

**TITLE XVI**

**ALCOHOLIC BEVERAGES**

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## **CHAPTER 1. LICENSING AND PERMITTING**

### **§16-1-1 Tribal and State Licenses and Permits**

It shall be unlawful for any person to sell, give away or dispose of in any manner any alcoholic beverages, beer or light wine on or within the Choctaw Indian Reservation without having first obtained a valid license from the Mississippi State Tax Commission. Additionally, any licensee or permittee shall also obtain a Tribal license or permit from the following:

- (1) If the license or permit authorizes the sale or other disposition on any premises under the jurisdiction of the Choctaw Gaming Commission then the licensee or permittee shall also obtain a Tribal license or permit from the Choctaw Gaming Commission. Any such licensee or permittee shall not be required to obtain a permit to engage in business from the Choctaw Tribal Tax Commission. However, nothing contained herein shall be construed to waive the right of the Choctaw Tax Commission to collect authorized taxes from such licensee or permittee.
- (2) All other Tribal licenses and permits shall be obtained from the Choctaw Tribal Council.

For purposes of this Title, “person” means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

### **§16-1-2 Package Liquor Sales Prohibited**

Such license or permit shall authorize the holder thereof to either sell or give away or both, alcoholic beverages, beer or light wine for consumption “by the drink” on the licensed premises only. No licensee shall permit package retail sales or distribution in any manner of unopened packages of alcoholic beverages, except beer and light wine. Any license or permit issued authorizing the sale of light wines and/or beer on the premises consumption shall not be construed to prohibit the sale of light wine and/or beer by the bottle or can by the glass or by draft and in or from the original package in premises licensed to sell in such a manner.

### **§16-1-3 License a Privilege**

Any license or permit issued under this Title shall be deemed to be a revocable privilege and no person holding such a license or permit shall be deemed to have acquired any vested rights therein.

### **§16-1-4 Purchases from State Warehouse or Distributor**

No licensee shall purchase any alcoholic liquors, beverages, light wine or beer unless the same be purchased from the State Warehouse of the Mississippi State Tax Commission or from a distributor or wholesale duly authorized and licensed by the Mississippi State Tax Commission.

### **§16-1-5 Records and Reports**

All applications, records, reports or other documentation required to be provided to the State Tax Commission by any licensee or permittee shall also be provided to the Choctaw Tax Commission if licensed or permitted by the Tribal Council or to the Choctaw Gaming Commission if licensed or

permitted by that authority, on the same basis and in the same form as required by the State Tax Commission. True and correct copies in lieu of originals shall be acceptable for filing with the Choctaw Tax Commission and the Choctaw Gaming Commission.

#### **§16-1-6           Transportation**

It shall be unlawful for any person to transport or carry any alcoholic beverages, liquor, beer or light wine in open containers beyond the licensed premises.

#### **§16-1-7           Mississippi Tax Commission Approval Required**

No Tribal license or permit shall be issued unless and until a valid license or permit is obtained from the Mississippi State Tax Commission. Any Tribal license or permit issued shall be for, and run concurrently with the license or permit issued by the State Tax Commission. Any fees charged by the Tribe shall be established by the Choctaw Tribal Council or Choctaw Gaming Commission and paid to the Choctaw Tribal Council or to the Choctaw Gaming Commission, as may be appropriate under this licensing ordinance. Any revocation or suspension of a license or permit by the Mississippi State Tax Commission shall constitute a simultaneous revocation or suspension of the Tribal license or permit.

#### **§16-1-8           Compliance with Applicable Laws**

Any person or entity holding a Tribal license shall comply with all statutes of the United States of America, the laws of the State of Mississippi, applicable to such licensee and its business pursuant to said license, the regulations of the Alcoholic Beverage Control Division of the Mississippi State Tax Commission, the ordinances and resolutions of the Mississippi Band of Choctaw Indians, and the Regulations of the Choctaw Gaming Commission.

#### **§16-1-9           Permit to Engage in Business**

In addition to the licenses and permits issued by the Tribe and the Mississippi State Tax Commission, the holder of said licenses and permits shall also acquire a permit to engage in business from the Choctaw Tax Commission pursuant to §14-1-3 of the Choctaw Tribal Code, unless exempted by this Title.

#### **§16-1-10          Contents of Licenses and Permits**

Any license or permit issued by the Tribal Council or the Choctaw Gaming Commission shall state with specificity the following:

- (1)     the name and address of the licensed person;
- (2)     the name and address of the licensed premises;
- (3)     an exact description/location of the licensed premises;
- (4)     the days and hours when alcoholic beverages and/or light wines and beer may be sold;

- (5) the expiration date of the license;
- (6) the license or permit number issued by the Mississippi Tax Commission; and
- (7) the types of beverages authorized under the license or permit.

#### **§16-1-11 Non-Transferability of Licenses and Permits**

All licenses and permits issued by the Tribe and the Mississippi State Tax Commission shall be non-transferable without the written authority of the Tribal Council or the Choctaw Gaming Commission and the Mississippi State Tax Commission and shall at all times be displayed in a conspicuous place in the licensed premises.

#### **§16-1-12 State Suspension or Revocation Applicable to Tribe**

Any suspension or revocation of a license or permit by the Mississippi State Tax Commission shall constitute a simultaneous suspension or revocation of the Tribal license or permit. Any notice of closure, temporary or permanent, of all or any part of the licensed premises by the Choctaw Gaming Commission shall serve to suspend or revoke as appropriate the licensee or permittee's right to operate under the Tribal license or permit within the closed area.

Any reinstatement of a license or permit by the Mississippi State Tax Commission shall not necessarily constitute a reinstatement of the Tribal license or permit. The licensee or permittee must seek a separate reinstatement of the Tribal license or permit from the appropriate licensing authority.

#### **§16-1-13 No Divestment of Jurisdiction or Immunity**

Nothing in this Title grants or shall be construed to grant to the State of Mississippi or any agency, department or commission thereof, general state civil regulatory or taxing authority or criminal jurisdiction, over the Tribe or its lands, property, members or activities except as expressly recognized under the Tribal-State Compact and/or 25 U.S.C. 1161. Additionally, nothing in this Title shall waive or be construed to waive the immunity of the Mississippi Band of Choctaw Indians or any agency, department, enterprise or commission thereof from suit without the express consent of the Tribal Council of the Mississippi Band of Choctaw Indians.

#### **§16-1-14 Conflicts of Interest**

No member of the Tribal Council of the Mississippi Band of Choctaw Indians or of the Choctaw Gaming Commission or its employees or of the Choctaw Tax Commission or its employees nor members of the immediate household of any of the above may, directly or indirectly, individually or as a member of a partnership or as a shareholder of a corporation have any interest whatsoever in the sale of alcoholic beverages and/or beer and light wines or have any compensation or profit therefrom as may be licensed or permitted by this Title. For purposes of this Title "immediate household" is defined as son(s), daughter(s), step-son(s), step-daughter(s), spouse or spouse recognized by common law and members of the family or of the household living in the same house.

#### **§16-1-15 Solicitation and Sales**

No person shall act as a solicitor or salesman for a manufacturer or wholesaler on the licensed premises without having obtained a proper permit from the Mississippi State Tax Commission. Any such permittee shall file with the Choctaw Gaming Commission or the Choctaw Tax Commission, as appropriate, a true and correct copy of the said permit which shall entitle that person to solicit or sell on any Tribally licensed premises on the same terms and conditions as the permittee operates in other locations licensed by the Mississippi State Tax Commission. Any revocation or termination of said permit by the Mississippi State Tax Commission shall constitute a simultaneous revocation or termination of the Tribal permit.

#### **§16-1-16 Prohibitions on Sales or Distribution**

No person shall sell, furnish, give away, barter, exchange or dispose of in any manner or cause to be given any alcoholic beverages, beer or light wines on or within the Choctaw Indian Reservation to any person under the age of twenty-one (21) years, or to any person who is known to be insane or mentally defective or to any person who is visibly intoxicated or to any person who is known to drink alcoholic beverages to excess or to any person who is known to be an habitual user of narcotics or other habit forming drugs.

#### **§16-1-17 Environmental Aspects**

Any person operating under a Tribal license or permit shall maintain adequate and sufficient procedures for the separation, storage and re-cycling of all plastic, glass and aluminum waste products generated by virtue of its operation under the Tribal license or permit and shall at all times keep the licensed or permitted premises in a clean and orderly condition.

#### **§16-1-18 Exchange of Information with State**

The Alcoholic Beverage Control Division of the Mississippi State Tax Commission and the appropriate Tribal licensing authority shall promptly provide to each other copies of any licenses or permits issued for use on Tribal lands and shall promptly provide each other with copies of any disciplinary actions taken concerning any license or permits and its operations related to that license or permit.

#### **§16-1-19 Access for ABC Agents or Inspectors**

Duly authorized agents or inspectors of the Alcoholic Beverage Control Division of the Mississippi State Tax Commission shall, upon presentation of their credentials, be granted immediate access to inspect any premises where alcoholic liquors and light wines or beer are stored, distributed or sold and to examine all books and records pertaining to the business conducted by virtue of the license or permit. In the event such agents or inspectors desire access to the licensed premises of any licensee or permittee of the Choctaw Gaming Commission, said agent or inspector shall first present his credentials to the Choctaw Gaming Commission representative on duty in the licensed premises who shall insure that said agents or inspectors are provided with all lawful access. All other access to licensed premises shall be through the Choctaw Tax Commission.

## **§16-1-20 Storage of Alcoholic Beverages**

No licensee or permittee shall keep or store any alcoholic beverage or light wine or beer at any site other than the licensed premises.

## **§16-1-21 Revocation and Suspension of Tribal License or Permit**

The appropriate Tribal licensing or permitting authority shall have the right to suspend or revoke the license or permit at any time upon written notice to the licensee or permittee and subject to the rights of appeal under §16-1-23 herein. Unless otherwise stated in the notice of suspension or revocation, the licensee or permittee shall cease any business by virtue of the license or permit within twenty-four (24) hours. Notice may be served by United States mail, or by personal delivery to the licensee or permittee or by delivery to the licensed or permitted premises.

Any reinstatement of a Tribal license or permit and/or any hearing thereon shall be granted or heard solely within the discretion of the Tribal Council or the Choctaw Gaming Commission, and on such terms and time limitations as are deemed appropriate by the considering authority.

## **§16-1-22 Administration and Bonding**

The administration of all matters relating to the conduct of any business by virtue of a Tribal license or permit shall be through the auspices of the Choctaw Tax Commission if the license or permit is issued by the Tribal Council or through the Choctaw Gaming Commission, if issued by that authority.

The Tribal Council and the Choctaw Gaming Commission may, at any time before or after the issuance of any license or permit, order any applicant licensee or permittee to post an acceptable surety bond in such an amount as is deemed appropriate by the issuing authority, or to increase the amount of any existing bond.

The amount of any bond or the increase in any bond shall be based upon such factors as the issuing authority deems material to the circumstances, including, by way of illustration, the financial stability and strength and the business history of the applicant or licensee or permittee, or such other considerations as may be relevant to the applicant or licensee or permittee. The issuing authority shall provide any applicant, licensee or permittee with reasonable explanation of the basis for establishing or changing the amount of any bond and with sufficient time within which to acquire additional bond amounts, should the issuing authority make such an order.

## **§16-1-23 Appeals**

Any violation resulting in a revocation or suspension of a Tribal license or permit shall be appealable first to the Tribal Council and then to the Choctaw Tribal Court, unless the same be by temporary or permanent order of closure by the Choctaw Gaming Commission under its regulations.

## **CHAPTER 2. CONTROL OF RETAIL SALE OF PRODUCTS CONTAINING ALCOHOL/POTENTIAL INHALANTS**

### **§16-2-1 Definitions**

As used in this chapter the following terms shall have the following meaning:

- (1) “Antiseptic” means an over-the-counter health product having alcohol content.
- (2) “Potential inhalant” means either:
  - (a) spray paint or other product contained in a pressurized can with an accelerant; or
  - (b) liquid typewriter correction fluid with acetone or other gas byproducts that can be inhaled so as to induce a state of intoxication.

### **§16-2-2 Control of Sales**

- (1) Retail sales establishments on the Choctaw Indian Reservation may not sell antiseptic or potential inhalants to persons under twenty-one (21) years of age.
- (2) Retail sales establishments located on the Choctaw Indian Reservation under the jurisdiction of the Tribe may not sell antiseptic or potential inhalants to persons under twenty-one (21) years of age or without first obtaining the signature of the buyer on a purchase log on which is described the date and the item purchased. Purchase logs must be maintained by the retailer for at least three (3) years and shall be made available upon request to Tribal law enforcement officials.
- (3) For identification purposes, age shall be established through a valid driver’s license, birth certificate or Tribal identification.

### **§16-2-3 Penalties**

- (1) Violation of a provision of this chapter shall be a Class C offense.
- (2) Retailers who violate a provision of this chapter shall be subject to suspension by the Choctaw Tax Commission of their business permit for not to exceed six (6) months and shall be subject to a civil fine in the Tribal Court of not to exceed five hundred dollars (\$500.00).