

Mille Lacs Band Statutes Annotated

Amendments received through: May 14, 2004

TITLE 23 - PROHIBITED DRUGS

Section

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§ 1. Incorporation by Reference.

(a)

- (1) For the purpose of enforcing 23 MLBS § 7, the Band Assembly hereby creates Title 23 of the Mille Lacs Band Statutes Annotated. Title 23 shall be entitled "Prohibited Drugs". It is the intent of the Band Assembly to incorporate the following provisions of the Statutes of the State of Minnesota, Chapter 152- Prohibited Drugs as Title 23 of the Mille Lacs Band Statutes Annotated. The intent of the Band Assembly is to exercise concurrent criminal jurisdiction with the State of Minnesota pursuant to the provisions of 18 USC 1162 to protect the general health, welfare and safety of those persons who reside on lands subject to the jurisdiction of the Band. The following provisions of Minnesota Statutes Chapter 152 are hereby incorporated by reference into this title:

- (i) Section 152.01 – Definitions
- (ii) Section 152.02 - Schedule of Controlled Substances Section 152.09 - Prohibited Acts
- (iii) Section 152.10 - Sales, Persons Eligible

- (iv) Section 152.12 - Doctors may Prescribe
 - (v) Section 152.12, Subdivision 6 - THC Therapeutic Research Act/Exemption from Criminal Sanction Section 152.19 – Forfeitures
- (2) All subsections within an above sectional listing shall apply.
- (3) The following provisions of Minnesota Statutes, Chapter 152, Sections 152.01 - Definitions, Section 152.02 - Schedules of Controlled Substances, Section 152.10 - Sales, Persons Eligible, Section 152.11 - Written or Oral Prescription, Requisites, and Section 152.12 - Doctors May Prescribe, shall be incorporated by reference into this title for the purposes of enforcement. Provisions of Section 152.19 - Forfeiture are applicable.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.10.
Band Statute 1164-MLC-6, § 52.04.

Cross References

Seizure and confiscation of substances and vehicles, *see* 19 MLBS § 503.
Seizure and confiscation of substances and watercraft, *see* 20 MLBS § 405.

§ 2. Definitions.

For the purpose of enforcement of this title, the word "**sell**" shall mean distribution in any manner, and includes any exchange from one party to another, and is not necessarily limited to monetary exchanges.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.06.

§ 3. Possession, Sale, or Manufacture; Fraud.

Any person who shall knowingly and intentionally possess, sell, distribute, manufacture, cultivate, compound or possess any narcotics or dangerous drugs except those narcotics or dangerous drugs lawfully possessed, sold, manufactured, prepared, cultivated, compounded, processed, or obtained, or attempt to obtain any narcotic or dangerous drug by fraud, deceit, misrepresentation or subterfuge or falsely identifies himself/herself as a person authorized by law, to obtain a narcotic or dangerous drug, or use forged, altered or fictitious prescriptions, or use a fake name or address on a prescription, or conceal any material fact, or alter or change any

label on a narcotic or dangerous drug, drug package or receptacle by affixing a false or forged label or otherwise misrepresenting a package or container containing a narcotic or dangerous drug, shall be deemed guilty of an offense and upon conviction thereof, may be sentenced to incarceration or labor for a period not to exceed 180 days, and/or a fine not to exceed \$5000.00, and/or be excluded from all lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.

Cross References

Fraud, *see* 24 MLBS §1154.

Government employees, summary dismissal, *see* 6 MLBS §103.

§ 4. Possession, Sale, or Manufacture for Use.

Any person who shall knowingly and intentionally possess, sell, manufacture, distribute, cultivate, compound or possess any narcotic or dangerous drug for personal use or the use of any other person shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to incarceration or labor for a period not to exceed 180 days, and/or a fine not to exceed \$500.00, and/or be excluded from all lands under jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.01.

Cross References

Government employees, summary dismissal, *see* 6 MLBS §103.

§ 5. Drugs Consumed by Minors.

Any person who shall knowingly and intentionally possess, sell, distribute, manufacture, cultivate, compound or possess any narcotic or dangerous drug that is unlawfully consumed by a minor person, shall be deemed guilty of an offense, and up on conviction thereof, may be excluded from all lands under jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court. It shall not be a defense that any said person was unaware of the identity or age of any minor consumer or any illegal narcotic or dangerous drug.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.02.

Cross References

Contributing to delinquency of minor, *see* 24 MLBS §1260.

Juvenile justice, *see* 8 MLBS §101 et seq.

Minors in need of care, *see* 8 MLBS §201 et seq.

§ 6. Administration of Substance with Intent to Injure or Facilitate Crime.

Any person who administers or causes another to take any poisonous, stupefying, overpowering, narcotic or anesthetic substance with the intent thereby to injure or to facilitate the commission of a crime, shall be deemed guilty of an offense, and upon conviction thereof, may be excluded from all lands under the jurisdiction of the Non- Removable Band of Chippewa Indians for a period of time at the discretion of the Court.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.03.

§ 7. Possession within Motor Vehicle.

- (a) Any person who is the owner of a private motor vehicle, or the driver of a motor vehicle if the owner is not present, and who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers any marijuana or controlled drugs, shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to incarceration or labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00, provided that the introduction of said controlled substance on lands under the jurisdiction of the Band is not for distribution purposes. The judge or jury shall specifically enter a finding of intent based upon the evidence introduced at trial. Should the jury enter a finding of intent to distribute, upon conviction thereof, a sentence of exclusion from all lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court shall be imposed.
- (b) The area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passenger. The existence of more than .05 ounces of marijuana in the trunk of any motor vehicle shall be prima facie evidence of an intent to distribute.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §35.09.

Band Statute 1164-MLC-6, §52.05.

Cross References

Search without warrant, *see* 24 MLBS §4108.

Seizure and confiscation of substances and vehicles, *see* 19 MLBS §503.

Seizure and confiscation of substances and watercraft, *see* 20 MLBS §405.

§ 8. Petition to Lift Exclusion.

In the event that any person convicted of a violation of any provisions of 23 MLBS §§ 4-7 is excluded from lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, he/she shall have the right to petition the presiding trial judge every 180 days to lift their exclusion. In any event a hearing shall be held twice each year to determine if any exclusion shall be lifted.

History and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.07.

§ 9. Court of Central Jurisdiction Subject Matter Jurisdiction.

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this title. Nothing in this title shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any state or federal court of competent jurisdiction. Associate Justices of the Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arise from any provisions of this title. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of action arising from this title.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §38.

Band Statute 1164-MLC-6, §59.

Cross References

Subject matter jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS §111.

§ 10. Automatic Appeal.

In all cases under this title, all convictions shall be subject to automatic appeal to the full Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §52.07.

Cross References

Appeals, *see* 24 MLBS §2501.