

their own homes, or by people who are guests in the home of another.

(c) *Sales to be Made by Adults.*

All sales of liquor pursuant to this Chapter shall be made by persons twenty-one (21) years of age or older.

(d) *Evidence of Age and Identity.*

Evidence of age and identity of a purchaser of liquor must be shown by a current and valid driver's license or a United States passport, which contains the signature, birth date, and picture of the holder of the license or passport, or any other form of identification acceptable to the Commission.

(e) *Demand for Identification.*

Liquor establishments shall have the authority to demand of any person the production of proper evidence of age and identity before making a sale of liquor to such person.

(f) *Right/Duty to Refuse Sale.*

A liquor establishment shall have the authority and duty to refuse to sell liquor to any person who is unable to produce proper evidence of age and identity as prescribed by this Section, any person who the seller believes is already under the influence of liquor, or to anyone else if the seller reasonably believes that the transaction would lead to a violation of this Chapter. The operator of a liquor establishment shall have the authority to require that a person who the operator reasonably believes is already under the influence of liquor vacate the licensed premises.

(g) *Wholesale Liquor Distributors.*

A person holding a valid tribal liquor license may purchase liquor from any wholesale liquor distributor validly licensed in the jurisdiction of its principal place of business. Wholesale liquor distributors are expressly prohibited from selling liquor within tribal lands or for distribution within tribal lands to anyone not holding a tribal liquor license, subject to the exception set forth in Section 8(a) of this Chapter.

(h) *Sales Only to Be Made by Certified Servers; Alcohol Server Training Required for License Renewal.*

All sales of liquor authorized by this Chapter shall be made by persons who have successfully completed a liquor server training program approved by the Commission and are certified as having completed the course by the Commission or the entity that provides the training program. Any licensee seeking renewal of a license shall submit to the Commission, as a condition of license renewal, proof that each server employed by the licensee during the prior licensing year has completed an alcohol server program approved by the Commission.

(i) *Happy Hours.*

The Commission may adopt a policy on happy hours and on pricing schemes where liquor is sold on certain occasions or at certain times for a price that is substantially lower than the price it is sold for at other times. The Commission may at any time request from a liquor establishment a written description of its policies on such happy hours and pricing schemes and either approve or disapprove such policies. Disapproval of such a policy shall be appealable to the Tribal Council under the procedure set forth in Section 10 of this Chapter.

**§ 9. Suspension or Revocation of Liquor License; Special Restrictions; Monetary Sanctions.**

The Commission is authorized to revoke or suspend a tribal liquor license or to impose special restrictions on a license for a violation or violations of any provision of this Chapter, after the licensee is given at least seven (7) calendar days notice of the proposed action and the opportunity to appear and to be heard before the Commission, either in person or through a representative, and to submit such evidence as the Commission deems relevant to the matter at issue. Such suspensions, revocations, and imposition of special restrictions are appealable to the Tribal Council under Section 10 of this Chapter. In addition to any civil assessment provided by tribal law, the Commission may initiate an action in Tribal Court for the imposition of monetary sanctions against a Licensee for a violation of this Chapter, to compensate the Tribe for economic losses it suffers, directly or indirectly, as a result of the violation.

**§ 10. Appeal to Tribal Council.**

(a) *Appealable Actions.* Any person or entity who is denied a tribal liquor license, or whose tribal liquor license is suspended or revoked, or whose tribal liquor license has been limited by special restrictions may appeal the adverse action to the Tribal Council within thirty (30) days of final action by the Commission.

(b) *Record on Appeal.* The record on appeal shall consist of the final written decision of the Commission, all evidence presented to or relied on by the Commission, a taped or transcribed record of any hearing, and any other records of the Commission or any other information requested by the Tribal Council.

(c) *Stay Pending Appeal.* Suspension or revocation of a tribal liquor license may be stayed pending an appeal under this Section, at the discretion of the Tribal Council. The Tribal Council may

request that the appellant post an appeal bond in an amount set by the Council.

(d) *Decision of Council Final.* All decisions of the Tribal Council on appeals under this section shall be final.

**§ 11. Private Right of Action.**

Subject to the limitations of Section 12 of this Chapter, any person who suffers personal injury or property damage as a result of a violation of Section 7 or Section 8 of this Chapter shall have a right of action for money damages against the person or entity whose violation of Section 7 or Section 8 of this Chapter caused or contributed to his or her injury.

**§ 12. No Waiver of Sovereign Immunity.**

Nothing in this Chapter is intended to be or shall be construed as authorizing any waiver of the sovereign immunity of the Jicarilla Apache Tribe or any of its subdivisions or of any business entity owned in whole or in part by the Tribe.

**§ 13. Severability.**

If any provision of this Ordinance is found to be invalid or unenforceable, all remaining provisions shall be given full force and effect the fullest extent practicable.

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**Seneca Nation of Indians Liquor Ordinance**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Seneca Nation of Indians Liquor Ordinance governing the possession, consumption and sale of liquor on Seneca Nation Territory (Allegany Territory, except for excluded portions of the City of Salamanca, and Cattaraugus and Oil Springs Reservations) as well as the Seneca Nation Alcoholic Beverages Control Act, section 12 of the Ordinance, governing the possession, consumption and sale of liquor on restricted fee land acquired pursuant to the Seneca Nation Land Claims Settlement Act of 1990, 25 U.S.C. 1774f(c), in conformity with the laws of the State of New York, where applicable and necessary. Although the Ordinance, including section 12, was adopted on November 16, 2002, it does not become effective until published in the **Federal Register**, because the failure