



## **2020 Virtual Annual Convention**

### **RESOLUTION #2020 – 38**

#### **“TO CALL UPON CONGRESS TO DIRECT THE INTERIOR DEPARTMENT TO DEVELOP NEW REGULATIONS TO REGULATE AND PROTECT INDIAN TRADE & COMMERCE”**

#### **PREAMBLE**

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

**WHEREAS**, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

**WHEREAS**, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

**WHEREAS**, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

**WHEREAS**, American Indian nations and tribes possess and exercise inherent powers of sovereignty and self-government over permanent homelands and waters since time immemorial; and

**WHEREAS**, the Constitution of the United States acknowledges Indian nations and tribes as sovereigns in the Treaty, Supremacy and Commerce Clauses; and

**WHEREAS**, the Constitution of the United States acknowledges Indian nations and tribes as vested with sovereignty and jurisdiction over tribal members and citizens, who are referred to as “Indians not taxed” by the Apportionment Clause and the 14<sup>th</sup> Amendment; and

**WHEREAS**, Indian nations and tribes have inherent authority to tax transactions and economic activities within our homelands to raise funds necessary to provide tribal government programs, services and activities; and

**WHEREAS**, the U.S. Supreme Court has ruled that, “the power to tax is an essential attribute of Indian sovereignty because it is a necessary implement of self-government and territorial management” (citing *Merrion v Jicarilla Apache Tribe* (1982); *Kerr-McGee v. Navajo Tribe* (1985)); and

**WHEREAS**, the U.S. Supreme Court has ruled that the Federal Traders License Act and Regulations pre-empt state taxation on Indian country transactions involving Indian tribes or members (citing *Central Machinery Co. v. Arizona State Tax Commission*, 448 U.S. 160 (1980); *Warren Trading Post v Arizona State Tax Commission*, 380 U.S. 685 (1965)); and

**WHEREAS**, certain U.S. Supreme Court decisions have permitted state and local governments to infringe on tribal sovereignty and taxation authority by imposing separate taxes on Indian country transactions and activities (citing *Washington v. Confederated Tribes of Colville* (1983)); now

**THEREFORE BE IT RESOLVED**, that ATNI does hereby call upon Congress to direct the Secretary of the Interior to update and modernize the Federal Indian Traders License Regulations consistent with the Indian Self-Determination Policy, President Reagan’s American Indian Policy, President Clinton’s Executive Order 13175, and President Obama’s Executive Order 13647; and

**BE IT FURTHER RESOLVED**, that the Secretary of the Interior should address and include the following principles in the updated Federal Indian Traders License Regulations;

- “The Policy of the United States is to Support Indian Self-Determination, Promote Tribal Economic Development, and Foster Indian Economic Self-Sufficiency.”
- “Through treaties, statutes, and executive orders, the United States reserved Indian reservations and lands as permanent homelands for Indian nations and tribes.”
- “The United States encourages and supports Indian economic self-sufficiency, strong tribal governments, and sustainable tribal homelands.”
- “As an aspect of Indian sovereignty, Indian tribes possess inherent authority to regulate and tax Indian commerce on Indian reservations and lands and tribal generation of Indian country value is important to promote economic self-sufficiency, so state taxation of Indian commerce substantially involving Indian nations, Indians and their trading partners is pre-empted, absent express congressional authorization;” and

**BE IT FURTHER RESOLVED**, that Consistent with Executive Order 13175, the revised Regulations should be updated and should defer to Indian nations to develop our own tribal laws to regulate Indian commerce, including standards for business licensing, fair credit, merchantability of goods and services, protection of public health and safety, and taxation; and

**BE IT FURTHER RESOLVED**, that Congress is requested to conduct a legislative hearing to review and develop recommendations for improving the Federal Indian Trader License Regulations; and

**BE IT FINALLY RESOLVED**, that this resolution be forwarded to regional and national forums, not limited to the National Congress of American Indians, United South & Eastern Tribes, California Association of Tribal Governments, Native American Finance Officers Association, the Great Plains Tribal Chairman’s Association, and the Midwest Alliance of Sovereign Tribes.

**CERTIFICATION**

The foregoing resolution was adopted at the 2020 Virtual Annual Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on October 5 – 8, 2020, with a quorum present.

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Leonard Forsman, President

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Norma Jean Louie, Secretary