

**HEALTH & SAFETY CODE
ARTICLE 2. LIQUOR**

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ARTICLE 2. LIQUOR

[NOTE: Except as otherwise noted, the provisions of Article 2 of the Health and Safety Code were enacted on December 28, 1982 by Ordinance No. 82-4. As amended on September 9, 1983 by Ordinance No. 83-7, Article 2 was published in the Federal Register on January 20, 1984 at 49 FR 2534-38, and became effective February 19, 1984, pursuant to Section 2-105(B). Ordinance No. 84-8 amending Section 2-403 was published in the Federal Register on March 1, 1985 at 50 FR 8400 and became effective March 31, 1985 pursuant to Section 2-105(B). As amended by Ordinance 04-01, effective March 12, 2004, amending Sections 2-101, 2-103, 2-106, 2-208, 2-401, 2-502, and adding Chapter 6. Ordinance 04-01 was published in the Federal Register on Friday, September 28, 2007 at Vol. 72, No. 188, and became effective on September 28, 2007 pursuant to Section 2-105(B). As amended by Ordinance 10-03, effective December 13, 2010, amending Section 2-403 published in the Federal Register on _____, _____, 2010 at Vol. __, No. ____.]

CHAPTER 1. GENERAL PROVISIONS

Section 2-101. Definitions.

In this Article, unless the context otherwise requires:

- (1) "Beer" means any beverage produced by the fermentation of barley malt, hops, or a combination of these, including beverages commonly known as porter, ale, and malt liquor, if they contain not more than twelve (12) percent alcohol (ethanol) by volume;
- (2) "Bluewater Subdivision" means that portion of the Arizona side of the Colorado River Indian Reservation which is east of the Townsite of Parker, and north of the centerline of the highway right-of-way of State Highway 95, comprising partial Sections, 4, 5, 8, 9, and 17 of Township 8 North, partial Sections 3, 6, 7, 10, 11, 14, 18, 19, 22, 23, 27, 30, 31, 32, and 34 and whole Sections 4, 5, 8, 9, 15, 16, 17, 20, 21, 28, 29, and 33 of Township 9 North, partial Sections 27, 28, 29, 31, 32, and 34, and whole Section 33 of Township 10 North, all of Range 19 West, and partial Sections 36 of Township 10 North, Range 20 West, all Gila and Salt River Base and Meridian, and partial Sections 17 and 18 of Township 1 North, Range 26 East, San Bernardino Base and Meridian;
- (3) "Board" means the Liquor Control Board of the Tribes;
- (4) "Broken Package" means any container of liquor on which the United States tax seal has been broken or removed, or from which the cap, cork, seal, or tab inserted by the manufacturer has been removed;
- (5) "Council" means the Colorado River Indian Tribal Council;
- (6) "License" means a liquor license issued pursuant to this Article;
- (7) "Licensee" means any person issued a license pursuant to this Article;
- (8) "Liquor" includes alcohol (ethanol) and beverages containing more than one-half of one percent (2%) by volume, including beverages commonly known as brandy, whiskey, rum, tequila, mescal, gin,

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wine, beer, malt liquor, and absinthe;

(9) "Off-Sale Retailer" means any person selling liquor in unbroken packages, to be consumed elsewhere;

(10) "On-Sale Retailer" means any person selling liquor in individual portions, by the glass, or in broken packages, for consumption at the place of sale;

(11) "Person" means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

(12) "Premises" or "Licensed Premises" means the specific location or address at which a licensee is authorized to manufacture or sell liquor by the terms of his license;

(13) "Reservation" shall mean all territory within the exterior boundaries of the Colorado River Indian Reservation, as established by the Act of March 3, 1865 and delineated by the Executive Orders of May 15, 1876 and November 22, 1915.

(14) "Restaurant" means and includes any public place kept, used, maintained, advertised and held out to the public, as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

(15) "Retailer" means any person or persons conducting a business within the boundaries of the Colorado River Indian Reservation that sells alcoholic liquor so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof, and includes a Restaurant as defined above.

(16) "Sell" means to exchange for money or for goods, either for oneself or for another, and includes offering to sell liquor by display or by advertisement, and keeping or obtaining liquor with intent to sell it;

(17) "Tribal Court" means the Tribal Court of the Colorado River Indian Tribes;

(18) "Tribes" means the Colorado River Indian Tribes;

(19) "Wholesaler" means any person who sells liquor for subsequent resale, and includes the original manufacturer, distiller, brewer, vintner or bottler;

(20) "Wine" means any beverage produced by the fermentation of grapes or other fruits containing natural or added sugar, including those fortified with grape brandy, if they contain not more than twenty-four percent (24%) alcohol (ethanol) by volume.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-102. Referendum.

No license (other than a license for premises located within the Bluewater Subdivision, within the Townsite of Parker, or within the California side of the Reservation) shall be issued unless approved by the members of the Tribes by referendum. Upon the request of a majority of the members of the Council present at a valid meeting, made within forty-five (45) days of the Board's decision to approve the application, or upon receipt of a petition signed by the eligible voters of the Tribes constituting at least one-third (1/3) of the number of voters who were registered at the last regular Tribal election, submitted to the Council within ninety (90) days of the Board's decision to approve the application, a referendum shall be scheduled by the Council. The referendum shall be held within ninety (90) days of the date it is requested, or the petition is submitted. The vote of a majority of the qualified voters in such referendum shall constitute approval or rejection of the license, provided that at least thirty percent (30%) of the registered voters shall have voted in such election.

Section 2-103. Persons Eligible.

(A) No license shall be issued to any person who, within one (1) year prior to application, has violated any provision of a license or has had a license revoked. No license shall be issued or renewed to any person who, within five (5) years prior to application, has been convicted of a felony. No corporation shall have a license issued or renewed unless it has on file with the Board a list of its officers and directors and any stockholders who own ten percent (10%) or more of the corporation. No corporation shall have a license issued or revoked if any of its officers or directors or any stockholders who own ten percent (10%) or more of the corporation have within five (5) years been convicted of a felony. No license shall be issued or renewed to any person who, within five (5) years prior to application has failed to pay any tax assessed pursuant to this Article or Title 20 Taxation of the Tribal Code.

(B) A corporation shall own the entire equitable interest in its license through an agent who is otherwise qualified to hold a license. The agent shall be subject to the penalties prescribed for any violation of this Article. Upon the death, resignation or discharge of any such agent of a corporation holding a license, the license shall be assigned to another qualified agent selected by the corporation and approved by the Board, but this shall not constitute a transfer in violation of Section 2-209, or constitute the issuance of a new license.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-104. Liquor Control Board.

The Liquor Control Board shall be composed of three (3) members and one (1) alternate member who shall be appointed by the Council for staggered terms of three (3) years each. The terms of the first three members of the Board shall expire at midnight on December 31, 1983, December 31, 1984, and December 31, 1985, respectively. The term of the first alternate member of the Board shall expire at midnight on December 31, 1983. Thereafter, all terms shall expire at midnight on December 31, three (3) years after they commence. The members of Board may be removed by Council for cause upon notice and hearing. No member of the Board may have any financial interest in any liquor establishment or

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liquor business located or operating on the Reservation, nor shall any member of the Board be a member of the Council.

Section 2-105. Effective Date; Repeal; Transition.

(A) Ordinance Nos. 11 and 14 of the Colorado River Indian Tribes, relating to the sale of liquor on the California and Arizona sides of the Reservation, respectively, including all amendments thereto, are hereby repealed.

(B) This Article shall be effective on the thirtieth (30th) day following the date of its publication in the Federal Register.

(C) Persons in possession of valid liquor licenses issued by the States of Arizona or California who apply for a Tribal license within thirty (30) days of the effective date of this Article, may continue to operate under this State license until their application for a Tribal license has been either approved or denied.

(D) In any hearing pursuant to Section 2-205, it will be presumed that the persons described in Subsection (C) of this Section have the capacity, qualifications, and reliability to merit approval of their applications. No other requirements of this Article will be waived or diminished.

Section 2-106. Severability.

If any section, provision, phrase, addition, word, sentence or amendment of this Article or its application to any person is held invalid for any reason whatsoever, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application and to that end, the provision of this Chapter are declared severable.

[As Amended March 12, 2004, Ord. 04-01.]

CHAPTER 2. LICENSES; APPLICATION AND ISSUANCE; REGISTRATION

Section 2-201. License Required.

No person may sell liquor within the Reservation, or manufacture liquor within the Reservation for sale anywhere, except as specifically authorized by a license issued in accordance with this Article.

Section 2-202. Exceptions.

The provisions of this Article do not apply to the sale of liquor upon a physician's prescription, or to ethanol used or intended for use:

- (1) for scientific research or manufacturing products other than liquor;
- (2) by a physician, medical or dental clinic, or hospital;

(3) in preparations not fit for human consumption such as cleaning compounds and toilet products, or flavoring extracts; or

(4) by persons exempt from regulation in accordance with the laws of the United States.

Section 2-203. Registration of Salesmen.

No person may take or solicit orders for liquor within the Reservation without first registering his name, address, purpose, and the name and address of his employer or principal, on the forms prescribed by the Board. Registrations require renewal each calendar year.

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Section 2-204. Applications.

- (A) Applicants for a liquor license must file with the Board on the forms it prescribes.
- (B) Upon receipt of an application, the Board shall fix a date for a public hearing to determine whether a license should issue. The hearing shall be held within sixty (60) days of the date of filing unless delayed at the request of the applicant.
- (C) The Board shall issue a license only if satisfied of the applicant's capability, qualifications, and reliability, and that the best interests of the Reservation community will be served by the issuance of the license.
- (D) Applications must disclose the identity of all persons who have an economic interest in the applicant's proposed business, and the nature and extent of their interests.

Section 2-205. Hearings.

- (A) The Board shall adopt published rules and procedures for the conduct of hearings, in conformity with applicable Ordinances of the Tribes.
- (B) The Board shall have the power to administer oaths and issue subpoenas, and to require the presence of persons and the production of papers, books and records.
- (C) At a public hearing held by the Board, anyone with an interest in the application shall be allowed to present evidence and to cross-examine witnesses. This includes the applicant, any resident of the Reservation, and the owner or manager of any business located on the Reservation. The Board nevertheless may limit duplicative evidence.

Section 2-206. Public Notice.

- (A) The Board shall give at least ten (10) days prior notice of any hearing on an application for a license. This shall include posting of a sign at a conspicuous place on the premises for which the application has been made, and publication in a local newspaper of general circulation on the Reservation.
- (B) The notice posted on the premises must be at least twenty-two (22) inches wide and twenty-six (26) inches high, with letters at least one (1) inch high, and shall be placed so as to be conspicuous and plainly visible to the general public.
- (C) All posted and published notices shall state the name and address of the applicant, the class of license applied for, the date of the hearing, and any other information the Board deems appropriate to apprise the public fully of the nature of the application. If the applicant is a partnership, notice shall include the names and addresses of all of the partners, and if the applicant is a corporation, notice shall include the names and addresses of its managing officers.

Section 2-207. Appeals.

Any decision of the Board denying a license may be appealed to the Council within twenty (20) days. The Council may uphold the decision of the Board, or may direct the Board to reconsider its decision, or to issue the license.

Section 2-208. Form of Licenses.

(A) Each license shall specify the name and address of the licensee, the particular liquors which the licensee is authorized to sell, the purpose for which the liquor may be sold, and the premises to which the license applies, and shall expire at midnight on December 31 of the calendar year in which it is issued.

(B) Each license may be issued for only one of the following classes:

- (1) Class 1, on-sale retailer of liquor;
- (2) Class 2, on-sale retailer of beer and wine only;
- (3) Class 3, off-sale retailer of liquor;
- (4) Class 4, off-sale retailer of beer and wine only; or
- (5) Class 5, wholesaler.

(C) The licensee must keep the license posted at all times in a conspicuous place on the premises for which it has been issued.

(D) Licensees must pay all taxes assessed under this Article at the time the tax return is due.

(E) An application for the renewal of privileges for an additional year shall be treated as an application for a new license, except that fees shall be as provided by Section 2-210, the requirements of Section 2-102 shall be waived and, except for good cause, as determined by the Board, the requirements of Section 2-204 (B) shall also be waived.

[As Amended July 13, 1984, Ord. No. 84-8, § 1; March 12, 2004, Ord. No. 04-01.]

Section 2-209. Transfer or Modification of Licenses.

Any change in the terms of a license or, if the licensee is a partnership or corporation, change in its ownership, shall require the issuance of a new license in accordance with Sections 2-204 through 2-208. Any attempt to transfer or assign a license is void and of no effect.

[As Amended October 11, 1986, Ord. No. 86-4, § 2.]

Section 2-210. Fees.

(A) Applications for an original license must be accompanied by a non-refundable application fee of Two Hundred Dollars (\$200.00). Applications for the renewal of a license must be accompanied by a

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non-refundable application fee of Thirty-Five Dollars (\$35.00).

(B) A license fee shall be paid before any license will be issued. The fee for a license shall be:

- (1) Class 1 and Class 5 licenses, One Thousand Dollars (\$1,000.00), and thereafter One Hundred Fifty Dollars (\$150.00) per each succeeding year the license is renewed; and
- (2) Class 2, Class 3 and Class 4 licenses, Five Hundred Dollars (\$500.00), and thereafter Seventy-Five Dollars (\$75.00) per each succeeding year the license is renewed.

(C) The Board may, at the request of an applicant, limit a license to some number of months less than twelve (12), in which case the fee shall be one-tenth (1/10) of that provided in Subsection (B) of this Section for each month.

[As Amended July 13, 1984, Ord. No. 84-8, § 2.]

Section 2-211. Disposition of Fees and Fines.

All license fees and fines or other monies received by the Board pursuant to this Article shall be deposited in the general account of the Tribes.

CHAPTER 3. SPECIAL EVENT LICENSES

Section 2-301. Special Event Licenses.

(A) The Board may issue an on-sale Special Event license to qualified organizations authorizing the sale of liquor for consumption on the premises specified for up to four (4) days. The fee for this license shall be Twenty-Five Dollars (\$25.00) per day. Applications must be made on the forms prescribed by the Board, and be accompanied by a non-refundable application fee of Ten Dollars (\$10.00).

(B) No organization may be issued more than four (4) Special Event licenses in any single year.

[As Amended July 13, 1984, Ord. No. 84-8, § 3.]

Section 2-302. Qualifications of Organizations.

A Special Event license may be issued only to an organization which has been formed for purposes of a religious, philanthropic, social, fraternal, patriotic, political or athletic nature, and not for profit, or which is a charter branch, lodge or chapter of such an organization.

Section 2-303. Grounds for Denial.

(A) The Board may deny an application for a Special Event license if it believes the sale of liquor by the applicant would be injurious to the public welfare by reason of the nature of the proposed event, its location, or the applicant's failure to conduct itself in compliance with applicable laws and regulations in the past.

(B) Public notice of the application must be posted in a conspicuous place at the proposed location of the event for at least ten (10) days prior to approval of the application by the Board. The Board will receive and consider any written protests before acting.

CHAPTER 4. UNLAWFUL ACTS; VIOLATIONS; PENALTIES

Section 2-401. Management of Licensed Premises.

(A) No licensee may reseal, reuse, or refill any package that contains or contained liquor.

(B) No Class 1 or Class 2 licensee may lock, or permit the locking of the entrances to the licensed premises until all persons other than the licensee and his employees have left.

(C) No licensee may change the name of his licensed premises without first obtaining written acknowledgment from the Board.

(D) Each licensee must conduct his business in a decent, orderly and respectable manner, and not permit loitering by intoxicated persons, rowdiness, undue noise, or any other disturbance offensive to the residents of the Reservation.

(E) Licensees must keep all books of account, invoices, bills and other records of the purchase and sale of liquor for at least two (2) years, and surrender them to the Board, or to an auditor appointed by the Board, on demand.

(F) Licensees must pay all taxes assessed under this Article at the time the tax return is due.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-402. Laws of the United States.

Licensees must comply with all applicable laws of the United States governing the manufacture, distribution and sale of alcohol and alcoholic beverages.

Section 2-403. Violations.

It is unlawful:

(1) to sell liquor without first obtaining all necessary federal licenses, including a license to trade with the Indians in accordance with Title 25 of the United States Code;

(2) to sell liquor without first obtaining a license in accordance with the provisions of this Article;

(3) to sell liquor in violation of the terms of a license issued pursuant to this Article;

(4) to take or solicit orders for the delivery of liquor from outside the Reservation, unless registered as a salesman in accordance with Section 2-203;

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- (5) to knowingly sell liquor to a person under the age of twenty-one (21) years;
- (6) to knowingly employ a person under the age of twenty-one (21) years in the manufacture or sale of liquor, except as provided by Section 2-405;
- (7) for a wholesaler, to transport liquor except in a vehicle conspicuously marked on its outside with the name and address of the wholesaler, and the number of his license, in letters at least three (3) inches high;
- (8) for a Class 1, Class 2, Class 3, or Class 4 licensee, to obtain liquor in unbroken packages except from a Class 5 licensee or from a salesman registered in accordance with Section 2-203;
- (9) for a Class 1, Class 2, Class 3, or Class 4 licensee, to have any interest in the property or business of a Class 5 licensee or any other wholesale of liquor;
- (10) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to consume liquor or be intoxicated while selling liquor on the licensed premises;
- (11) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to accept or give gifts of liquor in connection with his business, except for the sampling of wines and beers as provided by a wholesaler in the ordinary course of the trade;
- (12) for a Class 1, Class 2, Class 3, Class 4 licensee, or his employee, to sell or give any liquor to any person on the licensed premises between the hours of two o'clock a.m. and six o'clock a.m., on the Arizona side of the Reservation, or between the hours of two o'clock a.m. and six o'clock a.m., Pacific Standard or Daylight time, whichever is then generally in effect in California, on the California side of the Reservation, or permit the consumption of liquor on the licensed premises in those places during those hours and those days;
- (13) for a Class 1 or Class 2 licensee, to employ any person for the purpose of soliciting the purchase of liquor within the licensed premises, on a percentage basis or otherwise.
- (14) for a Class 1 or Class 2 licensee to sell liquor without insurance covered as required in Section 2-408(B); or
- (15) for a Class 3 or Class 4 licensee, to sell liquor in broken packages, or permit the consumption of liquor on the licensed premises.

[As Amended September 9, 1983, Ord. No. 83-7, § 1; July 13, 1984, Ord. No. 84-8, § 4; October 11, 1986, Ord. No. 86-4, § 3; December 13, 2010, Ord. No. 10-03.]

Section 2-404. Penalties.

(A) Every person violating the provisions of Section 2-403 is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or both. Each day during which any such violation shall continue, after written

notice to the person in violation, shall constitute a separate offense, punishable as herein provided.

(B) Every person violating the provision of Section 2-403 shall forfeit to the Colorado River Indian Tribes in a civil action a sum of not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such violation shall continue shall constitute a separate civil violation of such Section.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

[As Amended September 9, 1983, Ord. No. 83-7, §§ 2 and 3.]

Section 2-405. Construction; Exceptions.

(A) If an act is unlawful, pursuant to Section 2-403, when committed by the licensee, the licensee is also liable if the act is committed by one of his employees or agents. A licensee may not be imprisoned, however, for the act of an employee or agent in which he did not knowingly conspire or agree.

(B) Nothing in this Section or in Section 2-403 shall be construed to prevent the employment of persons under the age of twenty-one (21) years in the delivery of unbroken packages of liquor, or the serving of individual portions of liquor from broken packages on licensed premises, if the licensee is chiefly engaged in the sale of food, and the employee chiefly employed in delivering or serving food.

[As Amended October 11, 1986, Ord. No. 86-4, § 4.]

Section 2-406. Intoxication.

It is unlawful:

(1) to consume liquor from a broken package in a public place, other than premises specified in a Class 1 or Class 2 license, or a Special Event license; or

(2) for a Class 1 or Class 2 licensee, or his employee, to sell or give liquor to an intoxicated person within the licensed premises, or permit an intoxicated person to remain on the premises.

Section 2-407. Penalties.

(A) Every person violating the provision of Section 2-406 is guilty of an offense and shall be punished by a fine of not more than One Hundred Dollars (\$100.00), or by imprisonment for not more than one (1) month, or both.

(B) Every person violating the provisions of Section 2-406 shall forfeit to the Colorado River Indian Tribes in a civil action a sum of not more than One Hundred Dollars (\$100.00) for each violation.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

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[As Amended September 9, 1983, Ord. No. 83-7, §§ 4 and 5.]

Section 2-408. Civil Responsibility; Insurance.

(A) Licensees under this Article, and their employees, are liable for injuries or damage to property resulting from their negligent or reckless conduct, whether in the management of licensed premises, or in their violation of Section 2-406 (2).

(B) All Class 1 and Class 2 licensees shall maintain insurance coverage insuring against liability under Subsection (A) of this Section, in the amount of at least \$1,000,000.00 for bodily injury to any one (1) person, \$500,000.00 for any one (1) accident or personal injury, and \$100,000.00 for property damage.

Section 2-409. Contraband.

(A) Any liquor found in the possession, custody or control of a person other than a licensee in accordance with this Article, which is offered or intended for sale may be seized by a law enforcement officer of the Tribes.

(B) Seized liquor no longer required for prosecution evidence by be sold for the benefit of the Tribes, or destroyed, under the supervision of the Board, after the right of appeal pursuant to Subsection (C) of this Section has expired.

(C) The legality of any seizure of liquor may be appealed to the Tribal Court within twenty (20) days of the seizure. The Tribal Court may order the seized liquor returned to the person from whom it was seized, if warranted, but may not assess damages or costs against the Board or the Tribes.

(D) For purposes of this Section only, the Tribes waive their immunity from suit.

CHAPTER 5. REVOCATION OF LICENSES

Section 2-501. Revocation of Licenses.

(A) The Board may summarily suspend any license for up to fifteen (15) days upon a satisfactory showing of imminent danger to the public welfare, or, after notice to the licensee and a public hearing, revoke the license.

(B) The board must hold a public hearing to determine the truth of every written complaint it receives alleging a violation of this Article by a licensee.

(C) The Board shall adopt published rules and procedures for the conduct of license revocation hearings providing, at a minimum, for the right of the licensee to appear and be represented by legal counsel.

Section 2-502. Grounds.

Grounds for suspension or revocation of a license include the violation of any of the provisions of this Article including the failure to pay all taxes at the time the tax return is due, the misrepresentation of a

material fact in the licensee's application for a license, conviction of the licensee for a crime involving a maximum penalty of six (6) months imprisonment or more, and failure of the licensee to correct unhealthy or unsafe conditions on the licensed premises within a reasonable time after notice from the Tribes.

[As Amended March 12, 2004, Ord. No. 04-01.]

Section 2-503. Appeals.

(A) Suspension or revocation of a license may be appealed to the Tribal Court within twenty (20) days. The Tribal Court may reinstate a suspended or revoked license, if warranted, but may not assess damages or costs against the Board or the Tribes.

(B) For purposes of this Section only, the Tribes waive their immunity from suit.

CHAPTER 6. BAR, LIQUOR AND PACKAGE LIQUOR PRIVILEGE TAX

Section 2-601. General Purpose.

The Colorado River Indian Tribes has a significant interest in protecting the health, safety and general welfare of its members, the residents within the boundaries of the Reservation and those persons and businesses doing business on and/or visiting the Reservation. The purpose of the bar, liquor and package liquor privilege tax is to regulate and monitor the sale of alcohol within the boundaries of the Reservation and to raise revenues to fund health, safety and general welfare programs and services.

Section 2-602. Definitions.

In addition to the definitions in Section 2-101, for purposes of this Chapter, whenever any of the following words, terms or definitions is used herein, they shall have the meaning ascribed to them in this Chapter:

(1) "Bar" means and includes an establishment used, maintained, advertised and held out to the public as a place which serves liquor.

(2) "Department" shall mean the Department of Revenue and Finance of the Colorado River Indian Tribes which is responsible for the administration and enforcement of the tax revenue laws of the Tribes and the investigation, examination and audit of tribal finances, departments, offices, officers and employees.

(3) "Director" shall mean the Director of the Department of Revenue and Finance of the Colorado River Indian Tribes.

(4) "Packaged liquor at retail" means a place of business in which the premises are used for the retail sale of liquor in original package for consumption off the premises where sold.

(5) "Records" shall mean any books, papers, documents, memoranda, supporting documents, schedules,

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attachments, lists, computer records, electronic data, business records, papers, vouchers, accounts and financial statements.

(6) "Return" or "Tax Return" shall mean any form, report or document prescribed and approved by the Department for the return of a tax obligation including any supporting schedules, attachments, worksheets and lists.

(7) "Taxes" shall include taxes, interest, penalties and costs of collection assessed or imposed pursuant to this Chapter or Title 20: Taxation of the Tribal Code.

Section 2-603. Imposition of Tax.

There is hereby levied and imposed a tax upon the privilege of receiving a liquor license to sell liquor served or prepared at either a restaurant or bar within the boundaries of the Colorado River Indian Reservation and upon privilege of receiving a liquor license to sell packaged liquor at retail within the boundaries of the Reservation.

Section 2-604. Rate of Tax.

The tax rate imposed under this Chapter shall be established by the Tribal Council of the Colorado River Indian Tribes and shall be no less than two percent (2%) nor more than ten percent (10%) of the purchase price of the liquor. Until the tax rate is changed by Resolution of the Tribal Council, the current tax rate imposed under this Chapter shall be levied, imposed and collected at the rate of six and six-tenths percent (6.6%) of the purchase price of the liquor.

Section 2-605. Tax is Additional Tax.

The tax herein levied and imposed shall be in addition to all other taxes and fees.

Section 2-606. Exemptions.

The provision of liquor by a person or entity not occurring at a place of business held out as a retailer of such liquor is exempt from the provisions of this Chapter.

Section 2-607. Liability for Payment.

(1) The legal incidence of and liability for payment of said tax shall be on the "retailer."

(2) Each retailer within the boundaries of the Reservation, regardless of whether they are licensed under this Article, shall have the duty to collect and account for the tax imposed herein, and shall remit all due and owing taxes from the sale of liquor and/or packaged alcoholic liquor to consumers, whether such payment is by credit or cash, to the Department of Revenue and Finance at the time such payment is due.

Section 2-608. Collection of Tax.

The invoice, receipt or other statement of payment given to the consumer at the time of payment shall

show the amount due under the tax provided herein which shall be stated separately on said invoice, receipt or statement. The retailer shall be liable for the payment of the tax to the Tribes, whether any additional fee is actually collected from the consumer.

Section 2-609. Payment of Tax.

Payment of the tax shall be made at the time the tax return is due.

Section 2-610. Administration.

All provisions of Title 20 of the Tribal Code, the Taxation Code, Article I, shall apply to this Chapter.

Section 2-611. Filing of Applications.

Upon filing an application for a license with the Board pursuant to Chapter 2 of this Article, all retailers intending to conduct business within the boundaries of the Reservation shall complete and file with the Department of Revenue and Finance an application for tax registration prior to conducting business. All retailers conducting business within the boundaries of the Reservation pursuant to a license issued under this Article shall complete and file with the Department an application for tax registration on a form prescribed by the Department within thirty (30) days of conducting business. Retailers conducting business within the boundaries of the Reservation on the effective date of this Article shall complete and file the applications referenced in this Section within thirty (30) days of the effective date of this Article.

Section 2-612. Filing of Return.

All retailers shall pay to the Department of Revenue and Finance all taxes under this Chapter. Each retailer that sells liquor and/or packaged liquor at retail within the boundaries of the Reservation shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Department. The tax return shall be filed before the last day of the calendar month next succeeding the month for which the tax return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said tax return.

Section 2-613. Records.

All retailers shall maintain and preserve complete and accurate books, records and accounts showing the gross receipts for sales of liquor and/or packaged liquor at retail and the taxes collected each day and shall make available such books, records and accounts to the Director of the Department of Revenue and Finance for examination for those periods of time prescribed in Article I, Chapter 8 of the Taxation Code.

Section 2-614. Failure to Pay Tax.

Taxes that are not remitted to the Department of Revenue and Finance on or before the due date are delinquent.

Section 2-615. Violations; Additional Penalties.

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Any retailer which violates, disobeys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of any of the provisions of this Chapter, may be assessed a penalty of not less than Seventy-Five Dollars (\$75.00) nor more than Five Thousand Dollars (\$5,000.00) for the first violation, and not less than One Hundred Fifty Dollars (\$150.00), nor more than Five Thousand Dollars (\$5,000.00) for the second violation, and not less than Three Hundred Dollars (\$300.00) nor more than Five Thousand Dollars (\$5,000.00) for a third violation, and not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for the fourth and each subsequent violation, or five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent violation. A separate and distinct violation shall be regarded as committed each day said retailer continues any such violation, or permits any such violation to exist after notification thereof. The penalties imposed under this Chapter shall be in addition to the tax and in addition to those penalties, if any, imposed under Article I, Chapter 7 of the Taxation Code.

Section 2-616. Promulgation of Regulations.

The Director shall have the power to promulgate regulations for the enforcement of the provisions of this Chapter and the collection of revenues hereunder.

Section 2-617. Amendments.

The provisions of this Chapter may be amended at the discretion of the Tribal Council by Ordinance or Resolution.

Section 2-618. Failure to Remit; Licensing.

Collection and payment of this tax may be enforced by action in any court of competent jurisdiction and failure to account for or pay the tax by retailers of taxable alcoholic liquor shall be cause for revocation of any license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Article.

Section 2-619. Application to the Tribes.

The provisions of this Chapter shall also apply to the Tribes including any governmental entity or enterprise of the Tribes. For purposes of this Chapter, the Tribes, including any governmental entity or enterprise of the Tribes, if applicable, shall be considered a "retailer".

Section 2-620. Nondiscrimination.

No provision of this Chapter shall be construed as imposing a tax that discriminates on the basis of whether a bar, restaurant, packaged liquor store or similar establishment is owned, managed or operated by a member of the Tribes.

[As Amended March 12, 2004, Ord. No. 04-01.]

* * *

LIQUOR