

By-Law 74-2 of Shubenacadie Indian Band to control the use, distribution and sale of toxic solvents for purposes other than ordinarily intended.

PURPOSE

Whereas it is deemed necessary to provide for the mental and physical health of residents on the Micmac Reserve, for the prevention of disorderly conduct and nuisance, and the observance of law and order that the use, distribution and sale of toxic solvents on the Reserve, be subject to regulation.

AUTHORITY

Enacted pursuant to Clauses (a), (c), (d), (g), and (r) of Section 81 of the Indian Act, R. S. C. 1970 C. I. 6

APPLICATION

1. This By-Law applies to all persons on the Reserve.

DEFINITIONS

- 2. "illegitimate purpose" means a purpose for which a substance is ordinarily intended to be applied.
- "possession" means possession as defined in the Criminal Code.
- "Reserve" means the Micmac Reserve at Shubenacadie, Hants County, Nova Scotia.
- "toxic solvents" include all substances listed in Schedule A.
- "traffic" means to sell, give, transport or deliver otherwise than under authority of this by-law.

OFFENCES

- 3. (a) No person shall have in his possession a toxic solvent except as herein provided.
- (b) No person shall traffic in toxic solvents or any substance represented or held out by him to be a toxic solvent except as herein provided.
- (c) Every person who violates subsections (a) or (b) is guilty of an offence and is liable on summary conviction to a penalty not less than ten and not more than fifty dollars or imprisonment for a term not exceeding thirty days, or both fine and imprisonment.

PERMITS

4. (a) Any person may apply in person and without cost to the Band Manager for a permit authorizing the possession and the use of toxic solvents by him on the Reserve.

(b) Upon an application under subsection (a), the Band Manager shall, if he is satisfied that such possession and use are for a legitimate purpose, issue to that person a permit in writing and on such terms and conditions as he deems necessary.

SEIZURE

5. (a) Where a person is found in possession of a toxic solvent without a permit issued pursuant to subsection 4(a), a peace officer or any member of the Band Council shall seize such and deliver it forthwith to the Band Manager who shall hold such substance for a period of fourteen days.

(b) Where the person found in possession of a toxic solvent without a permit is or appears to be under the age of seventeen, the peace officer or Band Council member shall deliver such child to his or her family home.

PROCEDURE FOR RECOVERY

6. (a) Any person aggrieved by a seizure made pursuant to subsection 5 (a) may, within fourteen days from such seizure, apply in person at the office of the Band Manager for restitution of such property.

(b) Upon an application under subsection 6 (a), the Band Manager shall, if he is satisfied that such possession is for a legitimate purpose, and upon payment of a penalty fee of three dollars issue a permit to such person in writing and return the seized property.

(c) Where no application has been made for the return of any substance seized under subsection 6(a) within a period of fourteen days from such seizure, or where an application has been made but has been refused, such goods are forfeited and may be disposed of as the Band Manager sees fit.

APPEAL

7. An appeal lies to Band Council from any decision made under Section 6.

ADDITIONAL PROVISIONS

8. Except as authorized under this by-law, everyone who, being in possession of a dwelling house, allows, suffers, condones or connives at the use of or possession of toxic solvents in or around such dwelling house is guilty of an offence and is liable on summary conviction to a penalty not less than fifty and not more than one hundred dollars or imprisonment for a term not exceeding thirty days or both fine and imprisonment.
9. Everyone who obtains a permit through misrepresentation is guilty of an offence and is liable on summary conviction to a penalty not less than fifty and not more than one hundred dollars or imprisonment for a term not exceeding thirty days, or both fine and imprisonment.

REGULATIONS

10. The Board Council may make regulations
 - (a) prescribing the form, duration, and terms and conditions of any permit issued pursuant to this By-law and providing for the cancellation and suspension of such permits.
 - (b) authorizing the sale, possession, or other dealing in toxic solvents and prescribing the circumstances and conditions under which, and the persons by whom toxic solvents may be sold, had in possession or otherwise dealt in.
 - (c) generally, for carrying out the purpose of this By-law.
11. The Board Council may from time to time amend this Schedule by adding thereto or deleting therefrom any substance, the inclusion or exclusion of which as the case may be, is deemed necessary by it in the interest of the Reserve community.