

By-Law # 6

Mar 14, 1977

4667389

SOR/77-235

March 14, 1977

BY - LAW NO. 6, 1977

By-law of the Eel Ground 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 Eel Ground Band can have in their possession on the Eel Ground Indian Reserve, pursuant to Section 81(c) (d) and (r) of the Indian Act.

Adopted by the Council of the Band of the Eel Ground Reserve, on February 18, 1977, at a meeting of the Council of the Band duly convened and held in the Eel Ground 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 Eel Ground 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 on the Eel Ground Indian Reserve.
- (d) "Reserve" means Eel Ground Indian Reserve.
- (e) "Band" means the Eel Ground Indian Band.
- (f) "Council or Band Council" means the Council of the Eel Ground Indian Band.

- 4 -

APPLICATION

2. This By-law shall apply to all persons who reside, live, visit and do business of whatever nature on the Eel Ground 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 \$15.00. 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 amounts, as set out in Section 4, on the Reserve.
6. The Permits issued under Section 5 shall be valid for a period of one month and expire thereafter.
7. Permits may be re-issued by the Band Council on the Reserve, upon another application by any person, for another one month period.
8. A Peace Officer may arrest without warrant any person whom he finds committing an offence under this by-law.
9. Upon information under oath by a Peace Officer, that he believes 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) to use necessary force to gain access to the building, or

10. 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.
11. Where any peace officer finds any liquor as a result of a search conducted under the authority of Section 9 or 10, he may immediately seize and remove the liquor.
12. Subject to Section 13, where liquor, alcohol or intoxicants has been seized by a peace officer under the authority of Section 11, 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.
13.
  - (1) Where no charge is laid against any person as a result of a seizure under Section 12 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 12 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 and then dispose of it in any manner which the Band Council decides is appropriate unless within those thirty days 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

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.

14. Section 101 of the Indian Act, RSC 1970, C.I. 6 and amendments thereto, will apply in this By-law.
15. 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 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 charge he may be convicted of the offence.
16. 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.
17. Any person or persons who do not have a valid permit, and has in his possession liquor, alcohol and 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 Eel Ground Band of Indians this 18th day of February, 1977.

Michael Martin

Chief

Roger Augustine

Councillor

Albert Bernard

Councillor

Councillor