

Mille Lacs Band Statutes Annotated

Amendments received through: May 14, 2004

TITLE 20 - WATERCRAFT

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CHAPTER 1

GENERAL PROVISIONS

Section

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§ 1. Findings and Declarations.

- (a) The Band Assembly hereby finds and declares that it is a policy of the Non-Removable Mille Lacs Band of Chippewa Indians to promote the use and enjoyment

of the natural resources as well as, to protect the quality of the environment encompassing the trust lands and contiguous waters within the exterior boundaries of the Mille Lacs and Sandy Lake Reservations as described in the Treaty of 1855 for the benefit of enrolled members of the Band.

- (b) The Band Assembly hereby finds and declares that it is necessary to regulate the use of watercraft on the waters contiguous to trust land by enrolled members of the Band in order to:
 - (1) protect the safe exercise of treaty fishing and wild rice harvesting;
 - (2) protect the ecology of the lake; and
 - (3) prevent water pollution.
- (c) The Band Assembly hereby finds and declares that the establishment of a boat safety program containing standards for registration and titling of watercraft, and for the safe operation of said watercraft on the waters is desirable to prevent the loss of lives, loss or damage to property and vessels, and protection of the marine environment.
- (d) The Band Assembly hereby finds and declares that it is a policy of the Non-Removable Mille Lacs Band of Chippewa Indians to seek a higher degree of reciprocity and comity with the State of Minnesota by establishing concurrent motor vehicle and watercraft registration and titling programs which promotes government to government relations.
- (e) The Band Assembly hereby finds and declares that a public policy of closer cooperation and assistance between the Non-Removable Mille Lacs Band of Chippewa Indians and the State of Minnesota offers increased opportunities for the protection of the natural resources and the general health, welfare and safety of the citizens of both jurisdictions.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-5 1 T.I, § 1.

§ 2. Construction and Severability.

The provisions of this title shall be liberally construed so as to effectuate the purposes thereof. The provisions of this title shall be severable and if any phrase, clause, sentence, or provision of this law is declared to be contrary to the Constitution of the Minnesota Chippewa Tribe or any of the laws of the Band or the application thereof to any agency, person or circumstance is held invalid by the Court of Central Jurisdiction, the validity of the remainder of this title and the applicability thereof to any agency, person or circumstance shall not be affected thereby. If the provisions of this title or any part thereof shall be held contrary to the laws of the State of

Minnesota, the other provisions of said law unaffected shall remain in full force and effect as to all severable matters.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 10.

§ 3. Reservation of Right of Amendment.

The Band Assembly hereby fully reserves the right to alter, amend or repeal the several provisions of this title, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 11.

§ 4. Savings Provision.

Compliance with this title or standards, regulations, or orders promulgated hereunder shall not necessarily relieve any person subject to the jurisdiction of this title from liability at common law or under civil or criminal law of the State of Minnesota pursuant to the provisions of 28 U.S.C. 1360 and 18 U.S.C. 1162.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 8.

§ 5. Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

- (a) **"Administration"** means the Natural Resources Administration of the Executive branch of government in and for the Non-Removable Mille Lacs Band of Chippewa Indians.
- (b) **"Associated equipment"** means any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair or improvement of such system, part or component; any accessory or equipment for, or appurtenance to, a boat; and any marine safety article

- accessory, or equipment intended for use by a person on board a boat; but excluding radio equipment.
- (c) **"Boat"** means any vessel manufactured or used primarily for noncommercial use; or leased, rented or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers, whether self or motor propelled.
 - (d) **"Commissioner"** means the Commissioner of Natural Resources in and for the Non-Removable Mille Lacs Band of Chippewa Indians.
 - (e) **"Operate"** means to navigate or otherwise use a watercraft.
 - (f) **"Operator"** means every person who operates or is in actual physical control of a watercraft.
 - (g) **"Owner"** means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such lawful right to possession of a vessel through purchase, exchange, gift, inheritance or other legal action.
 - (h) **"Passenger"** means every person carried on board a vessel other than the owner or his representative; the operator; bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.
 - (i) **"Use"** means operate, navigate, or employ.
 - (j) **"Vessel"** includes every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.
 - (k) **"Watercraft"** means any contrivance used or designed for navigation on water including:
 - (1) duck boat during the duck hunting season,
 - (2) sailboat,
 - (3) canoe,
 - (4) rice boat during the harvest.
 - (l) **"Waters"** as used herein, are defined as any lake, pond or other body of water capable of substantial beneficial use, and any waters to which the Band members have access.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 2.

§ 6. Applicability of Federal Boat Safety Act of 1971 (46 U.S.C. 1451).

The provisions of the Federal Boat Safety Act shall apply as a federal law coordinating the national boat safety program in the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.I, § 3.

§ 7. Reciprocity with State of Minnesota.

The Commissioner of Natural Resources is authorized and directed to negotiate a watercraft reciprocity agreement with the Department of Natural Resources in and for the State of Minnesota. The Band Assembly hereby empowers the Commissioner of Natural Resources to execute the said reciprocity agreement on behalf of the Non-Removable Mille Lacs Band of Chippewa Indians upon the advice of the Chief Executive and the consent of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 4.

§ 8. Rulemaking Authority of Commissioner.

- (a) The Commissioner of Natural Resources may issue regulations necessary or appropriate under the provisions of this section to carry out the purposes of this chapter of law. All said regulations adopted hereunder shall be pursuant to lawful Commissioner's Order pursuant to the provisions of 4 MLBS § 7(h).
- (b) The Commissioner shall issue regulations establishing a system for the care and maintenance of official records, an incident and casualty reporting system, minimum safety standards for boats and associated equipment, requiring mg the installation, carrying or using of associated equipment on boats and classes of boats subject to the provisions of this law; and prohibiting the installation, carrying or using of associated equipment which does not conform with safety standards established pursuant to such regulations or other applicable law.

- (c) In establishing a need for formulating and prescribing discretionary regulations and standards, the Commissioner shall among other things:
 - (1) consider the need for and the extent to which the regulations or standards will contribute to boating safety;
 - (2) consider relevant available boating safety standards, statistics and data including public and private research, development testing and evaluation;
 - (3) consider whether any proposed regulation or standard is reasonable and appropriate for the particular type of boat or associated equipment for which it is prescribed.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 5.

§ 9. Model State Boat Act Implementation.

The Commissioner of Natural Resources is herewith authorized to implement as he deems appropriate the substantive content of the model State Boat Act as approved by the National Association of State Boating Law Administrators in conjunction with the council of state governments.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 9.02.

§ 10. Limited Waiver of Sovereign Immunity.

The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in cases where a seizure of property occurs pursuant to the provisions of this title. However, any such action shall be directed solely against the Commissioner of Natural Resources, in his/her official capacity in order to challenge any seizure action and shall be limited to actions seeking an order for the return of goods seized. All other causes of action which arises pursuant to this title shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorneys' fees, shall be permitted.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.I, § 7.

Cross References

Seizure and confiscation of certain substances, or of vessels containing them, *see* 20 MLBS § 405.

§ 11. Applicability of Certain Statutory Provisions.

The provisions of 24 MLBS § 3301 et seq. Remedies for Creditors and 18 MLBS § 301 Uniform Commercial Code of the State of Minnesota are hereby declared as mandatory provisions of this title of law available to all lienholders for the recovery of a vessel when the owner of record is in default of any security agreement entered into with a member of the Non-Removable Mille Lacs Band of Chippewa Indians who resides on land subject to the jurisdiction of the Band. Provisions for due process in the Court of Central Jurisdiction pursuant to 24 MLBS § 3301 et seq. are mandatory prior to any repossession action by any lien holder.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T1, § 8.

Cross References

Security interests, certificates of title, *see* 20 MLBS § 207.

§ 12. Application of Motor Vehicle Laws to Watercraft.

The provisions of 19 MLBS §§ 106-108, 111, 201-208, 241-243, 271-276 and 301-305 relating to motor vehicle registration, certification of titles, certificate issuance, ownership transfer and perfection of security interest and other provisions which may be applied to vessels subject to this title shall be so applied by order of the Commissioner of Natural Resources if they are not inconsistent with or absent from the provisions of this title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.11, § 4.01.

§ 13. Duplicate Certificates or Decals.

- (a) If a certificate of title, a certificate of registration, or a pair of decals is lost, stolen, mutilated or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the Natural Resources Administration, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of \$ 1 and furnishing information satisfactory to the Administration.

- (b) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the Commissioner and signed by the first secured party or, if none, the owner or legal representative of the owner.
- (c) The duplicate certificate of title or registration shall contain the legend, "This is a duplicate certificate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.
- (d) A person recovering an original certificate of title, certificate of registration, or decal for which a duplicate replacement has been issued shall promptly surrender the original to the Natural Resources Administration.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 5.

Cross References

Certificates of title, *see* 20 MLBS § 201.

Registration and decal, *see* 20 MLBS § 106.

§ 14. Cancellation of Title or Registration.

The Commissioner shall cancel a title or registration whenever:

- (a) a transfer of title is set aside by court order or judgment; or
- (b) it is subsequently discovered that the issuance or possession of a title or registration is prohibited by law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 9.

Cross References

Certificates of title, *see* 20 MLBS § 201.

Registration, *see* 20 MLBS § 101.

§ 15. Boat Safety Program Content.

- (a) The Commissioner of Natural Resources shall prior to January 1, 1989, issue a Boat Safety Program for the Mille Lacs Band of Chippewa Indians which incorporates a

Band numbering system approved under this title, provides for patrol and other activity to assure enforcement of the Band's boat safety laws and regulations, provides for boat safety education programs and provides for the submission of annual reports to the Band Assembly and the appropriate federal agency of the United States.

- (b) The Commissioner of Natural Resources is hereby authorized to submit the Band's Boat Safety Program to the United States Department of Transportation or other appropriate federal agency with jurisdiction over the Federal Boat Safety Program. The purpose of the submission of the Band's program is to participate in the allocation of federal funds for the purposes set forth in 46 U.S.C. 145 1 et seq. and those purposes herein stated.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 9.

§ 16. Disposition of Monies Collected.

All monies, including judicially imposed fines received and receipted pursuant to the provisions of this title shall be held in a separate account in the name of the Non-Removable Mille Lacs Band of Chippewa Indians Boat Safety Program until lawfully disbursed by appropriation of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-5 1, T.VI, § 7.

Cross References

Enforcement of this title, *see* 20 MLBS § 401.

CHAPTER 2

REGISTRATION OF WATERCRAFT

Section

- 101. Registration Required.**
- 102. Display of Registration Number and Valid Decal.**
- 103. Exceptions from Vessel Registration.**
- 104. Commissioner's Powers and Duties.**
- 105. Application for Registration.**

- 106. Issuance of Registrations and Decals.**
- 107. Registration Periods-Renewals.**
- 108. Transfer of Registrations.**
- 109. Notice of Changed Conditions.**

§ 101. Registration Required.

All enrolled members of the Non-Removable Mille Lacs Band of Chippewa Indians who reside or principally garage a vessel on lands subject to the jurisdiction of the Band shall register said vessel with the Mille Lacs Natural Resource Administration effective May 1, 1988. No resident enrolled member of the Mille Lacs Band may own or operate any vessel on the waters contiguous to lands subject to the jurisdiction of the Band or on the public waters within the boundaries of the State of Minnesota unless said vessel has been registered with the Mille Lacs Natural Resources Administration.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T. II, § 1.

§ 102. Display of Registration Number and Valid Decal.

All vessels owned or operated on the waters under the jurisdiction of the Band or the State of Minnesota by an enrolled member of the Mille Lacs Band who resides on land subject to the jurisdiction of the Band shall display a Band registration number and valid decal in accordance with the provisions of this title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 2.

§ 103. Exceptions from Vessel Registration.

Vessel registration is required under this title except for the following:

- (a) vessels owned by the Band or political subdivision thereof, used principally for governmental purposes and clearly identifiable as such;
- (b) vessels owned by enrolled members of the Non-Removable Mille Lacs Band of Chippewa Indians who do not reside or principally garage said vessel on lands subject to the jurisdiction of the Band;

- (c) vessels owned by non-enrolled members of the Minnesota Chippewa Tribe which are not principally garaged on lands subject to the jurisdiction of the Band;
- (d) vessels used as a ship's lifeboat.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 3.

§ 104. Commissioner's Powers and Duties.

The Commissioner of Natural Resources shall provide for the issuance of vessel registrations and may appoint Natural Resource officers, as agents, for the purpose of collecting fees and issuing registration numbers and decals.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 4.

§ 105. Application for Registration.

Applications for a vessel registration shall be made to the Commissioner of Natural Resources or his authorized agent in the manner and upon forms prescribed by the Commissioner. The application shall state the name and address of each owner of the vessel, a description of make, model, year, and manufacturer of vessel, and such other information as may be required by the Commissioner, shall be signed by at least one owner and shall be accompanied by a vessel registration fee of \$5 per year and any applicable excise taxes imposed pursuant to Band law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 5.

§ 106. Issuance of Registrations and Decals.

Upon receipt of a proper application and the registration fee, the Commissioner or his designated agent shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in the manner prescribed by the Commissioner consistent with the standard numbering system for vessels set forth in Volume 33 Part 174 of the Code of Federal Regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 6.

§ 107. Registration Periods—Renewals.

All vessel registrations and decals are valid for a period of one year commencing May 1 of each calendar year. For registration periods of less than one year, the Commissioner may collect pro-rated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable each year in the manner prescribed by the Commissioner upon payment of the vessel registration fee and the excise tax. Upon renewing a vessel registration, the Commissioner shall issue a new decal to be affixed as prescribed by law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 7.

§ 108. Transfer of Registrations.

Any person subject to the jurisdiction of this title acquiring a vessel from a dealer or a vessel already validly registered under the name of different owner or the laws of the State of Minnesota or any other state jurisdiction shall, within 15 days of the acquisition or purchase of the vessel, apply to the Natural Resources Administration for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of \$2.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 8.

§ 109. Notice of Changed Conditions.

Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within 15 days of the occurrence of any of the following:

- (a) transfer of any part or all of the ownership of a vessel registered under this title;
- (b) any change of address of owner, destruction, loss, abandonment, theft, or recovery of the vessel; or
- (c) loss or destruction of a valid certificate of registration on the vessel.

Historical and Statutory Notes

Source:

Band Statute 1 1 30-MLC-51, T.III, § 4.04.

CHAPTER 3

CERTIFICATES OF TITLE

Section

- 201. Legislative Intent.**
- 202. When Certificate of Title Required.**
- 203. Surrender of Certificates of Title from Exterior Jurisdiction.**
- 204. Surrender of Manufacturer's Certificate of Origin.**
- 205. Application for Certificate of Title.**
- 206. Issuance.**
- 207. Security Interests.**
- 208. Suspension or Revocation of Certificate.**

§ 201. Legislative Intent.

It is the intention of the Band Assembly to establish a system of certificates of title for vessels and watercraft similar to that in existence for motor vehicles. It is the goal of this legislation that the title certificate become *prima facie* evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and that security interests in vessels be perfected solely by notation of a secured party upon the title certificate.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 1.

Cross References

Motor vehicles, certificates of title, *see* 19 MLBS § 201.

§ 202. When Certificate of Title Required.

Whenever a vessel is to be registered for the first time as required by this title, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this title of law shall,

within 15 days thereof, apply for a new certificate of title which shows the vessel's change of ownership.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 4.02.

§ 203. Surrender of Certificates of Title from Exterior Jurisdiction.

All enrolled members of the Band who reside or principally garage any watercraft on lands subject to the jurisdiction of the Band, and who are holders of vessel or watercraft certificates of titles issued by the State of Minnesota or any other jurisdiction shall surrender said certificate of title at the time of application for a Band certificate of title. The Commissioner of Natural Resources is prohibited from issuing any Band certificate of title for which an existing exterior jurisdiction certificate of title remains outstanding.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 2.

§ 204. Surrender of Manufacturer's Certificate of Origin.

Upon application for a certification or title to a new vessel never before titled and sold by an in-state or out-of-state dealer or manufacturer's statement of origin or other document or documents certifying the first conveyance of said vessel after its manufacture. The manufacturer's statement of origin or other similar document or documents shall reflect the model year, make, and hull identification number of the vessel.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 6.

§ 205. Application for Certificate of Title.

Applications for certificates of title may be made through the Commissioner of Natural Resources or his designated agents on the form prescribed for this purpose. The fee for a vessel certificate of title is \$5. Each application for a title certificate shall require the person to be designated as the registered owner to swear under penalties of the perjury laws of this Band or the United States of America that he is the owner or an authorized agent of the owner of the vessel, and that it is free of any claim of lien, mortgage, conditional sale, or other security

interests of any person except the person or persons set forth in the application as secured parties.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 3.

§ 206. Issuance.

The Commissioner of Natural Resources shall provide for the issuance of vessel certificates of title to the appropriate owner or secured party.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 4.

§ 207. Security Interests.

- (a) Security interests in vessels subject to the requirements of this title shall be perfected only by indication upon the vessel's title certificate.
- (b) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. No renewal or extension of any existing security interest is affected by the provisions of this law.
- (c) The method provided in this title of perfecting and giving notice of security interest subject to this title is exclusive.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, §§ 4, 7.

§ 208. Suspension or Revocation of Certificate.

- (a) The Commissioner of Natural Resources shall suspend or revoke a certificate of vessel title if he finds:
 - (1) the certificate of title was fraudulently procured, erroneously issued, or prohibited by law; or
 - (2) the vessel has been scrapped, dismantled or destroyed; or

- (3) a transfer of title is set aside by a court order or judgment.
- (b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
- (c) When the Commissioner suspends or revokes a certificate of title, the owner or person in possession of it, shall immediately upon receiving notice of the suspension or revocation mail or hand deliver the certificate to the Commissioner
- (d) The Commissioner may seize and impound any certificate of title which has been lawfully suspended or revoked.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 8.

CHAPTER 4

REGULATION OF WATERCRAFT

Section

- 301. Applicability of Minnesota Statutory Watercraft Regulations: Chapter 361.**
- 302. Methods of Operation.**
- 303. Lights.**
- 304. Mufflers.**
- 305. Life Preservers or Life Floats.**
- 306. Use of Vessel in Negligent Manner.**
- 307. Use of Vessel in Grossly Negligent Manner.**
- 308. Use of Vessel While Under the Influence of Alcohol or Drugs Prohibited.**
- 309. Responsible Operation of Watercraft.**
- 310. Operation by Children.**
- 311. Obstruction of Legal Process.**
- 312. Malicious Mischief Against Documents, Stickers or Decals.**
- 313. Duty of Operator Involved in Collision, Accident, or Other Casualty.**
- 314. Immunity from Liability of Persons Rendering Assistance.**
- 315. Penalty.**

§ 301. Applicability of Minnesota Statutory Watercraft Regulations: Chapter 361.

- (a) The Commissioner of Natural Resources is herewith authorized to implement, as he deems necessary and appropriate, substantive content of Minnesota Statutes Chapter

361.01 through 361.28 inclusive, as applicable Band regulatory provisions pursuant to the issuance of a Commissioner's Order.

- (b) All such regulatory provisions implemented pursuant to subsection (a) shall become effective fifteen days after the date of execution and notice to the members of the Band so effected.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 7.

Cross References

Commissioner's orders, *see* 4 MLBS § 8.

§ 302. Methods of Operation.

Every person subject to the jurisdiction of this title who operates a motor propelled boat or vessel on any waters, shall operate the same in a careful and prudent manner at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstruction to view ahead and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 1.

§ 303. Lights.

It shall be unlawful for any person subject to the jurisdiction of this title to operate any motor propelled boat or vessel on any such waters without a white light during the hours of darkness, distinctly visible under clear weather conditions for a distance of at least 300 feet.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 2.

§ 304. Mufflers.

All such motor driven boats or vessels shall use a muffler or other similar devise to reduce the sound of exhaust.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 3.

§ 305. Life Preservers or Life Floats.

Every motor driven boat operating on any such waters and carrying passengers for hire or leased for hire, shall have a life preserver or life float for each passenger said boat or vessel has capacity to carry, placed or attached in such manner as to be convenient for use.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 6.

Cross References

Termination of unsafe use of vessel, *see* 20 MLBS § 407.

§ 306. Use of Vessel in Negligent Manner.

Any person subject to the jurisdiction of this title who operates a vessel in such a manner as to endanger or be likely to endanger any person(s) or property shall be negligent and subject to civil and criminal penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 3.

§ 307. Use of Vessel in Grossly Negligent Manner.

Any person subject to the jurisdiction of this title who by operating a watercraft in a reckless or grossly negligent manner and in willful and careless disregard of life or property and causes personal injury to another and/or damages to the property of another shall be subject to both criminal and civil penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 4.

§ 308. Use of Vessel While Under the Influence of Alcohol or Drugs Prohibited.

- (a)
 - (1) For the purposes of this section, "vessel" means any watercraft used or capable of being used as a means of transportation on the water.
 - (2) For the purposes of this section, "vessel operator" means a person who is in actual physical control of a vessel.
- (b) A person subject to the jurisdiction of this Band statute is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel upon the waters while:
 - (1) the person has 0.10 grams or more of alcohol per 210 liters of breath as shown by analysis of the person's breath, blood or other bodily substance made pursuant to the laws of the Band;
 - (2) the person is under the influence of or affected by intoxicating liquor or any drug; or
 - (3) the person is under the combined influence of or affected by intoxicating liquor and any drug.
- (c) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of the Band or the State of Minnesota shall not constitute a defense against any charge of violating this section. A person cited under this section may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting Band officer shall administer field sobriety tests when circumstances permit.
- (d) A violation of this section is a misdemeanor and may subject the violator to both criminal and civil penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Bank Statute 1130-MLC-51, T.IV, § 4.

Cross References

Prohibited drugs, *see* 23 MLBS § 1.

§ 309. Responsible Operation of Watercraft.

No person subject to the jurisdiction of this title shall knowingly authorize or permit a person who is under the influence or affected by intoxicating liquor or any drug or who is physically or mentally disabled or incapable, to operate any watercraft.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 5.

§ 310. Operation by Children.

Except in the case of an emergency, no person under the age of 13 years shall operate or be permitted to operate any watercraft propelled by a motor, unless there is present in the watercraft in addition to the operator, his/her parent or legal guardian, or at least one person of the age of 18 years or over.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 5.01.

§ 311. Obstruction of Legal Process.

It shall be unlawful for any person subject to the jurisdiction of this title to willfully hinder, resist, or obstruct a duly authorized official, officer or employee of the Non-Removable Mille Lacs Band of Chippewa Indians in the performance of his/her official duty, or to refuse to submit anything called for by him for inspection.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 8.

Cross References

Authority of officers, *see* 20 MLBS § 405.

§ 312. Malicious Mischief Against Documents, Stickers or Decals.

It shall be unlawful for any person subject to the jurisdiction of the Mille Lacs Band to deface, alter or mutilate any official document, sticker or decal issued in compliance with the provisions of this title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 9.

§ 313. Duty of Operator Involved in Collision, Accident, or Other Casualty.

The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident or casualty. The operator shall also give his or her name, address, and the identification of the operator's vessel to any duly authorized law enforcement officer of the Band or the State of Minnesota and any person injured and to the owner of any property damaged: provided, that this requirement shall not apply to operators of vessels when they are participating in an organized competitive event covered by a permit issued by any lawful jurisdiction. These duties are in addition to any duties otherwise imposed by federal or state law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.V, § 1.

§ 314. Immunity from Liability of Persons Rendering Assistance.

Any person who complies with 20 MLBS § 313 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same similar circumstances.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T. V, § 2.

§ 315. Penalty.

Any violation of the provisions of 20 MLBS §§ 301-312 shall be subject to penalties imposed in 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 10.

CHAPTER 5

ENFORCEMENT

Section

- 401. Criminal Penalties.**
- 402. Civil Penalties.**
- 403. Criminal Violations as Evidence in Civil Actions.**
- 404. Injunctive Relief.**
- 405. Enforcement Authority.**
- 406. Notice in lieu of Summons.**
- 407. Termination of Unsafe Use of Vessel.**

§ 401. Criminal Penalties.

Any person subject to the jurisdiction of this title who violates the prohibitory provisions of 20 MLBS §§ 306, 307, or 313 or any regulations issued thereunder shall be fined not more than \$5,000 for each violation and imprisoned not more than one year or both.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 1.

Cross References

Regulation of watercraft, *see* 20 MLBS § 301.

§ 402. Civil Penalties.

- (a) In addition to any other penalty prescribed by law any person subject to the jurisdiction of this title who violates any provision of this title shall be liable to a civil penalty of not more than \$2,000 for each violation except that the maximum civil penalty shall not exceed \$5,000 for any related series of violations.
- (b) In addition to any other penalty prescribed in subsection (a), any person subject to the jurisdiction of this title who is guilty of gross neglect in violating any provision of this title or the regulations issued thereunder shall be liable for compensatory

damages to the injured party under the civil code of the Band. If the violation further involves the grossly negligent use of a vessel, the vessel except as what may be exempt pursuant to federal law, shall be liable and may be proceeded against in the Court of Central Jurisdiction pursuant to federal forfeiture proceedings (28 U.S.C. 2461 et seq.) Which are herewith incorporated by reference.

Historical and Statutory Notes

Source:

Band Statute 1 1 30-MLC-51, T.VI, § 2.

Cross References

Damages, *see* 24 MLBS § 651.

Regulation of watercraft, *see* 20 MLBS § 301.

§ 403. Criminal Violations as Evidence in Civil Actions.

Violations as evidence in civil actions by any of the parties thereto shall not be negligence *per se*, but shall be *prima facie* evidence of negligence. The record of conviction for criminal violations of 20 MLBS §§ 301-305 and 308-312 shall be admissible as evidence in civil actions in the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 5.

§ 404. Injunctive Relief.

The Court of Central Jurisdiction shall have jurisdiction to restrain violations of this title upon petition brought on behalf of the Non-Removable Mille Lacs Band of Chippewa Indians. Whenever practical, the Commissioner of Natural Resources shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and except in the case of knowing and willful violation, shall afford him a reasonable opportunity to achieve compliance. The failure to give notice and afford such opportunity does not preclude the granting of appropriate relief.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 3.

§ 405. Enforcement Authority.

- (a) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band may enforce the provisions of this title.
- (b) Any duly authorized law enforcement or Natural Resource officer shall have the authority to inspect any vessel registered with the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of inspecting the title and registration of the vessel and its mandatory safety features.
- (c) Any duly authorized law enforcement or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to enter upon any trust land subject to the jurisdiction of the Band or the contiguous waters to said land for the purpose of carrying out the duties and functions of his office, or to make investigations of any violation of the provisions of this title, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proof at hand warrants it.
- (d)
 - (1) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to seize and confiscate in the name of the Band any substance described in 19 MLBS §406 or 23 MLBS § 1(a) or 7 which is possessed in any vessel operated on the waters subject to the jurisdiction of this title in violation of the appropriate section of this title. Anything seized or confiscated shall be held by the chief law enforcement officer until proper final determination of the case by the Court of Central Jurisdiction.
 - (2) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to seize and confiscate in the name of the Band, any vessel in which substances described in 19 MLBS §406 or 23 MLBS §1(a) or 7 are found. Any vessel so seized impounded or confiscated shall be held by the chief law enforcement officer until proper final determination of the case by the Court of Central Jurisdiction. It shall be the responsibility of the record owner of the vehicle to pay for all costs associated with any seizure, confiscation or impoundment action initiated by a duly authorized officer of the Band in the performance of his lawful duty. The Non-Removable Mille Lacs Band of Chippewa Indians, any of its officers agents and employees, shall not be liable for damages to any vessel so seized confiscated or impounded.
- (e) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band may arrest without warrant any person subject to the jurisdiction of this title detected in the actual violation of any provision of this chapter of law and to take such person before the Court of Central Jurisdiction and make a proper complaint.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, §4.

Cross References

Hindrance, resistance or obstruction of officer, *see* 20 MLBS §311.

Unreasonable searches and seizures, *see* 1 MLBS § 2.

Warrant, summons and arrest, *see* 24 MLBS § 4101.

§ 406. Notice in lieu of Summons.

- (a) When a person subject to the jurisdiction of this title is arrested for any violation of law which is punishable as a misdemeanor and is not taken into custody and immediately taken before the court, the arresting officer shall prepare in quadruplicate, written notice to appear before the court. This notice has the effect of, and serves as a summons and short form complaint. Said notice shall conform with applicable provisions of the United States Government, United States Department of Interior, Title 25 - Indians.
- (b) In order to secure release, without being taken into custody and immediately taken before the court, the arrested person must give his written promise so to appear before the court by signing, in quadruplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "Summons" to the person arrested. Thereupon the officer shall release the person from custody.
- (c) If the person so summoned fails to appear on the return day, the court shall issue a warrant for his/her arrest, and upon his/her arrest proceedings shall be had as in any other case.
- (d) In the event that a person so arrested refuses to sign in quadruplicate a written notice prepared by the arresting officer, the arresting officer shall immediately take such person before any justice of the Court of Central Jurisdiction and make a proper complaint.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 5.

Cross References

Warrant, summons and arrest, *see* 24 MLBS § 4101.

§ 407. Termination of Unsafe Use of Vessel.

If a duly authorized law enforcement or Natural Resource officer of the Mille Lacs Band observes a boat being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition as defined in the regulations of the Commissioner of Natural Resources, and in his judgment such use creates an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 6.

Cross References

Life preservers or life floats, *see* 20 MLBS § 305.