

## **POKAGON BAND GAMING COMMISSION**

### **LIQUOR CONTROL CODE REGULATIONS**

#### **I. General provisions**

- A. For purposes of these regulations, references to the Commission and licensee shall impliedly include their respective employees and agents.
- B. All documents and other correspondence required to be submitted to the Commission shall be addressed to:

Pokagon Band Gaming Commission  
10528 Maudlin Road  
New Buffalo, Michigan 49117

#### **II. Licenses, license transfers and license renewals**

- A. All applications for licenses, transfers, and renewals must be delivered to the Commission, and include all information necessary for investigation and processing of the application.
- B. Licensees shall apply to have their licenses modified if they desire to alter the size of the physical structure of the licensed premises, to add to or drop any space from the physical structure of the licensed premises, to install any additional bars, to serve alcoholic liquor outside on a regular basis, or make any other change of similar magnitude.
- C. The Commission shall consider, at a minimum, the following before issuing a license or a license transfer or renewal:
  - 1. The proximity of the licensed premises to a church or school building.
    - a. A license shall be denied if the contemplated location of the licensed premises is within 500 feet of a church or school building, and issuance of a license would adversely affect the operation of the church or school.
    - b. The terms "church or school building" shall not include a day care, pre-school, or other child care facility located in or in the immediate vicinity of the licensed premises for the purpose of providing services to the licensee's employees, agents, or patrons.
  - 2. The general management experience, business reputation, past criminal convictions, moral character, and use of alcoholic liquor of the applicant's

officers and directors, as well as its agents and employees with primary management responsibility for the sale of alcoholic liquor.

3. The effects that issuance of a license would have on the economic development of the area.
  4. The opinions of the local residents, the Commission, and tribal law enforcement agencies.
  5. Any other effects on the health, welfare, and safety of the Pokagon Band of Potawatomi Indians, its members, and the general public.
- D. A retail on-sale general license shall be deemed to include all the rights and privileges of a class A or class B hotel license under the Michigan Liquor Control Code and implementing regulations to the extent that such licensee meets the definition of a class A or class B hotel under the Michigan Liquor Control Code.

### III. Permits

- A. Permits may be issued either to existing licensees, in order to allow minor modifications to the existing license, or to unlicensed entities in order to allow them to conduct specific, discrete events involving the service of alcoholic liquor.

### IV. Administrative procedures

#### A. Generally

1. Notice and hearings are provided for the following decisions: 1) issuances of licenses, license transfers, and license renewals; 2) issuances of permits; 3) license suspensions or revocations; and 4) seizures of contraband.
2. Notice and hearings on these decisions shall be conducted in the manner provided in Section 24 and Section 32 of the Liquor Control Code.
3. The Commission may develop and issue additional administrative procedures on a case-by-case basis.
4. At a minimum, an officer or director of the entity applying for a license, or the employee or agent responsible for the entities alcoholic liquor transactions must personally appear at the hearing. If such person fails to personally appear, the Commission may, among other things, issue a decision of default.
5. Requests to postpone hearings shall be made in writing and submitted to the Commission not less than two working days before the hearing date, unless the applicant or licensee can show good cause.

B. Suspension or revocation proceedings

1. Alleged violations of the Liquor Control Act or these rules shall be stated on a violation report form, and submitted to the Commission.
2. The licensee may waive the right to a hearing on the alleged violation(s) and acknowledge the violation(s). In such case, the Commission shall issue an order directing the licensee to correct the violation within a reasonable time.

V. Investigative and enforcement powers.

A. The Commission's investigative and enforcement powers include the following, either in the course of determining whether to issue a permit, license, license transfer, or license renewal, or in determining a licensee's or permittee's compliance with the tribal and federal liquor laws and regulations:

1. Issuing a subpoena requiring a person to appear before the Commission and be examined, and to produce any books, records, or papers that may be relevant;
2. Examining or copying books, records, and papers of any person that may be relevant;
3. Inspecting and searching the licensed premises during regular business hours or when the licensed premises are occupied by the licensee or permittee, or their respective employees or agents;
4. Invoking the aid of the Pokagon Band Tribal Court to obtain relevant information;
5. Obtaining a search warrant pursuant to Pokagon Band law, and, pursuant to such search warrant, seizing any alcoholic liquor, containers, implements, or conveyances used in connection with a violation of the provisions of the Liquor Control Code or these regulations;
6. Seizing suspected adulterated alcoholic liquor for analytical purposes;
7. Confiscating or impounding alcoholic liquor that does not comply with the Liquor Control Code or these regulations;
8. Impounding alcoholic liquor that is damaged by fire, water, chemicals, smoke, floods, explosion, freezing, sewage, or other causes affecting quality or merchantable value;

## VI. Advertising

- A. Advertisements for beer, wine, and spirits shall not depict or refer to minors.
- B. Dispenser signs.
  - 1. Alcoholic liquor dispensing equipment shall have the brand of alcoholic liquor designated by a sign on the dispenser or on the tap.
  - 2. A licensee shall not draw from a dispenser or tap a brand of alcoholic liquor other than that brand designated by the dispenser sign or tap marker.
- C. Retail licensees shall not engage in cooperative advertising with, or allow their names to appear in the advertising of, wholesalers, manufacturers, or outstate sellers of beer or wine.
- D. Licensees may not use any gambling devices, including punch boards and games of any description, for advertising purposes.
- E. Contests and advertising articles.
  - 1. On-premises licensees shall not participate in or sponsor any contest or tournament that requires the use or consumption of alcoholic liquor as a necessary part of the contest or tournament.
  - 2. Except as otherwise permitted under Pokagon Band law and these regulations, licensees may not give away any alcoholic liquor of any kind or description at any time in connection with their business.
  - 3. Licensees may not give away the contents of a sample bottle or can.
  - 4. Except as otherwise permitted under Pokagon Band law and these regulations, Licensees may not advertise or sell alcoholic liquor at less than cost.
  - 5. Licensees may not sell, offer to sell, or advertise the sale of an unlimited quantity of alcoholic liquor at a specific price.
  - 6. Licensees may not sell, offer to sell, or advertise the sale of two or more identical drinks containing alcoholic liquor to a person for that person's consumption for one price. When two or more identical drinks containing alcoholic liquor are served to a person at one time, the price charged for the second and each additional identical drink shall be the same as the price charged for the first drink.

## VII. Purchasing

- A. Beer and wine: retail licensees shall purchase beer and wine from private wholesalers licensed by the State of Michigan.
- B. Spirits: retail licensees shall purchase alcoholic liquor over 21% by volume from the State of Michigan through its Authorized Distribution Agents.

## VIII. Hours and days of operation

- A. Sales. The definition of a sale includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor. Sales are considered complete when the exchange or possession of the alcoholic liquor takes place.
- B. Monday through Saturday sales. Licensees may not sell or furnish alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on Monday through Saturday.
- C. On-premise consumption. Licensees may not allow anyone, including their agents and employees, to consume alcoholic liquor between 2:30 a.m. and 7:00 a.m. on Monday through Saturday, between 2:30 a.m. and 12:00 noon on Sundays, after 9:30 p.m. on December 24, and after 4:30 a.m. on January 1.
- D. Sunday sales. Licensees may only sell or furnish alcoholic liquor between the hours of 12:00 noon and 2:00 a.m. on Monday.
- E. New Years Day sales. If January 1 falls on a Sunday, the licensee's hours may be extended to 4:00 a.m.
- F. Christmas sales. Licensees shall not sell alcoholic liquor between the hours of 9:00 p.m. on December 24 and 7:00 a.m. on December 26. If December 26 falls on a Sunday, the sale of alcoholic liquor is governed by the Sunday sales rule set forth in this section.
- G. The licensed premises may be open, but not serve alcoholic liquor, during otherwise prohibited sale hours described in this section, and may be occupied by other than the licensee's employees, agents, and contractors for the following reasons:
  - 1. Rooms open to the general public for eating, drinking, or amusement where alcoholic liquor is served;
  - 2. Rooms used for wedding parties and similar activities where alcoholic liquor is served;

3. Where the licensee's business necessitates that the premises is occupied by customers at times other than the legal hours for consumption of alcoholic liquor;
  4. The establishment is equipped with a full-service kitchen, provides rooms for the lodging of guests, or provides recreational facilities on or adjacent to the licensed premises that are owned by the licensee; or
  5. Other reasons as specifically approved by the Commission.
- H. The hours limitations regarding consumption do not apply to the consumption of alcoholic liquor in the bedrooms or suites of registered guests of hotels.
- IX. Posting
- A. Licensees shall prominently post in a conspicuous place on the licensed premises:
1. Tribal alcoholic liquor licenses and permits framed under a transparent material.
  2. A sign describing the prohibition against selling or furnishing alcoholic liquor to a person less than 21 years of age.
  3. A sign stating the total capacity of each public room of the licensed establishment, using the formula as set forth in Michigan Administrative Rule 436.1405.
- X. Prohibited acts
- A. Any licensee or permittee shall not:
1. Knowingly sell, give, or furnish alcoholic liquor to:
    - a. A person less than 21 years of age; or
    - b. Any person who is obviously intoxicated at the time.
  2. Employ:
    - a. a person under 18 years of age to sell or serve alcoholic liquor;
    - b. a person between the ages of 16 and 18 in, about, or in connection with the part of the establishment where alcoholic liquor is consumed, sold at retail, or sold for consumption on the premises, unless the sale of food or other goods constitutes at least 50% of the total gross receipts of that portion of the establishments;

- c. a person between the ages of 14 and 16 in establishments where alcoholic liquor is sold at retail, unless: 1) the sale of food or other goods constitutes at least 50% of the total gross receipts of that portion of the establishment; and 2) the person is not employed in, about, or in connection with that part of the establishment where alcoholic beverages are consumed or sold for consumption on the premises;
  - d. a person under the age of 18 to conduct or assist in any gaming activity conducted on premises having an alcoholic liquor license; or
  - e. a person who has not completed proper training for responsible service of alcohol, such as “TIPS” (Training for Intervention Procedure) or another training program with similar content and training standards.
3. Allow a person:
- a. under 21 years of age to consume or possess for consumption alcoholic beverages on the licensed premises;
  - b. under 17 years of age to remain in any place where alcoholic liquor is sold, given away, or furnished for a beverage, unless the person is accompanied by parent or guardian;
  - c. under 21 years of age to play any gaming activity, where such gaming is conducted on premises having an alcoholic liquor license;
4. Allow a person who is obviously intoxicated to consume any alcoholic beverage on the licensed premises;
5. Allow an employee or agent of the licensee or permittee to be in an intoxicated condition on the licensed premises;
6. Allow an intoxicated person to frequent or loiter on the licensed premises;
7. Allow on the licensed premises any vending machine that dispenses any type of alcoholic liquor directly to a customer;
9. Sell alcoholic liquor that is adulterated, misbranded, or in bottles that have been refilled, other than beer containers. For purposes of the Liquor Control Code and these regulations:

- a. “adulterated” means containing any liquid or other ingredient that was not placed there by the original manufacturer or bottler;
- b. “misbranded” means not plainly labeled, marked, or otherwise designated; and
- c. “refilled” means when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer or bottler.

10. Allow illegal activities to occur on the licensed premises.

11. In addition, on-premises licensees shall not allow patrons to remove alcoholic liquor from the licensed premises

#### XI. Additional requirements for on-premises licensees

- A. Check for Identification. On-premises retail licensees should make a diligent inquiry as to whether the purchaser is at least 21 years of age, which includes at least an examination of such person’s personal identification to establish the identity and age of the purchaser.
- B. Serving of brand names. The licensee shall serve and sell only the brand name ordered by a patron.

#### XII. Recordkeeping

- A. The licensee shall maintain accurate records of alcoholic liquor purchases and sales, and all submittals to and correspondence with the Pokagon Band Gaming Commission and shall maintain such records for a 4-year period of time.

#### XIII. Giving Away of Alcoholic Liquor

- A. As provided under subsection II.D, a licensee holding a retail on-sale general license that is also entitled to exercise the rights and privileges of a class A or class B hotel licensee shall be entitled to furnish complimentary alcoholic liquor to the same extent as class A or class B hotel licensees are permitted under the Michigan Liquor Control Code and implementing regulations. This provision is intended to extend to retail on-sale general licensees the same rights to furnish complimentary alcoholic liquor as Michigan law provides to class A or class B hotel licensees.