



ALCOHOLIC BEVERAGES CONTROL BOARD

P.O. Box 1410, Kahnawake Mohawk Territory, J0L 1B0

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REGULATION FOR THE MANUFACTURE AND SALE OF BEER

[Enacted on 12 Tsothohrha/December 2017]

WHEREAS pursuant to sections 16, 91 and 106 of the *Kahnawà:ke Communal Law on Alcoholic Beverages*, enacted 27, Kentenhko:wa/November 1995 (the “Law”), the Alcoholic Beverages Control Board (the “Board”) has the power and jurisdiction to enact regulations for the Manufacture and Sale of Alcoholic Beverages, including Beer, in the Mohawk Territory of Kahnawà:ke.

1. PURPOSE

- 1.1 This regulation is an expression of the will of the Kanien’kehá:ka of Kahnawà:ke that the Manufacture and Sale of Beer in the Mohawk Territory of Kahnawà:ke be regulated in a fair and responsible manner.
- 1.2 This regulation is enacted pursuant to sections 75, 85, 106, 172(h) and 172(q) of the Law.

2. APPLICATION

- 2.1 This regulation applies to the Manufacture and Sale of Beer within the Mohawk Territory of Kahnawà:ke, and any matters related thereto.

3. DEFINITIONS

- 3.1 All terms defined in the Law shall retain the same meaning in the present regulation, except where otherwise indicated.
- 3.2 For the purposes of this regulation:

“**Alcohol by volume**” is the number of millilitres of pure ethanol present in 100 millilitres of solution at 20 °C;

“**Batch Number**” means the number corresponding to the appropriate Batch Record kept by the Permit holder;

“**Batch Record**” means the record kept by a Permit holder showing the following information for each specific quantity of Beer or Beer blend manufactured by the Permit holder:

- (a) date on which manufacture was initiated;
- (b) list of ingredients and source of water;
- (c) bottling date;
- (d) name of person overseeing the manufacture of the specific quantity.

“**Beer**” means the beverage obtained by the alcoholic fermentation in drinking water of an infusion or concoction of grains, hops or any other similar product, containing not less than 0.5% or more than 14% alcohol by volume. Unless otherwise specified in these regulations, the term “Beer” includes “Beer blend”;

“**Beer blend**” means an alcoholic beverage obtained by blending Beer with non-alcoholic substances such as fruit juice, water, carbon dioxide or flavouring that does not have the aroma, taste and character commonly attributed to Beer. The acquired alcoholic content of a beer blend must be at least 1.5% and no more than 11.9% of alcohol by volume and must be derived from the fermentation of the beer;

“**Board**” means the Alcoholic Beverages Control Board elected and empowered under the Law;

“**Growler**” is glass, metal or plastic container provided by the Permit holder that is used to sell a measured amount of beer in the tap room for transportation and consumption by the purchaser to a location away from the Permit holder’s premises;

“**Manufacturing facility**” means the area within the Permit holder’s premises that are used for the manufacturing, bottling, storage and sale to retailers of Beer and Beer blend;

“**Permit**” means a Permit for the Manufacture and Sale of Beer;

“**Permit holder**” means the person or persons named as the holder of a valid Permit for the Manufacture and Sale of Beer issued by the Board pursuant to these Regulations;

“**Permit holder’s premises**” means the entire area covered by a Permit and includes both the manufacturing facility and the tap room. For greater certainty, a Permit holder’s premises may be comprised of more than one physical structure;

“**Retailer**” means the holder of a valid:

- (a) Restaurant, Bar, Retail, Grocery, Social Organization or Occasional Permit issued by the Board; and
- (b) comparable permit issued by a licensing body in another jurisdiction;

“**Sell**” means the act of transferring possession or ownership of the Beer or Beer blend in exchange for money or some other form of consideration to a consumer or to a retailer;

“**Tap room**” means the area within the Permit holder’s premises that are used for the storage and sale to consumers of Beer and Beer blend.

4. **PERMIT FOR THE MANUFACTURE AND SALE OF BEER**

4.1 A Permit for the Manufacture and Sale of Beer issued by the Board authorizes the Permit holder, in accordance with these regulations, to:

4.1.1 make Beer and Beer blend in the manufacturing facility and bottle it in containers made of metal, glass or plastic;

4.1.2 sell Beer and Beer blend at the manufacturing facility, for sales to retailers, or at the tap room, for sales to consumers; and

4.1.3 store Beer and Beer blend at the manufacturing facility, the tap room or such other place as may be approved by the Board.

4.2 Beer and Beer blend may only be consumed in a tap room if the tap room is subject to a valid Bar Permit issued by the Board.

4.3 A Permit holder may only sell growlers that contain Beer or Beer blend that has been manufactured by the Permit holder.

4.4 Growlers may not be sold after 11pm.

4.5 Every Permit will be signed by at least four (4) Board members and will include the following information:

4.5.1 the name of the Permit Holder;

4.5.2 the commercial or operating name to be used by the Permit Holder;

4.5.3 the commencement date and, if appropriate, the termination date of the Permit; and

4.5.4 the address of the Permit holder’s premises.

5. **APPLICATION**

5.1 To be eligible for a Permit, an applicant must:

- 5.2.1 fulfill the requirements set out in section 112 of the Law if the applicant is a corporation or partnership or, if the applicant is a natural person, he must fulfill the requirements set out in section 113 of the Law; and
- 5.2.2 provide information, satisfactory to the Board, including:
 - 5.2.2.1 the applicant has the necessary knowledge and experience to manufacture Beer and Beer blend in a safe, consistent and hygienic manner;
 - 5.2.2.2 the equipment, supplies and source of water to be used for the manufacture of Beer and Beer blend is safe and suitable for the purpose;
 - 5.2.2.3 the premises to be used for the manufacture of Beer and Beer blend have been inspected and certified by the appropriate health and safety authorities.
- 5.3 An application for a Permit must be submitted to the Board in the form attached as Schedule “A” to these Regulations and be accompanied by:
 - 5.3.1 the documents and information set out in section 114 of the Law; and
 - 5.3.2 payment of an application fee in the amount of \$150.00 and the first annual administrative costs.

6. **ADMINISTRATION COSTS**

- 6.1 The Board will by Resolution determine the annual administration costs payable for a Permit.

7. **REVIEW OF APPLICATION**

- 7.1 An application for a Permit will follow the review procedure set out in section 118 of the Law.
- 7.2 In addition to the foregoing, upon receipt of an application for a Permit the Board will:
 - 7.2.1 review the application to ensure it is complete and accompanied by the applicable application fee and administration costs;
 - 7.2.2 conduct inspections and testing, where appropriate, of:
 - 7.2.2.1 the manufacturing facility and the tap room;

- 7.2.2.2 the source of water the applicant proposes to use for the manufacture of Beer and beer blend;
- 7.2.2.3 the barley malt, hops or any other similar products the applicant proposes to use for the manufacture of Beer and Beer blend;
- 7.2.2.4 a description of the equipment, containers, materials and source of water proposed to be used by the applicant;
- 7.2.2.5 a description of the manufacturing facilities and tap room, including sketches of the floorplans of each;
- 7.2.2.6 any other matter the Board deems necessary for the purposes of the application.

7.3 Upon completion of its review and inspections the Commission will:

- 7.3.1 grant the application and issue a Permit;
- 7.3.2 deny the application, with reasons for the denial; or
- 7.3.3 return the application to the applicant with the appropriate directions.

8. **CLASSIFICATION AND FORMATS OF BEER**

8.1 Beer manufactured by a Permit holder must be classified as follows:

- 8.1.1 bottom fermentation Beer (lager), where fermentation takes place at low temperature, with active yeast in the bottom of the fermentation tank;
- 8.1.2 top fermentation Beer (ale), where fermentation takes place at high temperatures as the yeast develops in the top of the tank; or
- 8.1.3 spontaneous or "wild" fermentation Beer, where fermentation does not involve the addition of yeast.

8.2 Beer sold by a Permit holder must be offered for sale in the following formats:

- 8.2.1 taster (2oz to 5.5oz);
- 8.2.2 glass (10oz to 13.5oz);
- 8.2.3 pint (15.5oz to 20oz);
- 8.2.4 growlers (32oz and 64oz); or

8.2.5 bottles, cans, kegs, casks and other containers for the purpose of sale to retailers, in such formats as the Board may approve.

9. **PACKAGING AND LABELLING**

9.1 The type, size and composition of bottles, cans, growlers, kegs, casks and other containers that a Permit holder proposes to use to contain the manufactured Beer or Beer blend must be approved by the Board.

9.2 A Permit holder must indicate on the label of bottles, cans and growlers used to contain the Beer or Beer blend, in bold, indelible, legible and conspicuous type, the following information:

9.2.1 the Permit holder's name and address;

9.2.2 the classification of the Beer or Beer blend;

9.2.3 the words "made in Kahnawà:ke" or "product of Kahnawà:ke";

9.2.4 the actual percentage of alcohol contained;

9.2.5 the net volume;

9.2.6 a list of ingredients;

9.2.7 the appropriate Batch Number, as defined in these Regulations;

9.2.8 the bottling date; and

9.2.9 such other images or information that the Permit holder may wish to include on the label for commercial reasons.

9.3 Any description, mark, brand, Batch Number or reference on the label of bottles or cans used to contain the Beer or Beer blend must be accurate and precise.

9.4 A Permit holder is permitted to enter on the label of bottles or cans used to contain Beer or Beer blend, the name and address of the real owner of the brand name where the Beer or Beer blend has already been marketed under that name outside of Kahnawà:ke and the use of that brand name has been granted to the Permit holder by licence.

9.5 A Permit holder must maintain a complete and current Batch Record, as defined in these Regulations.

9.6 A Batch Record must be stored for not less than two (2) years from the date on which it was created.

10. INSPECTIONS

- 10.1 The holder of a Permit for the Manufacture and Sale of Beer may not offer the Beer or Beer blend for sale without first having them analyzed by the Board, or person authorized by the Board, to confirm their safety and quality in accordance with standards set out in regulations approved by the Board.
- 10.2 A member of the Board or any other person authorized by the Board (the “Inspector”) may carry out an inspection during which the Inspector may during the Permit holder’s business hours, enter any part of the Permit holder’s premises, and:
- 10.2.1 inspect the facilities, equipment and materials being used to manufacture, package, store or label Beer and Beer blends, and anything else found in the Permit holder’s premises and connected with any activity requiring a Permit for the Manufacture and Sale of Beer;
 - 10.2.2 take samples of the water used in the manufacturing process and of the Beer or Beer blend at any stage of the manufacturing process;
 - 10.2.3 examine and obtain copies of Batch Records, registers, books and any other document respecting an activity requiring a Permit;
 - 10.2.4 demand any other information in respect of the activities relating to an activity requiring a Permit; and
 - 10.2.5 require the Permit holder and any other person found in the Permit holder’s premises to assist the Inspector.
- 10.3 If a Permit holder becomes aware that a particular Batch, or part of a Batch, of Beer or Beer blend that the Permit holder has manufactured and sold to a retailer or consumer is or may be contaminated or otherwise unsafe for consumption, the Permit holder must immediately notify the Board of the circumstances and provide any related information requested by the Board.
- 10.4 If the Board deems it necessary to protect the health and safety of the public, the Board may order a Permit holder to issue a public notice, in a form satisfactory to the Board, recalling a particular type of Beer or Beer blend, identified by its Batch Number and describing the process that will be followed for the purposes of the recall. The Board may, if it deems it appropriate, follow some or all of the recall procedures utilized by the Canadian Food Inspection Agency.
- 10.5 The Board may issue such additional directives to the Permit holder that are necessary to affect a rapid, safe and efficient recall.
- 10.6 All costs associated with a recall ordered by the Board will be paid by the Permit holder that manufacturing and sold the Beer or Beer blend that is the subject of the recall.

- 10.7 An Inspector must, on request, identify himself or herself and produce a certificate of his or her authorization by the Board.
- 10.8 No one may hinder or interfere with the activities of an Inspector in the exercise of his or her duties, may mislead him or her by concealment or false declarations, may refuse to furnish him or her with information or a document he or she is entitled to require or examine under the Law or these regulations, or may conceal or destroy a document or property relating to an investigation.

11. **PENALTIES AND ENFORCEMENT**

- 11.1 A breach of these regulations, if the breach is regulatory in nature, will be addressed by the Board in accordance with the procedures established by its regulations and, if a finding of culpability is made, sanctions will be levied against a Permit holder that may include suspending or revoking the Permit and/or imposing a fine of not less than One Hundred (\$100.00) Dollars and not more than Five Thousand (\$5,000.00) Dollars for each breach of these regulations.
- 11.2 A breach of these regulations, if the breach is criminal in nature, will be investigated by the Kahnawà:ke Peacekeepers and, where appropriate, criminal proceedings will be initiated and adjudicated in a court of competent jurisdiction.
- 11.3 The Kahnawà:ke Peacekeepers have the powers of search and seizure outlined in the Law.

12. **COURT OF KAHNAWÀ:KE**

- 12.1 The Court shall have sole jurisdiction to hear any offences under this regulation.

13. **AMENDMENTS TO THE REGULATION**

- 13.1 The Board may amend this regulation by Resolution.

14. **COMING INTO FORCE**

- 14.1 This Regulation comes into force on the day fixed by Resolution of the Board.

15. **HISTORY**

- 15.1 Adopted by Alcoholic Beverages Control Board Resolution on 12 Tsothohrha / December 2017.