



4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Pascua Yaqui Tribe of Arizona – 2015 Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Pascua Yaqui Tribe of Arizona's 2015 Liquor Control Ordinance. The ordinance regulates and controls the possession, sale and consumption of liquor within the Pascua Yaqui Tribe of Arizona's Indian country. This ordinance allows for the possession and sale of alcoholic beverages within the jurisdiction of the Pascua Yaqui Tribe of Arizona, will increase the ability of the tribal government to control the distribution and possession of liquor within their Indian country, and at the same time, will provide an important source of revenue, the strengthening of the tribal government, and the delivery of tribal services.

DATES: Effective Date: This law is effective [INSERT DATE 31 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Services Officer, Western Regional Office, Bureau of Indian Affairs, 2600 North Central Avenue, Phoenix, AZ 85004; Phone: (602) 379-6786; Fax: (602) 379-379-4100, or Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian

Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, DC 20240; Telephone: (202) 513-7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the Federal Register notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. Pascua Yaqui Tribal Council duly adopted this law by Resolution No. C06-103-15 on June 10, 2015.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs. I certify that the Pascua Yaqui Tribe of Arizona duly adopted the 2015 Liquor Control Ordinance 07-15 by Resolution No. C06-103-15 on June 10, 2015.

Dated: July 21, 2015.

Kevin K. Washburn,
Assistant Secretary - Indian Affairs.

Section 30

Definitions

(8 PYTC § 6-5-30)

To the extent that definitions are consistent with tribal or federal laws, terms used herein shall have the same meaning as defined in **Arizona Revised Statutes ("ARS") Title 4**, and as defined in Administrative Rules of the Arizona Department of Liquor Licenses and Control to administer **ARS, Title 4**.

(A) “Alcoholic Liquor” shall mean any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.

(B) “Land Assignment” means a Land Assignment as defined in the Pascua Yaqui Tribal Code.

(C) “Pascua Yaqui Reservation” shall mean all lands held in trust by the United States for the Pascua Yaqui Tribe of Arizona or its members. It also includes any roads or rights-of-way located within the external boundaries of the Pascua Yaqui Reservation.

(D) Whenever the words “sell” or “to sell” refer to anything forbidden by this Chapter and related to alcoholic liquor, they include:

- (1) To solicit or receive and order;
- (2) To keep or expose for sale;
- (3) To deliver for value or in any way other than purely gratuitously;
- (4) To peddle;
- (5) To keep with intent to sell;
- (6) To traffic in;

(C) Licensees shall not conduct operations under those licenses, nor activities related thereto, on Tribal Land Assignments or rental properties, which are reserved for residential purposes only.

(D) Licenses may be terminated by the Arizona Department of Liquor Licenses and Control and/or Arizona Liquor License Control Board in accordance with their respective laws, regulations, policies and procedures. The laws, rules and regulations of the Arizona Department of Liquor Licenses and Control and/or the Arizona Liquor License Control Board with regard to liquor license enforcement, review, and revocation proceedings shall be applicable to Liquor Licenses on the Pascua Yaqui Reservation.

Section 70 Warning Signs Required (8 PYTC § 6-5-70)

Licensees on the Pascua Yaqui Reservation shall comply with the requirements of **ARS § 4-261**, and shall post the signs required by that section in accordance with the requirements of that section.

Section 80 Jurisdiction & Violations of this Ordinance (8 PYTC § 6-5-80)

(A) The Pascua Yaqui Tribal Court shall have exclusive jurisdiction over enforcement of all provision of this Ordinance, except for violations of **8 PYTC § 6-5-50 (A)** committed by non-Indians. This shall not preclude any of the United States of America, the Arizona Department of Liquor Licenses and Control and/or the Arizona Liquor License Control Board from administering and enforcing their respective laws, regulations, policies and procedures, including, but not limited to, unlawful distribution of alcohol, licensing requirements, the issuance of liquor licenses, liquor license violations, licensee disciplinary proceedings, and license revocation proceedings.

(B) Any person present on the Pascua Yaqui Reservation shall be deemed to have consented to the civil jurisdiction of the Pascua Yaqui Tribal Court, and any Indian present on the Pascua Yaqui Reservation shall be deemed to have consented to criminal jurisdiction of the Pascua Yaqui Tribal Court, and may be subject to a civil or criminal penalty as applicable in the Pascua Yaqui Tribal Court for a civil or criminal violations of this Ordinance. The Indian Civil Rights Act shall be applicable to Indians charged with criminal violations of this Ordinance.

(C) For any violation of **8 PYTC § 6-6-40** the Pascua Yaqui Tribal Court may impose a civil penalty in an amount not to exceed \$1,000 per violation.

(D) The Pascua Yaqui Prosecutor's Office shall bring enforcement actions of alleged violations of **8 PYTC § 6-6-40**.

(E) The burden of proof for alleged violations of **8 PYTC § 6-6-40** shall be a preponderance of the evidence.

(F) There shall be no right of jury trial or court-appointed legal counsel for alleged violations of **8 PYTC § 6-6-40**.

(G) Alleged violations of **8 PYTC § 6-6-40** above may be brought jointly with a criminal violation of Pascua Yaqui Tribal law, or may be brought separately.

(H) The Tribal Council hereby specifically finds that civil penalties imposed for violations of **8 PYTC § 6-6-40** are payable to the Pascua Yaqui Tribe, and are reasonably necessary and related to the expense of governmental administration necessary in maintaining law and order and public safety, and in managing, protecting and developing the natural resources on the Reservation. It is the legislative intent of the Tribal Council

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