

TRIBAL COUNCIL ACT 8.3

**AN ACT RELATING TO
ALCOHOLIC BEVERAGES AND CONTRABAND**

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 – TITLE AND CODIFICATION

This Chapter shall be known as the Snoqualmie Indian Tribe Alcoholic Beverage Control Act and shall be codified as Title 8, Chapter 3 of the Snoqualmie Tribal Code.

SECTION 2.0 – STATUTORY AUTHORIZATION

This Chapter is enacted pursuant to the Act of August 15, 1953, 18 U.S.C. § 1161, and Article VII of the Snoqualmie Tribal Constitution. All acts and transactions under this Chapter shall be in conformity with this Chapter and in conformity with the laws of the State of Washington, as that term is used in 18 U.S.C. § 1161.

SECTION 3.0 – PURPOSE AND SCOPE

The purpose of this Chapter is to regulate and control the possession, consumption, and sale of liquor on the Snoqualmie Indian Reservation. The enactment of a law governing liquor possession and sale on the Reservation will increase the ability of the Tribal government to control Reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the Tribal government and the delivery of Tribal government services. This Chapter constitutes the entire law of the Tribe in regards to the sale and/or distribution of alcoholic beverages within the Tribe.

SECTION 4.0 – DEFINITIONS

In this Chapter, unless the context otherwise requires:

ALCOHOLIC BEVERAGE means beer, wine or other spirituous liquor.

LICENSE means a license issued pursuant to the provisions of this Chapter.

LICENSED PREMISES OR PREMISES means a place from which a licensee is authorized to sell alcoholic beverages under the provisions of this Chapter.

LICENSEE means a person who has been authorized to sell alcoholic beverages for consumption at a particular premises by the Snoqualmie Indian Tribe.

PERSON means a natural person or a corporation duly chartered by a jurisdiction within the United States.

PRIVATE RESIDENCE means a place where an individual or a family maintains a habitation.

PUBLIC PLACE means a place not a private residence and not licensed for the possession of alcoholic beverages.

SELL, SOLD, BUY means and shall include furnish, dispose of, give, receive or acquire.

SECTION 5.0 – VIOLATION OF CHAPTER

A person who violates any provision of this Chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to a fine not to exceed \$500.00, with costs.

SECTION 6.0 – UNLAWFUL ACTS

- (a) It shall be unlawful for any person to deal with alcoholic beverages in any manner not allowed by this Chapter or the regulations adopted under this Chapter.
- (b) It shall be unlawful for a licensee or other person to give, sell or cause to be sold or otherwise distribute alcoholic beverages to a person under the age of twenty-one (21) years.
- (c) It shall be unlawful to employ a person under the age of twenty-one (21) years in any capacity connected with the handling of alcoholic beverages.
- (d) It shall be unlawful for a person under the age of twenty-one (21) years to buy, possess, or consume alcoholic beverages.
- (e) It shall be unlawful for a licensee or an employee of a licensee to consume alcoholic beverages on or about the licensed premises during such periods such person is working at the licensed premises.
- (f) It shall be unlawful for a licensee or any other person to sell alcoholic beverages to an intoxicated or disorderly person, or for a licensee or employee of a licensee to allow or permit an intoxicated or disorderly person to remain on the premises.
- (g) Interdicted persons. It shall be unlawful for a licensee or any other person to sell liquor to a person that the outlet or tavern owner knows, or should have known, has been found to be a habitual alcoholic by order of the Snoqualmie Tribal Court. When the Liquor Board finds that such a sale to an interdicted person has been made, the Board shall suspend the Tribal license of the outlet or tavern for not less than thirty (30) days nor more than one year. Appeals of such a suspension shall be directly to the Snoqualmie Tribal Court, but such an appeal shall not stay the suspension during the process of the appeal.
- (h) It shall be unlawful for a licensee to sell alcoholic beverages in any manner not provided for by this Chapter or the licensee's license.

SECTION 7.0 – LAWFUL COMMERCE

- (a) Alcoholic beverages may be possessed and consumed only at private residences and licensed premises, and may be transported in unbroken containers to such places.
- (b) Alcoholic beverages may be sold at licensed premises only under the conditions under which the license is issued.
- (c) The Tribe may from time to time issue licenses for the sale of alcoholic beverages subject to the provision of this Chapter and the regulations adopted pursuant to this Chapter.

SECTION 8.0 – IDENTIFICATION

Where there may be a question of a person's right to purchase liquor by reason of their age, such person shall be required to present any one of the following officially issued cards of identification which shows their correct age and bears their signature and photograph:

- (a) Liquor control authority card of identification of any state;
- (b) Driver's license of any state, or "identification card" issued by the Washington State Department of Motor Vehicles;
- (c) United States active duty military identification;
- (d) Passport; or
- (e) Snoqualmie Tribal identification card.

SECTION 9.0 – OFFICE OF ALCOHOL BEVERAGE CONTROL; DUTIES OF DIRECTOR; ISSUANCE OF LICENSE, REVOCATION, HEARINGS

- (a) The Office of Alcohol Beverage Control ("Office") is hereby established. The director of the office will be the alcohol beverage hearing officer who will be responsible to the Tribal Chairman and whose duties may be delegated from time to time to assistant hearing officers or other employees of the office. All of the positions of the office will be filled and will be conducted in accordance with the Tribe's established policies and procedures.
- (b) Regulations. The Director of the Office shall propose for adoption by the Snoqualmie Tribal Council regulations for the purpose of carrying out the provisions of this article. Such regulations shall:
 - (1) Establish a procedure for application for a license through the office provision for public hearings before final decision by the Alcohol Beverage Hearing Officer;
 - (2) Provide uniform standards of qualification for licensees;

- (3) Determine the information required to be supplied by applicants for licenses, and for the verification of such information. Applicants shall include, in the case of a corporation, all shareholders or more than 5% of the corporate stock and all officers and directors of the corporation; and in the case of a partnership, all of the partners;
 - (4) Establish the fee for an application, renewal application and annual license, provided that no such fee shall in the first year of this Chapter exceed \$1,500.00 or increase more than 5% per annum thereafter;
 - (5) Establish hours within which premises may be open;
 - (6) Establish standards for operation of licensed premises and for the audit of records to be supplied to the Tribe;
 - (7) Establish classes of licenses for the sale of (A) all alcoholic beverages; (B) only beer; (C) only wine; or (IV) only beer and wine.
 - (8) Establish a procedure for revocation and suspension of licenses which will be administered by the Alcohol Beverage Hearing Officer.
- (c) Beverage restrictions. Licenses may only be issued for premises operated under the following classifications as defined herein; and such licenses may be restricted to the sale of (A) all alcoholic beverages; (B) only beer; (C) only wine; or (D) only beer and wine.
- (d) Designated area. Licenses may be issued for premises located only on land described on the designated area map attached as Annex A to this Chapter. Additional land may be described as within the designated area by the enactment by the Tribal Council amending the designated area map.
- (e) Premises which may be licensed. Licenses may only be issued for premises as defined in this subsection (e) or its subsections.
- (1) Hotel-Motel license.
 - (A) The Alcohol Beverage Hearing Officer may issue a hotel-motel license to any hotel or motel that would qualify for a restaurant license under the terms of a restaurant license and/or for the operation of one or more bars in such hotel or motel, provided that the applicant is otherwise qualified to hold a license.
 - (B) The holder of a hotel-motel license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section, "licensed premises" shall include all public bar rooms, public restaurant rooms, and private banquet rooms supplied by the hotel-motel restaurant.

(C) "Restaurant" means an establishment which derives at least forty (40) percent of its gross revenue from the sale of food.

(2) Casino license.

(A) The Alcohol Beverage Hearing Officer may issue a casino license to any casino authorized to operate as a casino by the Snoqualmie Tribal Council.

(B) The holder of a casino license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section, "licensed premises" shall include all public bar rooms, gaming areas, private banquet or meeting rooms and restaurants and other food service facilities.

(f) Issuance of Licenses; Hearings

(1) Licenses will be issued by the Director of the Office of Alcoholic Beverage Control after a hearing and upon a determination by the Alcohol Beverage Hearing Officer that there has been a satisfactory showing of the capability, qualifications and reliability of the applicant, and, in the case of a corporation, its principal stockholders, officers and directors, and of a partnership, its partners, and that the public convenience requires and the best interests of the Tribal community will be substantially served by the issuance of the license. The Tribal Chairman may authorize a criminal history background check qualification on any applicant for a license under this Chapter.

(2) The Alcohol Beverage Hearing Officer shall determine after a hearing has been held whether and under what conditions a license shall be issued. The hearing shall be announced by notice in the Tribal newspaper. Notice shall be given no less than ten (10) days prior to such hearing. The hearing shall be conducted by the Alcohol Beverage Hearing Officer in an informal manner with rules adopted pursuant to this Chapter calculated to assure full disclosure of all relevant information. The Alcohol Beverage Hearing Officer shall hear all relevant issues and, within five (5) days after the hearing is concluded, shall issue a written decision. The decision will contain the findings of fact relied on by the Alcohol Beverage Hearing Officer for the decision as well as the decision. The findings of fact and decision shall be filed with the clerk of the Snoqualmie Tribal Court and distributed within two (2) days after such filing to the Applicant, any other person who files a notice of appearance with the Alcohol Beverage Hearing Officer before the hearing is adjourned, and the Secretary of Tribal Affairs.

(3) A decision of the Alcohol Beverage Hearing Officer may be appealed to the Snoqualmie Tribal Court by the applicant, the Tribe, or any Tribal member who has filed a notice of appearance.

- (4) Appeals shall be taken from any decision of the Alcohol Beverage Hearing Officer in the following manner:
- (A) Notice of appeal. Written notice of appeal shall be given within ten (10) days after the day the written and executed decision is filed with the clerk of the Snoqualmie Tribal Court. The notice of appeal shall state all the grounds for appeal relied on by the appellant. The notice of appeal shall not be amended once it is filed. The appellee may file a short written response to the grounds for appeal within ten (10) days after the notice of appeal is filed. The notice of appeal and response shall be mailed to the opposing party on the day it is filed. If the appellant is the applicant for the license, the appellee shall in all cases be the Alcohol Beverage Hearing Officer. If the appellant is a person who filed a notice of appearance or the Tribe, the appellee shall in all cases be the applicant. In the event there is more than one notice of appeal filed, the appeals shall be consolidated by the clerk and only one response shall be filed to the consolidated appeals.
 - (B) Grounds for appeal. The Snoqualmie Tribal Court shall determine the appeal upon the findings of fact and decision entered in the case by the Alcohol Beverage Hearing Officer.
 - (C) Findings of fact. The findings of fact shall be presumed to be without reversible error. The presumption may be overcome by a sworn written statement presented to the Court at the time of the filing of the notice of appeal which establishes, on the basis of the statement, any one or more of the following grounds:
 - (i) That a witness ready and willing to testify at the time of the hearing on behalf of the appellant was not allowed by the Alcohol Beverage Hearing Officer to take the witness stand and testify, and such testimony would have materially altered the decision of the Alcohol Beverage Hearing Officer.
 - (ii) That the Alcohol Beverage Hearing Officer refused to admit documentary or other physical evidence, and such evidence would have materially altered the decision of the Alcohol Beverage Hearing Officer.
 - (iii) That after the hearing, the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing, and such evidence would have materially altered the decision of the Alcohol Beverage Hearing Officer.

In the event the Court finds the presumption is overcome pursuant to this subsection, the Court shall remand the case back to the Alcohol Beverage Hearing Officer for the limited purpose of hearing only the excluded or new evidence and any evidence presented in rebuttal to such evidence. The hearing will be held within ten (10) days after the order of the Court has been filed and served upon the appellants and appellee. At the conclusion of such remand hearing, the Alcohol Beverage Hearing Officer shall, within ten (10) days of the hearing, make and enter such amended findings of fact and decision as the Alcohol Beverage Hearing Officer determines that the evidence adduced at the remand hearing requires. If the Alcohol Beverage Hearing Officer determines that the prior findings of fact requires no amendment, the Alcohol Beverage Hearing Officer will issue a decision reaffirming its prior findings of fact and decision. The findings of fact and decision will be transmitted to the Court and such findings of fact and decision will not be subject to a separate appeal.

(iv) Decision. The Court shall determine whether the decision is supported by the findings of fact and the law. Any party to the case may request an opportunity to appear before the Court prior to its decision to give the Court such party's view of the case. The other party or parties shall be given adequate notice of the hearing and an opportunity to present such party's or parties' view of the case. Such views shall be presented orally by the parties or their advocates and shall only deal with the grounds relied on by the appellant as set out in the notice of appeal. The hearing shall be limited to one hour and the time will be equally divided between the appellant and the appellee. If the Court finds that the decision is incorrect, it shall issue a new decision correctly stating the decision. Such decision shall be final and not subject to rehearing, review or appeal.

- (5) Records of application, permit and proceedings. A complete record of all applications, actions taken thereon, and any licenses issued shall be maintained by the Tribe and shall be open to for public inspection at the Office of the Alcohol Beverage Control.
- (g) Licenses shall be issued for a period of one year and are renewable on application to the Office of Alcohol Beverage Control, which will renew on payment of the renewal application fee and annual license fee.
- (h) Licenses issued under this Chapter are nontransferable without the prior approval of the Alcohol Beverage Hearing Officer after the application process has been completed.
- (i) The Office of Alcohol Beverage Control, the Snoqualmie Tribal Police Services, or the Tribal Chairman may cite a licensee to appear before the Alcohol Beverage Hearing Officer for a revocation hearing upon allegations of violations under section 6.0 hereof.

- (j) Any license issued pursuant to this Chapter may be revoked or suspended after a hearing before the Alcohol Beverage Hearing Officer upon a finding that the licensee is operating the premises in violation of this Chapter or the regulations adopted pursuant to it, or the laws of the Tribe, or that the license would not have been originally issued had the facts in evidence at the time of any revocation hearing been known at the time of the application for a license.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 27TH DAY OF SEPTEMBER, 2001 IN SESSION DULY MET WITH 9 FOR, 0 AGAINST, AND 0 ABSTAINING. TRIBAL COUNCIL ACT 03-01; RESOLUTION No. 53-2001.

CODIFIED BY THE SNOQUALMIE TRIBAL SECRETARY ON THE 21 DAY OF October 2008.


TRIBAL SECRETARY 10-21-08