

4337-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Enterprise Rancheria of Maidu Indians of California Liquor Control Statute

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the liquor control ordinance of the Enterprise Rancheria of Maidu Indians of California. The liquor control statute regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of California.

DATES: This code shall become effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Harley Long, Tribal Government Officer, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, Telephone: (916) 978-6000, Fax: (916) 978-6099; or Ms. 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 control ordinances for the purpose of regulating liquor transactions in Indian country. The Enterprise Rancheria of Maidu Indians of California Tribal Council duly adopted the Enterprise Rancheria of Maidu Indians of California Liquor Control Statute on April 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 Enterprise Rancheria of Maidu Indians of California Tribal Council duly adopted by Resolution the Enterprise Rancheria of Maidu Indians of California Liquor Control Statute by Resolution No. 15-05 on April 10, 2015.

Dated: December 3, 2015

Kevin Washburn,
Assistant Secretary – Indian Affairs.

Enterprise Rancheria of Maidu Indians of California Liquor Control Statute shall read as follows:

ARTICLE ONE

INTRODUCTION

Section 1. Authority

This Statute is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. 1161) and by powers vested in the Tribal Council of the Estom Yumeka Maidu Tribe of the Enterprise Rancheria (“Tribal Council”) to develop, adopt and enforce statutes as authorized under Article VI, Section 3 of the Constitution of the Enterprise Rancheria – Estom Yumeka Maidu, approved May 5, 1996 and revised as of October 29, 2003.

Section 2. Purpose

The purpose of this Statute is to regulate and control the possession, sale, manufacture and distribution of liquor within Tribal Trust Lands, in order to permit alcohol sales by tribally owned and operated enterprises and private lessees, and at tribally approved special events. Enactment of a liquor control statute will help provide a source of revenue for the continued operation of the tribal government, the delivery of governmental services, and the economic viability of tribal enterprises.

Section 3. Short Title

This Statute shall be known and cited as the “Liquor Control Statute.”

Section 4. Jurisdiction

This Statute shall apply to all lands now or in the future under the governmental authority of the Tribe, including Tribal Trust Lands.

Section 5. Application of 18 U.S.C. § 1161

By adopting this Statute, the Tribe hereby regulates the sale, manufacturing, distribution, and consumption of liquor while ensuring that such activity conforms with all applicable laws of the State of California as required by 18 U.S.C. § 1161 and the United States.

Section 6. Declaration of Public Policy; Findings

The Tribal Council enacts this Statute, based upon the following findings:

- (a) The distribution, possession, consumption and sale of liquor on the Tribe's Reservation is a matter of special concern to the Tribe.
- (b) The Tribe is the beneficial owner of Tribal Trust Lands, upon a portion of which the Tribe plans to construct and operate a gaming facility and related entertainment and lodging facilities.
- (c) The Tribe's gaming facility will serve as an integral and indispensable part of the Tribe's economy, providing revenue to the Tribe's government and employment to tribal citizens and others in the local community.
- (d) Federal law, as codified at 18 U.S.C. §§ 1154 and 1161, currently prohibits the introduction of liquor into Indian country, except in accordance with State law and the duly enacted law of the Tribe.
- (e) The Tribe recognizes the need for strict control and regulation of liquor transactions on Tribal Trust Lands because of potential problems associated with the unregulated or inadequate regulated sale, possession, distribution, and consumption of liquor.
- (f) Regulating the possession, sale, distribution and manufacture of liquor within Tribal Trust Lands is also consistent with the Tribe's interest in ensuring the peace, safety, health, and general welfare of the Tribe and its citizens.

(g) Tribal control and regulation of liquor on Tribal Trust Lands is consistent with the Tribe's custom and tradition of controlling the possession and consumption of liquor on tribal lands and at tribal events.

(h) The purchase, distribution, and sale of liquor on Tribal Trust Lands shall take place only at duly licensed (i) tribally owned enterprises, (ii) other enterprises operating pursuant to a lease with the Tribe, and (iii) tribally-sanctioned events.

(i) The sale or other commercial manufacture or distribution of liquor on Tribal Trust Lands, other than sales, manufacture, and distributions made in strict compliance with this Statute, is detrimental to the health, safety, and general welfare of the citizens of the Tribe, and is prohibited.

ARTICLE TWO

DEFINITIONS

Section 1. Definitions

As used in this Statute, the terms below are defined as follows:

(a) Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, in any form, and regardless of source or the process used for its production.

(b) Alcoholic beverage means all alcohol, spirits, liquor, wine, beer and any liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and that is fit for human consumption, either alone or when diluted, mixed, or combined with any other substance(s).

(c) Compact means a Tribal-State compact between the State and the Tribe that governs the conduct of class III gaming activities on that portion of the Tribal Trust Lands recognized as "Indian lands" pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§

2701, et seq., or such other procedures prescribed by the Secretary under the Act pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii).

(d) License means, unless otherwise stated, a license issued by the Tribe in accordance with this Statute.

(e) Liquor means any alcoholic beverage, as defined under this Section.

(f) Person means any individual or entity, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, corporation, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group. The term shall also include the businesses of the Tribe.

(g) Sale and sell means the transfer for consideration of any kind, including by exchange or barter.

(h) Secretary means the Secretary of the United States Department of the Interior.

(i) State means the State of California.

(j) Tribal Trust Lands means and includes all lands held by the United States in trust for the Tribe now or in the future.

(k) Tribe means the Estom Yumeka Maidu Tribe of the Enterprise Rancheria, a federally recognized Indian tribe, listed in the Federal Register as “Enterprise Rancheria of Maidu Indians of California.”

ARTICLE THREE

LIQUOR SALES, POSSESSION, & MANUFACTURE

Section 1. Possession of Alcohol

The introduction and possession of alcoholic beverages shall be lawful within Tribal Trust Lands; provided that such introduction or possession is in conformity with the laws of the State.

Section 2. Retail Sales of Alcohol

The sale of alcoholic beverages shall be lawful within Tribal Trust Lands; provided that such sales are in conformity with the laws of the State and are made pursuant to a license issued by the Tribe.

Section 3. Manufacture of Alcohol

The manufacture of beer and wine shall be lawful within Tribal Trust Lands, provided that such manufacture is in conformity with the laws of the State and pursuant to a license issued by the Tribe.

Section 4. Age Limits

The legal age for possession or consumption of alcohol within Tribal Trust Lands shall be the same as that of the State, which is currently 21 years. No person under the age of 21 years shall purchase, possess or consume any alcoholic beverage. If there is any conflict between State law and the terms of the Compact, if any, regarding the age limits for alcohol possession or consumption, the age limits in the Compact shall govern for purposes of this Statute.

ARTICLE FOUR

LICENSING

Section 1. Licensing

The Tribal Council shall have the power to establish procedures and standards for tribal licensing of liquor sales within Tribal Trust Lands, including the setting of a license fee

schedule, and shall have the power to publish and enforce such standards; provided that no tribal license shall issue except upon showing of satisfactory proof that the applicant is duly licensed by the State. The fact that an applicant for a tribal license possesses a license issued by the State shall not provide the applicant with an entitlement to a tribal license. The Tribal Council may in its discretion set standards which are more, but in no case less, stringent than those of the State.

ARTICLE FIVE

ENFORCEMENT

Section 1. Enforcement

The Tribal Council shall have the power to develop, enact, promulgate and enforce regulations as necessary for the enforcement of this Statute and to protect the public health, welfare and safety of the Tribe, provided that all such regulations shall conform to and not be in conflict with any applicable tribal, federal or state law. Regulations enacted pursuant to this Statute may include provisions for suspension or revocation of tribal liquor licenses, reasonable search and seizure provisions, and civil and criminal penalties for violations of this Statute to the full extent permitted by federal law and consistent with due process.

Tribal law enforcement personnel and security personnel duly authorized by the Tribal Council shall have the authority to enforce this Statute by confiscating any liquor sold, possessed, distributed, manufactured or introduced within Tribal Trust Lands in violation of this Statute or of any regulations duly adopted pursuant to this Statute.

The Tribal Council shall have the exclusive jurisdiction to hold hearings on violations of this Statute and any procedures or regulations adopted pursuant to this Statute; to promulgate appropriate procedures governing such hearings; to determine and

enforce penalties or damages for violations of this Statute; and to delegate to a subordinate hearing officer or panel the authority to take any or all of the foregoing actions on its behalf.

ARTICLE SIX

TAXES

Section 1. Taxation

Nothing contained in this Statute is intended to, nor does in any way, limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of alcohol. The Tribe retains the right to impose such taxes by appropriate statute to the full extent permitted by federal law.

ARTICLE SEVEN

MISCELLANEOUS PROVISIONS

Section 1. Sovereign Immunity Preserved

Nothing contained in this Statute is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its agencies, agents or officials from unconsented suit or action of any kind.

Section 2. Conformance with Applicable Laws

All acts and transactions under this Statute shall be in conformity with the Compact, if any, and laws of the State to the extent required by 18 U.S.C. § 1161 and with all Federal laws regarding alcohol in Indian Country.

Section 3. Effective Date

This Statute shall be effective as of the date on which the Secretary certifies this Statute and publishes the same in the Federal Register.

Section 4. Repeal of Prior Acts

All prior enactments of the Tribal Council, including tribal resolutions, policies, regulations, or statutes pertaining to the subject matter set forth in this Statute are hereby rescinded.

Section 5. Amendments

This Statute may only be amended pursuant to an amendment duly enacted by the Tribal Council and certification by the Secretary and publication in the Federal Register, if required.

Section 6. Severability and Savings Clause

If any part or provision of this Statute is held invalid, void, or unenforceable by a court of competent jurisdiction, such adjudication shall not be held to render such provisions inapplicable to other persons or circumstances. Further, the remainder of the Statute shall not be affected and shall continue to remain in full force and effect.

[FR Doc. 2015-31313 Filed: 12/11/2015 8:45 am; Publication Date: 12/14/2015]