

# POKAGON BAND GAMING COMMISSION

## LIQUOR CONTROL CODE REGULATIONS

### I. General Provisions.

- A. Definitions. Capitalized words or phrases in these regulations shall have the meanings provided in the Codes unless a different or additional meaning is expressly provided in these regulations. The following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise:

“**Adultered**” means containing any liquid or other ingredient that was not placed there by the original manufacturer or bottler.

“**Alcohol Server Certification**” means written certification issued to an Alcohol Server by a Server Training Program that confirms the Alcohol Server successfully completed the Server Training Program.

“**Alcohol Server**” means bartenders, waiters and waitresses, any other person employed by a retail Licensee or Permittee that serves Alcoholic Liquor to the public, and any person that directly manages or supervises an Alcohol Server.

“**Application**” means an application filed with the Commission for a new License, a transfer, modification, or renewal of a License, or a Permit in accordance with the Codes and these regulations.

“**ATC**” means the Indiana Alcohol and Tobacco Commission.

“**Codes**” means the Liquor Control Code (Indiana) and the Liquor Control Code (Michigan), or either of them.

“**Indiana Reservation**” means the territorial jurisdiction of the Pokagon Band located within the State of Indiana.

“**Licensed Premises**” means all real property and improvements located thereon where Alcoholic Liquor may be sold and served pursuant to a License or Permit issued by the Commission.

“**Liquor Control Code (Indiana)**” means the Pokagon Band Liquor Control Code (Indiana).

“**Liquor Control Code (Michigan)**” means the Pokagon Band Liquor Control Code (Michigan).

“**Michigan Reservation**” means the territorial jurisdiction of the Pokagon Band located within the State of Michigan.

“**Misbranded**” means not plainly labeled, marked, or otherwise designated.

Pokagon Band Gaming Commission  
Liquor Regulations

“**MOA**” means the Memorandum of Agreement that the Commission entered into with the ATC in June of 2016 “... in order to coordinate their efforts to fulfill their regulatory responsibilities within the Indiana Reservation, avoid any jurisdictional confusion, and minimize inefficiency and any duplication of regulatory oversight efforts”.

“**Permit**” means a permit that has been granted by the Commission pursuant to the Codes and these regulations.

“**Permitee**” means a person that has been granted a Permit by the Commission pursuant to the Codes these regulations.

“**Person**” shall have the meaning set forth in the Liquor Control Code (Indiana).

“**Pokagon Band**” means the Pokagon Band of Potawatomi Indians, Michigan and Indiana.

“**Refilled**” means when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer or bottler.

“**Server Training Program**” means “C.A.R.E.®” (Controlling Alcohol Risks Effectively), “TIPS®” (Training for Intervention Procedures), or another nationally-recognized responsible Alcoholic Liquor service training program, provided that:

1. For Licensed Premises located within the Michigan Reservation, the Server Training Program shall substantially meet the standards set forth in MCL 436.1906 of the Michigan Liquor Control Code.
  2. For Licensed Premises located within the Indiana Reservation, the Server Training Program shall substantially meet the standards set forth in IC 7.1-3-1.5 or IC 7.1-3-1.6 of Indiana Title 7.1 – Alcohol and Tobacco.
- B. For purposes of these regulations, references to the Commission and any Licensee are deemed to include their respective employees and agents.
- C. Unless the Commission directs otherwise in writing, all documents and correspondence with the Commission shall be addressed to:
- Pokagon Band Gaming Commission  
10528 Maudlin Road  
New Buffalo, Michigan 49117
- D. These regulations were promulgated for the purpose of implementing the Codes regarding the importation, distribution, manufacture, and sale of Alcoholic Liquor

Pokagon Band Gaming Commission  
Liquor Regulations

for commercial purposes within the territorial jurisdiction of the Pokagon Band and shall be interpreted and applied in harmony with those Codes. All standards, procedures, and regulatory actions expressly addressed or contemplated by these regulations shall be understood to apply:

1. The Liquor Control Code (Michigan) with regard to regulated activities within the Michigan Reservation; and
  2. The Liquor Control Code (Indiana) with regard to regulated activities within the Indiana Reservation.
- E. All references in these regulations to state liquor laws shall be understood to apply to each Licensed Premise the liquor laws of the state where the Licensed Premise is located.
- F. The Commission and the ATC entered into the MOA in order to coordinate their respective efforts to fulfill their regulatory responsibilities within the Indiana Reservation, to avoid any jurisdictional confusion, and to minimize inefficiency and any duplication of regulatory oversight efforts. These regulations are intended, in part, to facilitate the Commission's fulfillment of its commitments in the MOA concerning the regulation of liquor within the Indiana Reservation.

**II. Licenses, License Transfers, License Modifications, and License Renewals.**

- A. New Licenses, License Transfers, and License Renewals.
1. All Applications for a new License, a License transfer, and a License renewal must be received by the Commission not less than sixty (60) calendar days prior to the date the current License is set to expire. Upon a timely request made in writing by an Applicant based on good cause, the Commission may issue written modifications of the timeframe for the submission of an Application and the submission of required supporting documents.
  2. Applications shall include all documents and information required by the Commission to process the Application as set forth in official Application forms and instructions issued by the Commission.
  3. Among the documents required by the Commission to process an Application for a new License, the Applicant shall provide:
    - a. A copy of the deed to the property or other real estate instrument that includes a legal description;
    - b. A land survey or detailed drawing prepared by an engineer, an architect, or another licensed professional that describes the

Pokagon Band Gaming Commission  
Liquor Regulations

premises to be licensed, including the property boundaries, all physical improvements located thereon, and the locations within and outside the improvements where Alcoholic Liquor will be served; and

- c. Proof of insurance coverage for liquor liability or evidence confirming that such insurance coverage will be in effect before Alcoholic Liquor service will commence on the Licensed Premises.

B. License Modifications.

1. All Licensees shall apply to the Commission for a modification of their Licenses at least sixty (60) days before the completion of major capital improvements that substantially alter the physical structure of the Licensed Premises. Licensees may continue to exercise their rights to serve Alcoholic Liquor on the Licensed Premises under their existing Licenses during construction and prior to completion of the capital improvements and the issuance of a certificate of occupancy, provided that the portion of the Licensed Premises that remains open to the public is in compliance with applicable building and safety code requirements.
2. Applicants for License modifications shall include with their Applications all documents and information required by the Commission to process the Application as set forth in official Application forms and instructions issued by the Commission. Among the documents required by the Commission in order to process an Application for a License modification, the Applicant shall provide construction plans or drawings prepared by an architect, engineer, or other licensed professional that clearly describe all planned capital improvements to the Licensed Premises.

C. Licensing Standards. The Commission shall consider, at a minimum, the following before issuing a License, or a License transfer, modification, or renewal:

1. The proximity of the licensed premises to a church or school building.
  - a. An application for a new License may be denied if a wall of the contemplated location of the Licensed Premises is within (i) five hundred (500) feet of a church or school building for premises located on the Michigan Reservation or (ii) two-hundred (200) feet of a church or school building for premises located on the Indiana Reservation, and (iii) issuance of a License would adversely affect the operation of the church or school.

Pokagon Band Gaming Commission  
Liquor Regulations

- 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 Licensee’s responsible operating experience and training as shown either:
    - a. As a Licensee during the preceding year; or.
    - b. As a manager with substantial responsible experience in serving Alcoholic Liquor, including the business reputation, past criminal convictions, moral character, and personal use of Alcoholic Liquor by 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 and Pokagon Band 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. Class A or Class B Hotels. A retail on-sale License whose Licensed Premises are located within the Michigan Reservation shall be deemed to include at least all the rights and privileges of a class A or class B hotel license under state law to the extent that such Licensee meets the definition of a class A or class B hotel under state law.
- E. Incorporating Permits in Licenses. In general, Licensees applying for a License renewal are expected to include in their Application all Permits issued by the Commission for the same Licensed Premises, except for temporary Permits issued for special events or Permits that the Licensee no longer wishes to retain.
- F. A License issued by the Commission authorizes a Licensee to serve Alcoholic Liquor only at bars and other locations on the Licensed Premises as identified in the License Application, subject to any limitations provided under the terms and conditions of the License.

**III. Permits.**

Pokagon Band Gaming Commission  
Liquor Regulations

- A. Requirements for a Permit. A Permit from the Commission is required before Alcoholic Liquor can be sold at:
1. A bar or other location on the Licensed Premises that is not authorized by the Commission for the sale of Alcoholic Liquor;
  2. A bar or other location on the Licensed Premises authorized by a License or Permit for the sale of Alcoholic Liquor, but that subsequent to the date the License or Permit was issued has undergone improvements, other than merely cosmetic renovations, that do not substantially alter the physical structure of the License Premises;
  3. A location outside the physical improvements of the Licensed Premises that is not authorized by the License or Permit for the sale of Alcoholic Liquor and where Alcoholic Liquor will be sold on a regular basis;
  4. A location on the License Premises, whether within or outside the physical improvements, where Alcoholic Liquor will be sold at a special event; or
  5. Any other location on the Licensed Premises where the sale of Alcoholic Liquor is not authorized by the License or Permit.

**IV. Administrative procedures.**

- A. General Provisions.
1. Notice and hearings shall be provided for the following decisions:
    - a. Issuances of Licenses, License transfers, and License renewals;
    - b. Issuances of Permits;
    - c. License suspensions or revocations; and
    - d. Seizures of contraband.
  2. Notice and hearings on Applications for Licenses or Permits or enforcement actions shall be conducted in accordance with the requirements of the Codes.
  3. The Commission may from time to time issue additional administrative procedures in advance of hearings to supplement these procedures, including special ad hoc procedures as warranted for particular proceedings.

Pokagon Band Gaming Commission  
Liquor Regulations

4. An officer or director of the entity applying for a License, or the employee or agent responsible for the entity's Alcoholic Liquor transactions shall personally appear at the hearing. If such person fails to personally appear, the Commission may, among other actions, issue a decision of default.
5. Requests to postpone hearings shall be made in writing based on good cause and, except for compelling reasons, shall be submitted to the Commission not less than two business days before the hearing date.

**B. Suspension and Revocation Proceedings.**

1. Alleged violations of Pokagon Band, federal, or state liquor laws by any Licensee or Permittee shall be stated in writing, signed by the person asserting the violation, include such person's address and telephone number, and be submitted to the Commission.
2. The Licensee or Permittee 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 or Permittee to correct the violation within a reasonable time.

**V. Investigative and Enforcement Powers.**

- A. The Commission's investigative and enforcement powers concerning the issuance of a Permit, License, License transfer, License modification, or License renewal, or in determining a Licensee's or Permittee's compliance with Pokagon Band, federal, and state liquor laws and regulations include, but are not limited to, the following:
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, with or without notice, 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 Police and the Pokagon Band Tribal Court;
  5. Obtaining a search warrant pursuant to Pokagon Band law, and, pursuant to such search warrant, seizing any Alcoholic Liquor, containers,

Pokagon Band Gaming Commission  
Liquor Regulations

implements, or conveyances used in connection with a violation of the provisions of the Codes or these regulations;

6. Seizing suspected adulterated Alcoholic Liquor for analytical purposes;
7. Confiscating or impounding Alcoholic Liquor that does not comply with the Codes or these regulations; and
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. Protection of Minors. Advertisements for Alcoholic Liquor shall not include depictions or references 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 or Permittee 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. Prohibition Against Cooperative Advertising. Retail Licensees or Permittees shall not engage in cooperative advertising with any manufacturer or wholesale seller of beer or wine that involves either:
  1. Financial assistance provided by a manufacturer or wholesale seller of beer or wine for the brand promotion of their product; or
  2. The appearance of the Four Winds name and/or logo in advertising by a manufacturer or wholesale seller of beer or wine.
- D. Prohibition Against the Use of Gambling Devices. Licensees and Permittees may not use any gambling devices, including punch boards or games of any description, for advertising purposes.
- E. Contests and advertising articles.

Pokagon Band Gaming Commission  
Liquor Regulations

1. Retail on-sale Licensees and Permittees 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. Licensees and Permittees may not give away the contents of a sample bottle or can that is a container for Alcoholic Liquor.
3. Except to the extent that Alcoholic Liquor may be sold below cost or without charge under the Codes and these regulations, Licensees and Permittees may not advertise Alcoholic Liquor for sale below cost or without charge.
4. Licensees and Permittees may not sell, offer to sell, or advertise the sale of an unlimited quantity of Alcoholic Liquor at a specific price.
5. Licensees and Permittees 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. Wholesale and Retail Purchasing.**

- A. Wholesale Purchases in Michigan. Retail Licensees and Permittees whose Licensed Premises are located within the Michigan Reservation shall purchase:
  1. Beer and wine from distributors that are licensed by the Michigan Liquor Control Commission at the same price and on the same basis that such beverages are purchased by similar Licensees that are licensed by the State of Michigan; and
  2. Spirits that constitute Alcoholic Liquor over 21% by volume from the State of Michigan through its Authorized Distribution Agents and on the same basis that such beverages are purchased by similar Licensees that are licensed by the State of Michigan.
- B. Wholesale Purchases in Indiana. Retail Licensees and Permittees whose Licensed Premises are located within the Indiana Reservation shall purchase all Alcoholic Liquor from holders of liquor wholesalers' permits issued by the ATC or from holders of manufacturer's Licenses issued by the Commission.

**VIII. Hours and Days of Operation.**

Pokagon Band Gaming Commission  
Liquor Regulations

- A. Conformity with State Liquor Laws. In addition to all legal requirements under the Codes and these regulations, the regulated activities of Licensees and Permittees shall comply with the specific requirements stated in this Section in conformity with state liquor laws. If there is any conflict between the Codes and regulations and state law, the Codes and these regulations shall govern.
- B. 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.
- C. Monday through Saturday Sales. Licensees and Permittees may only sell Alcoholic Liquor on Monday through Saturday during the hours permitted under state law.
- D. On-premise Consumption. Licensees and Permittees may not allow anyone, including their agents and employees, to consume Alcoholic Liquor on the Licensed Premises except during the days and times of day that are expressly permitted under state law.
- E. Sunday Sales. Licensees and Permittees may only sell Alcoholic Liquor on the Licensed Premises during the days and times of day that are expressly permitted under state law.
- F. New Year's Day Sales. If January 1 falls on a Sunday, the Licensee's or Permittee's hours may be extended if and to the extent allowed under state law.
- G. Christmas Sales. Licensees and Permittees shall not sell Alcoholic Liquor on December 24 and December 26 except during the times of day that are expressly permitted under state law.
- H. After Hours. 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 persons other than the Licensee's or Permittee's employees, agents, and contractors.
- I. Hotel Rooms. The limitations on the hours regarding public consumption of Alcoholic Liquor do not apply to the consumption of Alcoholic Liquor in the hotel rooms of registered guests, excluding any event space.

**IX. Posting.**

- A. Licensees and Permittees shall prominently post in a conspicuous place on the Licensed Premises:

Pokagon Band Gaming Commission  
Liquor Regulations

1. Alcoholic liquor Licenses and Permits issued by the Commission in a frame under a transparent material.
2. A sign describing the prohibition against selling or furnishing Alcoholic Liquor to a person who is less than twenty-one (21) years of age.
3. A sign stating the total capacity of each public room of the Licensed Premises where Alcoholic Liquor may be served, as determined in accordance with the applicable standards under the Pokagon Band Health and Safety Act.

**X. Prohibited Acts.**

- A. Conformity with State Liquor Laws. In addition to all legal requirements under the Codes and these regulations, the regulated activities of Licensees and Permittees shall comply with the specific requirements stated in this Section in conformity with state liquor laws. If there is any conflict between the Codes and regulations and state law, the Codes and these regulations shall govern.
- B. Specific Prohibited Acts. A Licensee or Permittee shall not:
  1. Knowingly sell Alcoholic Liquor to:
    - a. A person who is less than twenty-one (21) years of age; or
    - b. A visibly or obviously intoxicated person.
  2. Employ a person who:
    - a. Is under eighteen (18) years of age to sell Alcoholic Liquor; or
    - b. Is under eighteen (18) years of age for duties to be performed in the part of the Licensed Premises where Alcoholic Liquor is sold or consumed, except as permitted under state law.
  3. Allow a person who:
    - a. Is under twenty-one (21) years of age to consume or possess for consumption Alcoholic Liquor on the Licensed Premises;

Pokagon Band Gaming Commission  
Liquor Regulations

- b. Is under eighteen (18) years of age to remain in any place where Alcoholic Liquor is sold, given away, or furnished unless the person is accompanied by parent of legal guardian;
  - c. Is an Alcohol Server to commence work as an Alcohol Server before such person has received an Alcohol Server Certification;
  - d. Is visibly or obviously intoxicated to consume any alcoholic beverage on Licensed Premises;
  - e. Is an employee or agent of the Licensee or Permittee to be in a visibly or obviously intoxicated condition on the Licensed Premises; and
  - f. Is visibly or obviously intoxicated person to frequent or loiter on Licensed Premises.
- 4. Allow on Licensed Premises any vending machine that dispenses any type of Alcoholic Liquor directly to a customer.
  - 5. Sell Alcoholic Liquor that is adulterated, misbranded, or in bottles that have been refilled, other than beer containers.
  - 6. Allow any illegal activities to occur on Licensed Premises.
  - 7. Except as otherwise provided in subsections a or b, a retail on-sale Licensee or Permittee shall not permit a person to remove Alcoholic Liquor from the Licensed Premises.
    - a. A retail on-sale Licensee or Permittee may allow a person who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the Licensed Premises upon departure, provided that the Licensee or Permittee caps the bottle or reinserts a cork so that the top of the cork is level with the lip of the bottle.
    - b. A retail on-sale Licensee within the Michigan Reservation that meets the definition of a class A or class B hotel under state law may allow its invitees or guests to possess or consume, or both, on or about its premises Alcoholic Liquor purchased by the invitee or guest from an off-sale retailer and such guest or invitee may enter and exit the licensed premises with Alcoholic Liquor purchased from an off-sale retailer.

**XI. Additional requirements for Retail On-Sale Licensees and Permittees.**

Pokagon Band Gaming Commission  
Liquor Regulations

- A. Conformity with State Liquor Laws. In addition to all legal requirements under the Codes and these regulations, the regulated activities of Licensees and Permittees shall comply with the specific requirements stated in this Section in conformity with state liquor laws. If there is any conflict between the Codes and regulations and state law, the Codes and these regulations shall govern.
  
- B. Server Training Programs and Alcohol Server Certification.
  - 1. Server Training. All Licensees and Permittees within the Indiana Reservation shall require each Alcohol Server to complete a Server Training Program not later than one hundred and twenty (120) days after the date the Alcohol Server begins employment.
  
  - 2. Alcohol Server Certification. All retail on-sale Licensees and Permittees shall require their Alcohol Server to:
    - a. Obtain and maintain at all times an Alcohol Server Certification issued by a Server Training Program that confirms that the Alcohol Server successfully completed a Server Training Program.
  
    - b. Attend a refresher Server Training Program no less frequently than every three (3) years after the Alcohol Server completes a Server Training Program unless a shorter period is prescribed by state law.
  
- C. Check for Identification. All Licensees and Permittees shall require their Alcohol Servers to request and obtain acceptable identification in accordance with the Codes and these regulations from persons seeking to purchase Alcoholic Liquor whenever there is a question whether the purchaser is at least twenty-one (21) years of age.
  
- D. Serving of brand names. Licensees and Permittees shall sell only the brand name of Alcoholic Liquor ordered by a patron.

**XII. Selling Alcoholic Liquor Below Cost or Without Charge.**

- A. Conformity with State Liquor Laws. In addition to all legal requirements under the Codes and these regulations, the regulated activities of Licensees and Permittees shall comply with the specific requirements stated in this Section in conformity with state liquor laws. If there is any conflict between the Codes and regulations and state law, the Codes and these regulations shall govern.
  
- B. General Prohibition. Except as expressly permitted under the Codes, these regulations, and state law, Licensees and Permittees may not sell below cost or

Pokagon Band Gaming Commission  
Liquor Regulations

give away any Alcoholic Liquor of any kind or description at any time in connection with their business.

- C. Licensed Premises on the Michigan Reservation. As provided under subsection II.D of these regulations, a retail on-sale Licensee or Permittee whose Licensed Premises are located within the Michigan Reservation and that is also entitled to exercise the rights and privileges of a class A or class B hotel Licensee shall be entitled to sell Alcoholic Liquor below cost or without charge to the same extent as class A or class B hotel Licensees are permitted under state law. This provision is intended to extend to such Licensees and Permittees at least the same rights to sell Alcoholic Liquor below cost or without charge that class A or class B hotel Licensees enjoy under Michigan law. Accordingly, such Licensees and Permittees may sell Alcoholic Liquor below cost or without charge under either of the following conditions:
1. The Commission expressly authorized the Licensee to sell Alcoholic Liquor on the Licensed Premises below cost or without charge on an ongoing basis to invitees or guests in connection with a business event or as a part of a room special or promotion for overnight accommodations, as set forth in the License issued by the Commission; or
  2. The Commission expressly authorized the Permittee to sell Alcoholic Liquor on the Licensed Premises below cost or without charge to invitees or guests in connection with a specific business event or as a part of a specific room special or promotion for overnight accommodations, as set forth in the Permit issued by the Commission.
- D. Licensed Premises on the Indiana Reservation. A retail on-sale Licensee or Permittee whose Licensed Premises are located within the Indiana Reservation may sell Alcoholic Liquor below cost or without charge on the Licensed Premises under the following conditions:
1. The Commission expressly authorized the Licensee or Permittee to sell Alcoholic Liquor on the Licensed Premises below cost or without charge as set forth in the License or a Permit issued by the Commission;
  2. The Licensee or Permittee is the holder of a gaming facility license issued by the Commission pursuant to Chapter VI of the Pokagon Band Gaming Regulatory Act for a gaming facility located within the Indiana Reservation; and
  3. The location(s) on the Licensed Premises where the Licensee or Permittee will sell Alcoholic Liquor below cost or without charge is within the Licensee's or Permittee's gaming facility on the Indiana Reservation.

Pokagon Band Gaming Commission  
Liquor Regulations

**XIII. Recordkeeping.**

- A. All Licensees and Permittees shall maintain accurate records of Alcoholic Liquor purchases and sales, and all submittals to and correspondence with the Commission and shall maintain such records for a minimum period of four (4) years.