

CHAPTER 44 – UNDERAGE ALCOHOL CONSUMPTION

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CHAPTER 44 – UNDERAGE ALCOHOL CONSUMPTION

44.1 SECTION 1: PURPOSE

The purpose of this code is to deter the use of alcohol by underage persons. Also, to establish a procedure for providing alternatives to the use of alcohol by underage persons.

44.2 SECTION 2: APPLICABILITY

This code shall apply to the following:

- a) All underage persons who reside within the boundaries of the Red Cliff Indian Reservation, and the offense has occurred within the boundaries of the Red Cliff Indian Reservation.
- b) All members of the Red Cliff Band of Lake Superior Chippewa Indians who reside within the Bayfield School District, when the offense occurred within the boundaries of the Red Cliff Indian Reservation.
- c) The Court may assert jurisdiction over non-members who reside off the Red Cliff Indian Reservation, where the offense occurred within the Red Cliff Indian Reservation boundaries if the defendant and/or the parent (where applicable) consent to the jurisdiction of the Red Cliff Tribal Court. This consent once given may only be rescinded with the permission of the Red Cliff Tribal Court.
- d) The Court may decline to assert jurisdiction of a matter covered by this code.

44.3 SECTION 3: UNDERAGE USE OF ALCOHOL

- a) No person, under the legal drinking age, may consume alcohol within the boundaries of the Red Cliff Indian Reservation, unless accompanied by a parent or legal guardian.

It is not a defense to this violation that a parent or legal guardian provided the alcohol to the underage person and the underage person is not within the sight of the parent or legal guardian.

- b) No person, under the legal drinking age, may operate any motor vehicle with a blood alcohol concentration of more than 0.0 but not more than 0.1 within the boundaries of the Red Cliff Indian Reservation.

An underage person who operates a motor vehicle with a blood alcohol content of greater than 0.1 is subject to an OWI under Chapter 14 subsection RC346.63 and other Red Cliff Laws as applicable.

- c) No person, under the legal drinking age, may transport any alcoholic beverage; open or unopened, in any motor vehicle they are operating.

Legal drinking age is the age defined by the State of Wisconsin.

44.4

SECTION 4: PENALTY

- (a) For violation of Chapter 44.2 the following penalties apply:

1. First Offense. Upon conviction for a first offense the Court shall order that the defendant's privilege to operate any motor vehicle within the boundaries of the Red Cliff Indian Reservation be suspended for period to be determined by the Court. The Court may give the defendant the option to enter an Early Intervention Program in place of suspension of operating privilege. The Court may impose a civil forfeiture not to exceed \$100.00. The Court may order community service.
2. Second Offense. Upon conviction for a second offense, the Court shall order the defendant to have an AODA assessment and follow through with the recommendations of said assessment. The Court shall order the defendant's privilege to operate any motor vehicle within the boundaries of the Red Cliff Indian Reservation be suspended until the AODA assessment is completed. The Court may extend the suspension. The Court shall impose a civil forfeiture of not less than \$50.00 but not more than \$250.00. The Court may order community service.
3. Third and subsequent offenses. Upon conviction of a third or subsequent offense the Court shall order that the defendant's privilege to operate any motor vehicle be suspended for not less than six (6) months nor more than two (2) years. The Court shall impose a civil forfeiture of not less than \$100.00 but not more than \$1000.00. The Court may order community service. The Court may impose such other penalty they deem just and proper.
4. The Court may impose such other penalty they deem just and proper including but not limited to restrictions on use of public facilities within the Red Cliff Indian Reservation, order the parent(s), guardian(s), or custodian(s) to participate in any program designated by the assessing agency, or home detention. Failure to satisfy the judgment in the time frame specified by the order of the

Court shall result in the suspension of the defendant's operating privilege of any motor vehicle within the boundaries of the Red Cliff Indian Reservation until said judgment is satisfied.

The Court may impose other sanctions they deem appropriate for failure to satisfy a judgment under this section including reporting this conviction to the State of Wisconsin.

(b) For violation of Chapter 44.2(b) the following penalties apply:

1. The Court shall impose a civil forfeiture not to exceed \$1000.00.
2. The Court shall suspend the defendant's operating privilege of any motor vehicle within the boundaries of the Red Cliff Indian Reservation for a time not to exceed one (1) year. The Court may give the defendant the option of an AODA assessment and follow through with the recommendations of the assessment in place of the suspension.
3. Community service hours at the discretion of the Court.
4. Failure to satisfy the judgment in the time frame specified by order of the Court shall result in suspension of the defendant's operating privilege of any motor vehicle within the boundaries of the Red Cliff Indian Reservation until said judgment is satisfied. The Court may impose other sanction they deem appropriate for failure to satisfy a judgment under this section. The Court shall have the discretion to report this conviction to the State of Wisconsin.

(c) For violation of Chapter 44.3(c) the following penalties apply:

1. A civil forfeiture not to exceed \$1000.00.
2. The Court may order the defendant to attend such program they deem appropriate.
3. Community service may be ordered at the discretion of the Court.
4. Such other penalty the Court deems just and proper.

(d) Nothing in the ordinance shall prevent the referral of a child to the Red Cliff Indian Child Welfare Department or other social services department as applicable.

- (e) The parent, guardian, or custodian shall attend all hearings involving the person under the age of 18 (eighteen) charged with a violation of this ordinance.