

## **Title 24**

### **Tribal Liquor Control**

#### **Chapters:**

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## Chapter 24.01

### General Provisions

#### Sections:

#### **24.01.02 Public Policy Declared**

#### **24.01.03 Definitions**

#### **Section 24.01.02 Public Policy Declared**

This Title shall be cited as the "Jamestown S'Klallam Tribal Liquor Control Code." Under the inherent sovereignty of the Jamestown S'Klallam Tribe, and pursuant to the provisions of the Tribal Constitution, Article II, Powers of the Tribal Council, Section 1. Enumerated Powers, subsection (i), this Title shall be deemed an exercise of the Tribe's power for the protection of the welfare, health, peace, morals and safety of the people of the Tribe. It is further the Tribe's policy to assure that any transaction, importation, sale or consumption involving an alcoholic beverage, while within the Tribe's jurisdiction, shall occur in strict compliance with this Title, the laws of the United States and where applicable, the State of Washington.

#### **Section 24.01.03 Definitions**

Definitions are as follows:

- (a) Alcoholic Beverage: Shall mean any intoxicating liquor, beer, or any wine, as defined under the provisions of this Title or other applicable law.
- (b) Council: Shall mean the Tribal Council of the Jamestown S'Klallam Tribe.
- (c) Legal Age: Shall mean the age requirements as defined in Part 11, Section 2.1.
- (d) Liquor Store: Shall mean any store established by the Tribe for the sale of alcoholic beverages or any entity licensed by the Tribe to sell alcoholic beverages.
- (e) On-Site Dealer: Shall mean the Jamestown S'Klallam Tribe or duly authorized licensee when it sells, or keeps for sale, any alcoholic beverage authorized under this Title for consumption on the premises where sold.
- (f) On-Site Sale: Shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.
- (g) Sale: Shall mean the transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the serving of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage by any means whatsoever for a consideration of currency exchange.
- (h) Transaction: Shall mean any transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the transfer of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage from any liquor store, on-site dealer or vendor to any person.
- (i) Vendor: Shall mean any person employed or under the supervision by and of a liquor store or on-site dealer who conducts sales or transactions involving alcoholic beverages.

## **Chapter 24.02**

### **General Prohibition**

#### **Sections:**

#### **24.02.01 General Prohibition**

##### **Section 24.02.01 General Prohibition**

It shall be a violation of Tribal law to manufacture for sale, sell, offer, or keep for sale, possess, transport or conduct any transaction involving any alcoholic beverage except in compliance with the terms, conditions, limitations and restrictions specified in this Title.

## **Chapter 24.03**

### **Tribal Control of Alcoholic Beverages**

#### **Sections:**

#### **24.03.01 Tribal Control of Alcoholic Beverages**

##### **Section 24.03.01 Tribal Control of Alcoholic Beverages**

The Council shall have the sole and exclusive right to authorize the importation of alcoholic beverages for sale or for the purpose of conducting transactions therewith, and no person or organization shall so import any such alcoholic beverage into the Jamestown S'Klallam Indian Country, which includes the reservation and trust lands of the Tribe, wherever situated, unless authorized by the Council.

## **Chapter 24.04**

### **Community Liquor Store**

#### **Sections:**

#### **24.04.01 Community Liquor Store**

##### **Section 24.04.01 Community Liquor Store**

The Council may establish and maintain anywhere within the Jamestown S'Klallam Indian Country that the Council may deem advisable, a community liquor store or stores for the sale of alcoholic beverages in accordance with the revisions of this Title. The Council may set the prices of alcoholic beverages sold.

## **Chapter 24.05**

### **Community On-Site Dealer**

#### **Sections:**

#### **24.05.01 Community On-site Dealer**

##### **Section 24.05.01 Community On-site Dealer**

The Council may establish and maintain anywhere within the Jamestown S'Klallam Indian Country that the Council may deem advisable, a community on-site dealer or dealers for storage and on-site sale of alcoholic beverages in accordance with the provisions of this Title. The Council may set the prices of alcoholic beverages sold.

## **Chapter 24.06**

### **State of Washington Licenses and Agreements**

#### **Sections:**

#### **24.06.01 State of Washington Licenses and Agreements**

##### **Section 24.06.01 State of Washington Licenses and Agreements**

The Council or operator may negotiate an agreement or obtain a State of Washington liquor license for any Tribally operated establishment that sells alcoholic beverages or conducts transactions involving alcoholic beverages to the extent required by applicable law to allow the Tribe to sell liquor in Indian Country under its control.

## **Chapter 24.07**

### **Disputes; Violations; Penalties**

#### **Sections:**

#### **24.07.01 Disputes; Violations; Penalties**

##### **Section 24.07.01 Disputes; Violations; Penalties**

Any disputes or violations that arise under this Title shall be resolved by mediation or by a suit in Tribal Court, which shall have exclusive civil and criminal jurisdiction for actions brought under this Title.

## **Chapter 24.08**

### **Compliance With The Laws Of The State Of Washington**

#### **Sections:**

- 24.08.01      Applicability of State Law**
- 24.08.02      Persons Under 21 Years of Age: Restrictions**
- 24.08.03      Restrictions on Intoxicated Persons**
- 24.08.04      Hours and Days of Sale**

#### **Section 24.08.01      Applicability of State Law**

The Council and its agents shall act in conformity with State laws regarding the sale of liquor to the extent required by applicable federal law including 18 U.S.C. §1161.

#### **Section 24.08.02      Persons Under 21 Years of Age: Restrictions**

The Council shall comply with the State of Washington laws regarding restrictions on those persons under the age of 21 years in any Tribal establishment operating pursuant to the provisions of this Title.

#### **Section 24.08.03      Restrictions on Intoxicated Persons**

No Tribally operated or licensed establishment shall sell, give, or furnish any alcoholic beverage or in any way allow any alcoholic beverage to be sold, given or furnished to a person who is obviously intoxicated.

#### **Section 24.08.04      Hours and Days of Sale**

No Tribally operated or licensed establishment shall sell or furnish alcoholic beverages for on-site purposes during hours or on days not in compliance with applicable law.

## **Chapter 24.09**

### **Tribal Licensing And Regulation**

#### **Sections:**

- 24.09.01      Section 3.1 Power to License and Tax**
- 24.09.02      Tribally Owned Establishments**
- 24.09.03      License of Retail Sales**
- 24.09.04      Regulations**

#### **Section 24.09.01      Section 3.1 Power to License and Tax**

The power to establish Tribal licenses and levy taxes under the provisions of this Title is vested exclusively with the Council. If the Council enters into any agreements with the State regarding the sale of liquor, the agreement shall be deemed tribal law.

**Section 24.09.02 Tribally Owned Establishments**

The Council can issue by resolution an appropriate license to a Tribally owned establishment upon determining the site for the establishment and obtaining the necessary licensing or agreement from the State of Washington.

**Section 24.09.03 License of Retail Sales**

1. The Council shall have the power to issue licenses to any tribal or state chartered corporation, individual or partnership or other entity to undertake any sale or transaction which the Tribe itself has the power to undertake under this Title for the sale of alcoholic beverages at a retail store.
2. Applications for licenses shall be submitted in the form prescribed by the Council or its authorized employees. The Council may, within its sole discretion and subject to the conditions in this Title issue or refuse to issue the license applied for upon payment of such fee as the Council may prescribe.
3. Every license shall be issued in the name of the applicant and no license shall be transferable or assignable without the written approval of the Council nor shall the licensee allow any other person or entity to use the license.
4. The Council may, for violations of this Title, suspend or cancel any license. A license is a privilege and no person shall have vested rights therein. Prior to cancellation or suspension the Council shall send notice of its intent to cancel or suspend the license to the licensee.
5. No license under this Title shall be for a period longer than one year.

**Section 24.09.04 Regulations**

The Council may, consistent with this Title, adopt regulations it deems necessary to implement this Title.

**Chapter 24.10**

**Construction**

**Sections:**

- 24.10.01 Severability**
- 24.10.02 Amendment or Repeal of Title**
- 24.10.03 Sovereign Immunity**
- 24.10.04 Effective Date**
- 24.10.05 Jurisdiction**
- 24.10.06 Enforcement**
- 24.10.07 Abatement**

**Section 24.10.01 Severability**

If any part of this Title, or the application thereof to any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever, the remainder of the section or Title shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

**Section 24.10.02 Amendment or Repeal of Title**

This Title may be amended or repealed by a majority vote of the Council.

**Section 24.10.03 Sovereign Immunity**

Nothing in this Title is intended to nor shall be construed as a waiver of the sovereign immunity of the Jamestown S'Klallam Tribe.

**Section 24.10.04 Effective Date**

This Title shall be effective upon the date that the Secretary of the Interior certifies this Title and publishes it in the Federal Register.

**Section 24.10.05 Jurisdiction**

Notwithstanding anything in this Title to the contrary, nothing herein is intended to nor shall be construed as a grant of jurisdiction from the Jamestown S'Klallam Tribe to the State of Washington beyond that provided by applicable law. The Tribe shall operate in conformity with State law and Tribal law to the extent provided pursuant to 18 U.S.C. § 1161.

**Section 24.10.06 Enforcement**

1. In any proceeding under this Title, conviction of one unlawful sale or distribution of liquor shall establish prima facie intent of unlawfully keeping liquor for sale, selling liquor or distributing liquor in violation of this Title.
2. Any person who shall sell or offer for sale or distribute or transport in any manner, liquor in violation of this Title, or who shall operate or shall have liquor for sale in his possession without a license, shall be guilty of a violation of this Title subjecting them to civil damages assessed by the Tribal Council.
3. Any person within the boundaries of the reservation or trust land of the Tribe who buys liquor from any person other than a properly licensed facility shall be guilty of a violation of this Title.
4. Any person who keeps or possesses liquor upon their person or in any place or on premises conducted or maintained by their principal or agent with the intent to sell or distribute it contrary to the provisions of this Title, shall be guilty of a violation of this Title.
5. Any person who knowingly sells liquor to a person under the influence of liquor shall be guilty of a violation of this Title.

6. Any person engaging wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who shall knowingly permit any person to drink liquor in any public conveyance shall be guilty of an offense. Any person who shall drink liquor in a public conveyance shall be guilty of a violation of this Title.

7. No person under the age of 21 years shall consume, acquire or have in their possession any liquor or alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under their control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this Title for each and every drink so consumed.

8. Any person who shall sell or provide any liquor to any person under the age of 21 years shall be guilty of a violation of this Title for each such sale or drink provided.

9. Any person who transfers in any manner an identification of age to a person under the age of 21 years for the purpose of permitting such person to obtain liquor shall be guilty of an offense; provided, that corroborative testimony of a witness other than the underage person shall be a requirement of finding a violation of this Title.

10. Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this Title.

11. Any person guilty of a violation of this Title shall be liable to pay the Tribe the amount of \$500 per violation as civil damages to defray the Tribe's cost of enforcement of this Title.

12. When requested by the provider of liquor, any person shall be required to present official documentation of the bearer's age, signature and photograph. Official documentation includes one of the following:

- (a) Driver's license or identification card issued by any state department of motor vehicles;
- (b) United States Active Duty Military ID;
- (c) Passport.

13. Liquor which is possessed, including for sale, contrary to the terms of this Title is declared to be contraband. Any Tribal agent, employee or officer who is authorized by the Tribal Council to enforce this section shall seize all contraband and preserve it in accordance with the provisions established for the preservation of impounded property.

14. Upon being found in violation of the Title, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

#### **Section 24.10.07 Abatement**

1. Any room, house, building, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Title or of any other Tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, is hereby declared to be a nuisance.
2. The Chairman of the Tribal Council or, if the Chairman fails or refuses to do so, by a majority vote, the Tribal Council shall institute and maintain an action in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this Title. In addition to all other remedies at Tribal law, the Tribal Court may also order the room, house, building, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less than \$25,000 payable to the Tribe and on the condition that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this Title or of any other applicable Tribal law and that they will



pay all fines, costs and damages assessed against them for any violation of this Title. If any conditions of the bond be violated, the bond may be recovered for the use of the Tribe.

3. In all cases where any person has been found in violation of this Title relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought to abate as a nuisance any real estate or other property involved in the violation of the Title and violation of this Title shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought is a public nuisance.

## **Chapter 24.11**

### **Authority of CEO**

#### **Sections:**

#### **24.11.01 Authority of CEO**

##### **Section 24.11.01 Authority of CEO**

The Tribal Council hereby authorizes the Chief Executive Officer to promulgate such rules, regulations, policies and procedures which he/she deems necessary to implement the provisions of this Title.

## **Chapter 24.12**

### **Codification**

#### **Sections:**

#### **24.12.01 Codification**

##### **Section 24.12.01 Codification**

The Liquor Control Ordinance was approved on February 19, 2008 and codified as a title on February 19, 2008 by Resolution #06-08.