

**AN ACT RELATING TO THE REGULATION OF
VEHICLE AND TRAFFIC ON AND THROUGH THE
ST. REGIS MOHAWK INDIAN RESERVATION**

PURPOSE:

The purpose of this act is to regulate vehicle traffic on and through the St. Regis Mohawk Indian Reservation to protect the health, safety, and welfare of both the members of the St. Regis Mohawk Tribe and the general public passing through the territory of the St. Regis Mohawk Tribe.

DEFINITIONS:

There are no words or phrases in this Act that require further elaboration than what is provided for in this act.

OFFENSES:

The following acts engaged in by an operator of a motorized vehicle shall constitute a violation of this act:

A) FAILURE TO OBEY A TRAFFIC CONTROL DEVICE;

it shall be a violation of this Act for an operator of a motor vehicle to fail to operate their vehicle in accordance with a traffic control device, a posted traffic control sign, within designated and discern able highway markings, or any other traffic control mechanism.

A)(a) FAILURE TO USE OR WEAR SEATBELT OR APPROVED CHILD RESTRAINT DEVICE:

It shall be a violation of this Act for an operator of a motor vehicle to operate the vehicle without himself or herself and all passengers in the vehicle being secured by appropriate seatbelts, shoulder harnesses or approved child safety restraint for children under four (4) years of age.

Upon a finding by the Peacemakers Court, Civil Traffic Division, that an operator violated either of the above provisions, the operator of the vehicle shall pay a judgment of at least twenty five dollars (\$25.00) but shall not be subject to judgment in excess of two hundred fifty dollars (\$250.00).

B) OPERATIONAL OFFENSE;

it shall be a violation of this act for any operator of a motor vehicle to: operate their vehicle in a careless, reckless, or negligent manner such that the operation poses a risk to other operators of a motor vehicle, or that the operator's operation of a motor vehicle in any way caused an accident, or that the operators operation of a motor vehicle impedes traffic, or that the person is operating a vehicle without a valid license to do so from a sovereign recognized by the St. Regis Mohawk Tribe, or that the operation of a motor vehicle was done while the vehicle being operated did not have any insurance, or that the operator's operation of a motor vehicle in any way impeded the enforcement of this Act.

Upon a finding by the Peacemakers Court, Civil Traffic Division, that an operator of a motor vehicle violated this provision, the operator of the motor vehicle shall pay a judgment of at least fifty dollars (\$ 50.00) but shall not be subject to a judgment in excess of one thousand dollars (\$1,000.00).

Furthermore, nothing in this provision shall be so construed as to prevent any person or entity from petitioning the Peacemakers Court, Civil Traffic Division, or the St. Regis Mohawk Tribal Council for restitution of damages incurred, or caused, by the operation of a motor vehicle.

C) FAILURE TO PROPERLY EQUIP A MOTOR VEHICLE;

it shall be a violation of this act for an operator of a motor vehicle to operate a vehicle that is not properly equipped, so that the operation of the improperly equipped vehicle poses any risk to the health, safety, and welfare of the members of the St. Regis Mohawk Tribe residing on the St. Regis Mohawk Indian

Reservation, or to members of the general public operating vehicles within the external boundaries of the St. Regis Mohawk Indian Reservation.

Upon a finding by the Peacemakers Court, Civil Traffic Division, that an operator violated this provision, the operator of the vehicle shall pay a judgment of at least twenty five dollars (\$ 2500) but shall not be subject to judgment in excess of one hundred dollars (\$ 100.00).

D) OPERATION IN WANTON DISREGARD TO THE HEALTH, SAFETY, AND WELFARE OF THE ST. REGIS MOHAWK COMMUNITY;

It shall be a violation of this Act for an operator of a motor vehicle to operate a vehicle within the external boundaries of the St. Regis Mohawk Indian reservation in such an unrestrained manner that such conduct, if occurring outside the external boundaries of the St. Regis Mohawk Indian Reservation, would constitute a criminal offense capable of resulting in incarceration for a period in excess of one hundred eighty days. **In addition** to the judgment authorized by this provision, any person operating a vehicle in a manner proscribed in this section shall be subject to a stop and detainment by the St. Regis Mohawk Tribal Police, and after receiving a summons to appear at the Peacemakers Court Civil Traffic Division for violating this provision, the St. Regis Mohawk Tribal Police **are hereby further** authorized to detain the operator of the vehicle, and to seize the vehicle, until a member of a police agency capable of exerting criminal jurisdiction over the operator of the motor vehicle arrives to take custody of the individual.

Upon a finding by the Peacemakers Court, Civil Traffic Division, that an operator violated this provision, the operator of the vehicle shall pay a judgment of at least one hundred dollars (\$100.00), but shall not be subject to judgment in excess of two thousand five hundred dollars (\$ 2,500.00).

PROCEDURE:

1. Authorized Enforcement Agency

The St. Regis Mohawk Tribal Police are the only entity authorized to stop a motor vehicle for a violation of this Act.

2. Procedure upon stoppage of a vehicle

Any operator of a motor vehicle stopped for violating this Act must first be advised of the grounds for which they were stopped, and after being so advised the operator of the vehicle will be served a Civil Traffic Summons. Said summons will be in the form prescribed by the St. Regis Mohawk Tribal Police Commission. The summons must contain at a minimum, sufficient detail to advise the operator the exact provision of this Act which was violated, the date of the offense, the location of the offense, and an exact time and date in which the person may appear at the Peacemakers Court, Civil Traffic Division.

3. Operator's Right to Demand a Long Form Complaint

Prior to appearing or at their initial appearance at the Peacemakers Court, Civil Traffic Division, an operator stopped for violation of this Act and upon whom a summons has been served, may request a long form complaint from the complainant police officer whom served the summons on the operator.

(A) Form and Content of Long Form Complaint

The long form complaint provided for in this section must contain sufficient factual allegations in narrative form, describing with sufficient detail the acts alleged to have been engaged by the operator of the motor vehicle which constitute a violation of this Act, and the complaint must be sworn to under penalty of perjury by the complainant.

4. Hearing upon the filing of a summons and/or long form complaint

The Peacemakers Court Civil Traffic Division shall be the sole arbiter of all summons and complaints filed under this Act.

A) Peacemakers Court Civil Traffic Division

The Peacemakers Court Civil Traffic Division shall be comprised of two (2) members of the St Regis Mohawk Tribe who shall sit as Peacemakers

1. Initial composition (effective __2000, to July 2003)

The initial arbiters on the Peacemakers Court Civil Traffic Division shall be appointed to the position upon majority vote of the St. Regis Mohawk Tribal Council. Said arbiters shall serve until July 2003, at which time the positions shall be posted for election at the annual June election of the Tribe, and said positions shall be voted upon by members of the St. Regis Mohawk Tribe. Removal of either of the appointed Peacemakers of the Peacemakers Court Civil Traffic Division can only be done by unanimous consent of the elected Tribal Chiefs AND Sub-Chiefs of the St Regis Mohawk Tribal Council.

1. Composition (effective July 2003)

There shall be elected from the membership of the St. Regis Mohawk Tribe two persons to serve as Peacemakers of the Peacemakers Court Civil Traffic Division. Each shall serve a term of three years. Eligibility to hold this position, and removal from office, shall be made pursuant to the established rules, ordinances, resolutions, and customs of the St. Regis Mohawk Tribe for the election of Tribal officials.

B) Compensation

Persons elected to this position shall be entitled to monetary compensation set by the St. Regis Mohawk Tribal Council.

C) Hearing and deciding a summons and/or long form complaint filed pursuant to this Act.

1. Order of presentation

The complainant, after being administered an oath by the Peacemaker, shall be the first to address the Peacemakers Court Civil Traffic Division. Complainant shall describe to the Peacemaker the violation of this Act engaged in by the operator of a motor vehicle. Upon finishing this

presentation, the operator of a motor vehicle shall then be given the opportunity to rebut the conduct alleged to have been engaged in the summons and/or long form complaint, and the presentation made by the complainant.

2. Burden of Proof

It is the burden of the operator of the motor vehicle to rebut, by a preponderance of evidence, the allegations made in the summons and/or complaint and the presentation of the complainant.

3. Evidentiary issues

The Peacemaker is free to accept or deny the presentation of any material or testimony to be presented to the Peacemakers Court Civil Traffic Division.

4. Decision Making

The Peacemaker shall make a determination only after an adequate period of time to review all the material before him or her and upon testimony given to him or her. The Peacemaker shall then make a determination either written or orally to the complainant and operator of the vehicle.

1. Determination in favor of Complainant

After making this determination the Peacemakers Court Civil Traffic Division shall assess a monetary judgment, within the parameters provided for in this act, upon the operator of a motor vehicle and based solely upon the evidence before it. The operator of a motor vehicle has the opportunity to appeal this decision to the St. Regis Mohawk Tribal Council by delivering within thirty days to the St. Regis Mohawk Tribal Council a copy of all papers before the Peacemakers Court Civil Traffic Division including a receipt evidencing the satisfaction of judgment.

2. Determination in favor of the operator

After making this determination the Peacemaker shall so advise the operator and thank the operator for appearing before the Peacemakers Court Civil Traffic Division. The complainant has no right to Appeal this decision to the St. Regis Mohawk Tribal Council.

3. Dismissal determination

The Peacemaker, upon grounds which he or she must include in written form and make part of the record, may dismiss a summons and/or long form complaint. Either party may appeal this determination.

D) Issuance of Determination of Judgment

The Peacemaker Court Civil Traffic Division, after making its determination, shall cause to be provided to the motorist and complainant a written copy, or if done orally, a spoken directive, of its determination. If the determination is against the motorist, and requires the payment of a monetary amount to satisfy the judgment, the Peacemakers Court Civil Traffic Division shall so advise the operator of the motor vehicle of said amount and the means upon which to satisfy the judgment.

E) Satisfaction of Judgment

An operator upon whom a determination of judgment has been issued, which requires the payment of a monetary amount, shall cause to be paid the amount of judgment to the Peacemakers Court Civil Traffic Division. Upon the receipt of these monies, the Peacemakers Court Civil Traffic Division shall cause to be delivered to the operator a receipt which at a minimum acknowledges the receipt of the monetary amount, it shall also clearly indicate if any balance is due and owing. Upon the full payment of judgment, the Peacemakers Court Civil Traffic Division shall cause to be attached to the receipt a Satisfaction of Judgment Statement signed by a Peacemaker. Nothing in this Act should be construed as preventing an operator of a motor vehicle, upon whom a summons and/or long form complaint has been issued, from advising the Peacemakers Court Civil Traffic Division of their intent to waive the opportunity to make a presentation to the Peacemaker, and

consent to the Peacemaker to set the amount of judgment to be paid by the operator of a motor vehicle.

F) Failure to satisfy judgment, or if applicable, judgments

Should an operator of a motor vehicle fail to satisfy a judgment lawfully issued by the Peacemakers Court Civil Traffic Division, the St. Regis Mohawk Tribal Council shall, by written notice, notify the operator of the motor vehicle that they are not permitted to operate a motor vehicle within the external boundaries of the St. Regis Mohawk Indian Reservation, and that the St. Regis Mohawk Tribal Council is pursuing their claim against the operator by all lawful means available to the St. Regis Mohawk Tribe.

G) Alternative Civil Judgment and Sentencing

After presentation of a matter pursuant to the above procedure and after the Peacemakers Court, has made its decision, in appropriate circumstances a request can be made by the presenting officer or the respondent operator for an alternative sentence of counseling, rehabilitation, treatment or community service.

If such request is made the Peacemakers Court shall make a factual determination on the record whether such alternative is appropriate or not. If such alternative is found appropriate then any fine imposed shall be suspended and an appropriate alternative sentence of counseling, rehabilitation, treatment or Community Service may be imposed and monitored by the Court. Written evidence of successful completion of any alternative sentence shall be required and upon receipt the judgment of the Peacemakers Court shall be deemed satisfied.