

04-05-04 A10:00 OUT

**Wabaseemoong Independent Nations**

**Band By-Law Number # 2004 -1A**

**Being a By-Law Respecting the Control of**

**Toxic Substances**

P10344  
~~A3695~~

1. Wabaseemoong Independent Nations band by-law maybe cited as the “ **The Control Of Toxic Substance** ”.

## **INTERPRETATION**

2. **Definitions** - In this By-law,

“**Toxic Substances**” include gasoline, solvents, adhesives, cleaning agents, glues, light fluids, paints, paint thinners, lacquers, naphtha and any other substance which, thought intoxicating if swallowed, inhaled or otherwise ingested, are not manufactured for their intoxicating effect.

“**Traffic**” means:

- a) to sell, administer, give, transport, send or deliver; and
- b) to offer to do anything mentioned in paragraph (a).

“**Possession**” means possession within the meaning of s. (4(3) of the criminal code of Canada.

- (a) a person has anything in possession when he has it in his possession or knowingly,
- (b) has it in the actual possession or custody of another person, or
- (c) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and
- (d) where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

“**Intoxicating**” is to be given its ordinary meaning, and includes the inducement of any altered physical, mental or emotional state through the inhalation, swallowing or other ingestion of a substance.

## **OFFENCES AND PENALTIES**

3. **(1) Possession of Toxic Substance**- No person shall possess a Toxic Substance upon the Reserve of Wabaseemoong Independent Nations.
- (2) Exception**- No offence is committed if the person in possession of the Toxic Substance is:
  - (a) in possession under the direction of a qualified health professional; or
  - (b) in possession for the purpose of using the toxic substance for its intended non-intoxicating domestic, commercial, industrial, business or other purpose.

**(3) Evidence-** Evidence that an accused possessed the toxic substance in a container or containers other than that in which it is normally commercially available for non-intoxicating purposes is, in the absence of evidence to the contrary, evidence of possession contrary to s.3(1) of this By-Law.

**(4) Punishment-** Every person who contravenes subsection (1) is guilty of an offence punishable by summary conviction and is liable to a fine not exceeding three hundred dollars or imprisonment for a term not exceeding 30 days, or both.

**4. (1) Trafficking in a Toxic Substance-** No person shall traffic in a Toxic Substance upon the Reserve of Wabaseemoong Independent Nations.

**(2) Possession For The Purpose Of Trafficking-** No person shall, for the purpose of trafficking, possess a Toxic Substance upon the Reserve of Wabaseemoong Independent Nations.

**(3) Evidence-** Evidence that an accused is,

(a) in possession of a quantity of the toxic substance substantially in excess of the quantity reasonably necessary to achieve the non-intoxicating domestic, commercial, industrial, business or other purpose intended by the manufacture;

(b) in possession of individual containers of the toxic substance in numerical excess of those reasonably necessary to achieve the non-intoxicating domestic, commercial, industrial, business or other purpose intended by the manufacture;

in the absence of evidence to the contrary, proof of possession for the purpose of trafficking under this By-Law.

**(4) Punishment -** Every person who contravenes subsection (1) or (2) is guilty of an offence is punishable by summary conviction and is liable to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding 30 days, or both.

**(5) Aggravating Circumstances For Sentencing Purposes -** Where a court is imposing sentence for a conviction for trafficking under subsection (1), proof that the person to whom the toxic substance administered , sold, delivered or otherwise distributed was the time

(a) under the age of 17 years; or

(b) in an already intoxicated condition

Shall be considered an aggravating circumstance.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Wabaseemoong Independent Nations this 29<sup>th</sup> day of April, 2004.

Voting in favor of by-law "The Control Of Toxic Substance" are the following members of Council:

Ron McDonald  
Chief

Linda Hunter  
Councillor

[Signature]  
Councillor

[Signature]  
Councillor

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Councillor

[Signature]  
Councillor

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Councillor

[Signature]  
Councillor

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Councillor

[Signature]  
Councillor

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Councillor

Being the majority of those members of Council of the Wabaseemoong Independent Nations present at the aforesaid meeting of the Council.

The quorum of the Council is 5 Members.  
Number of members of the Council present at the meeting 7.

I, Ron R. McDonald Chief of the Wabaseemoong Independent Nations, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the OTAWA office of the department pursuant to subsection 82(1) of the Indian Act, this 29 day of April, 2004.

[Signature]  
Witness

Ron McDonald  
Chief

[Signature]  
Witness