastructure such as sidewalks, signs, and utilities; and law enforcement.

Sec. 107. Uniform Penalty and Interest Assessments for Violation of Tax.

A person who fails to pay an imposed tax by due date, including any extension of time allowed, shall be assessed a late filing penalty. A penalty of 10% must be added to the tax, and the tax bears interest at the rate of 1% per month, prorated daily, from the date of delinquency until paid.

Sect 108. Fuel tax—Prior resolutions.

Prior Business Committee resolutions dealing with the levy of Tribal motor vehicle fuel taxes are superseded by this Ordinance.

Sec. 109. Powers Reserved to Chippewa Cree Business Committee.

All powers relating to the regulation and control over distributors of motor vehicle fuel which are not expressly delegated in this Ordinance shall be retained by the Chippewa Cree Business Committee. The Business Committee also reserves the right to amend or repeal this Ordinance.

Sec. 110. Exemptions.

Nothing in this Ordinance restricts the Chippewa Cree Business Committee from establishing exemptions within this Ordinance. Any exemption shall be adopted by Resolution.

Sec. 111. Sovereign Immunity Preserved.

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Chippewa Cree Tribe.

Sec. 112. Enforcement.

The Tribe may commence and prosecute to final determination in the Chippewa Cree Tribal Court or any court of competent jurisdiction in an action to collect taxes and penalties pursuant to his Ordinance.

Sec. 113. Severability.

Should any section, clause, sentence, or provision of this Ordinance be held invalid for any reason, such hold or decree shall not be construed as affecting the validity of any of the remaining portions hereof, it being declared that the Chippewa Cree Business Committee would have adopted the remainder of this Ordinance, notwithstanding the invalidity of any such Section, clause, sentence, or provision.

Sec. 114. Amendment.

Amendments to this Ordinance may be made only by the Chippewa Cree Business Committee of the Chippewa Cree Tribe.

Sec. 115. Effective Date.

This Ordinance was adopted by the Chippewa Cree Business by Resolution No. 171-21, and is effective on the 11th day of December, 2021.