

SOR/78-266  
March 23, 1978

BY - LAW NO. 5-1978

By-law of the Big Cove Reserve Council of the Band, respecting the regulation of the amount and quantity of liquor, alcohol and intoxicants which a person, including members of the Big Cove Band can have in their possession on the Big Cove Indian Reserve, pursuant to Section 81(c) (d) and (r) of the Indian Act.

Adopted by the Council of the Band of the Big Cove Reserve, on January 16, 1978, at a meeting of the Council of the Band duly convened and held in the Big Cove Reserve.

DEFINITIONS

1. (a) "Building" includes any structure used for shelter or accommodation of persons and without restricting the generality of the foregoing, includes houses, trailers, mobile homes, sheds, shacks, tents, and boats.
- (b) "Vehicle" includes cars, trucks, buses, snowmobiles, tractors, wagons, carts, motorcycles, road-making machinery or other conveyance that is driven, propelled or drawn by any kind of power.
- (c) "Peace Officer" includes any member of the Big Cove Police Force, any supernumerary constable appointed under the R.C.M.P. Act, any member of the R.C.M.P. acting and having jurisdiction of the Big Cove Indian Reserve.
- (d) "Reserve" means Big Cove Indian Reserve.
- (e) "Band" means Big Cove Band.
- (f) "Council or Band Council" means the Council of the Big Cove Indian Band.
- (g) "Person" includes members of the Big Cove Band, and
- (h) "Liquor, alcohol, intoxicants" as defined in the Indian Act.

APPLICATION

2. This by-law shall apply to all persons who reside, live, visit, and do business of whatever nature on the Big Cove Indian Reserve.
3. No person or persons shall have in their possession such quantities and amount of liquor, alcohol and intoxicants on the Reserve in a building, vehicle or both, unless that amount or quantity has been approved by the Band Council.
4. The Band Council shall receive requests in writing from all persons who want to possess a quantity and amount of liquor, alcohol and intoxicants in greater amounts than the following; Maximum amount allowed to each household to be \$25.00.

Any person wishing to have in their possession more than the maximum must obtain permit from the Chief and the Council.

5. The Band Council may issue permits on a form which shall be supplied for such purpose, to persons who apply for possession of liquor, alcohol, and intoxicants in excess of established amount, as set out in Section 4, on the Reserve.
6. The Permits issued under Section 5 shall be valid for the date (dates) specified on the permit and expire thereafter.
7. A Peace Officer may arrest without warrant any person whom he finds committing an offence under this by-law.
8. Upon information under oath by a Peace Officer, that he believed that liquor, alcohol, or intoxicants is unlawfully possessed, in any building, a Judge of the Provincial Court may issue a warrant authorizing the Peace Officer
  - (a) to search the building; and
  - (b) search the vehicle and the occupants of the vehicle for the liquor

9. Any Peace Officer who has reasonable and probable grounds to believe that liquor, alcohol or intoxicant is within a vehicle unlawfully or is within a vehicle for unlawful purposes, may without warrant
  - (a) stop the vehicle if it is moving; and
  - (b) search the vehicle and the occupants of the vehicle for the liquor
10. Where any Peace Officer finds liquor as a result of a search conducted under the authority of Section 8 and 9, he may immediately seize and remove the liquor.
11. Subject to Section 12, where liquor, alcohol or intoxicants has been seized by a Peace Officer under the authority of Section 10, the Peace Officer shall retain the liquor, alcohol, or intoxicant, until a charge has been laid under this By-law concerning the seized liquor, alcohol, or intoxicant and the charge has been disposed of by a Judge of the Provincial Court.
12.
  - (1) Where no charge is laid against any person as a result of a seizure under Section 11 within 72 hours of the seizure, or where a charge is laid and no conviction results from that charge, the liquor, alcohol or intoxicant seized under Section 11 shall be returned within 30 days to the owner of or the person in possession of the liquor, alcohol, or intoxicant at the time of seizure.
  - (2) Where the owner of the liquor, alcohol, or intoxicant is not known and no one was in possession of the liquor at the time of the seizure, the liquor, alcohol or intoxicant shall be handed over to the Band Council.
  - (3) The Band Council shall keep the liquor, alcohol or intoxicant for thirty days (30) and the dispose of it in any manner which the Band Council decides is appropriate unless within those thirty days (30) a person by notice in writing to the Band Council claims that he is the owner of the liquor, alcohol or intoxicant.
  - (4) Where a person makes a claim under subsection (3) and proves to the satisfaction of the Band Council, at a time and place fixed by the Band Council, that he is the owner of the liquor,

12. (4) alcohol or intoxicant and entitled to possess it under this By-law, the Band Council shall return the liquor, alcohol or intoxicant to that person.
13. Section 101 of the Indian Act RSC 1970, C.I. 6 and amendments thereto, will apply in this By-law.
14. Where, on the prosecution of a person charged with committing an offence against this By-law, in the unlawful possession of liquor, alcohol or intoxicant, prima facie proof is given that person had in his possession or charge or control any liquor, alcohol or intoxicant in respect of, or concerning, which he is being prosecuted, then unless that person proves that he did not commit the offence within which he is so charged he may be convicted of the offence.
15. The burden of proving the right to have that quantity of liquor, alcohol, or intoxicant shall be on the person accused of improper or unlawfully having the liquor, alcohol or intoxicant.
16. Any person or persons who do not have a valid permit, and has in his possession liquor, alcohol or intoxicants on the Reserve in a building or vehicle, contrary to this By-law is guilty of an offence punishable on a summary conviction to a fine not exceeding one hundred dollars (\$100) or imprisonment for a term not exceeding thirty days (30), or both.

APPROVED and passed at a duly convened meeting of the Council of the Big Cove Band of Indians this 16th day of January, 1978.

Original Signed By  
Chief Albert Levi

CHIEF

Original Signed By  
Leonard Francis  
COUNCILLOR

Original Signed By  
Raymond Simon  
COUNCILLOR

Original Signed By  
Thomas Levi  
COUNCILLOR

Original Signed by  
David Augustine.  
COUNCILLOR

Original Signed By  
Jacob Francis  
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