

CHAPTER 6 - RESTRICTED HOURS

601 PURPOSE

The purpose of this chapter of the Code is to:

- A. Protect children and other Nation members and visitors within the territorial jurisdiction of the Nation from the dangers of ungovernable behavior which occurs on sidewalks, streets, and other public places and establishments during the late night and early morning hours;
- B. Decrease the amount of ungovernable behavior engaged in by children;
- C. Promote and enhance parental control over children;
- D. Adopt and implement policies relating to children that would minimize impacts on children engaging in and traveling to or from a lawful activity or event; and
- E. Preserve the public safety and reduce acts of ungovernable behavior by children that are occurring within the territorial jurisdiction of the Nation at rates beyond the capacity of the Nation's police department to assure public safety during restricted hours.

602 VIOLATIONS

- A. It shall constitute ungovernable behavior and a violation of this chapter for a child to remain in any public place or on the premises of any establishment within the territorial jurisdiction of the Nation during restricted hours.
- B. It shall be a violation of this chapter for a parent or guardian of a child to knowingly permit, or by insufficient control allow, the child to remain in any public place or on the premises of any establishment within the territorial jurisdiction of the Nation during restricted hours.
- C. It shall be a violation of this chapter for an owner, operator, or any employee of an establishment to knowingly allow a child to remain upon the premises of the establishment during restricted hours.

603 DEFENSES

- A. It is a defense to adjudication under paragraph A of section 602 that the child was, at the time of his conduct:
 - 1. accompanied by the child's parent or guardian;
 - 2. on an errand at the direction of the child's parent or guardian, without any detour or stop;

3. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 4. involved in an emergency;
 5. on the sidewalk abutting the child's residence;
 6. attending, going to or returning home from, without any detour or stop, an official activity sponsored by the Nation, a school, religious or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults who take responsibility for the child;
 7. engaged in the exercise of religion, freedom of speech, or the right of assembly; or
 8. married, had been married, or otherwise had been emancipated.
- B. It is a defense to adjudication under paragraph C of section 602 that the owner, operator, or employee of an establishment promptly notified the Nation's police department that a child was present on the premises of the establishment during restricted hours and refused to leave.

604 ENFORCEMENT

- A. Before taking any enforcement action under this chapter, a police officer shall ask a child who apparently has violated this chapter for his name, age, address, and reason for being in the public place or establishment.
- B. The officer shall not issue a citation or take any other action under this chapter unless the officer reasonably believes that a violation of this chapter has occurred and that, based on any response and other circumstances, no defense in section 602 is present.
- C. Upon discovering a violation of this chapter, as soon as practicable the officer shall:
1. take the child into custody;
 2. ascertain the child's identity and address; however, if the child refuses to give an officer his name and address, refuses to give the name and address of his parent or guardian, or if no parent or guardian can be located prior to the end of the applicable restricted period, or if located, no parent or guardian appears to accept custody of the child, the officer shall place the child in temporary custody until the child can be returned safely to his parent or guardian;
 3. release the child to his parent or guardian;
 4. issue a citation to the child for appearance in court for the adjudication of the charge that the child engaged in ungovernable behavior as defined in paragraph A of section 602;

5. issue a citation to any person for appearance in court for the adjudication of the charge that the person has violated either paragraph B or C of section 602.

605 EVALUATION

This chapter and the need for it shall be reviewed annually. Each year, the Nation shall review this chapter to determine the effectiveness of and the continuing need for this chapter. This review shall include consideration of the following factors:

- A. the practicality of enforcing this chapter and any problems with enforcement identified by the Nation's police department;
- B. the impact of this chapter on ungovernable behavior engaged in by children during restricted hours; and
- C. the Nation's net cost of enforcing this chapter.

606 SEVERABILITY

If any one or more sections, paragraphs or sentences of this chapter are held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter and the same shall remain in full force and effect.