

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6) and 461A.3, the Natural Resource Commission (Commission) hereby amends Chapter 61, “State Parks, Recreation Areas, and State Forest Camping,” Iowa Administrative Code.

This amendment bans alcoholic liquor, beer, and wine at the beaches located in Lake Macbride State Park and Pleasant Creek State Recreation Area. The definition of “beach” means the “portion of state parks or recreation areas designated for swimming activity including the sand, a 200-foot buffer of land surrounding the sand or a designated area which is fenced in, and the water area contiguous to the beach as marked by swim buoys or swim lines” and applies to paragraph 61.7(2)“e.” However, the alcohol ban does not apply to any rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the Department of Natural Resources (Department). Thus, for example, the amendment does not prevent an individual from reserving a beach-bordering shelter for a large party, such as a reunion or a wedding, and providing alcohol to guests.

Department citation records and incident reports indicate alcohol consumption at these particular beaches presents legitimate safety risks to the public and Department personnel. During the high summer season, the ratio of park users to park personnel on these beaches has, at times, based on visual observations and vehicle counts, been estimated at over 500:1. Documented citations and incidents at these beaches that are attributed to alcohol include assault, public intoxication (to the point of near unconsciousness), littering, interference with official acts, disorderly conduct, and minors in possession. For instance, Lake Macbride State Park spans 2,180 acres bordering an 812-acre lake and contains 102 campsites and a 2-acre beach. In the last five years, of 371 total arrests made and citations issued at Lake Macbride State Park, 222 occurred at the beach and involved alcohol. In other words, an area that encompasses less than a quarter of 1 percent of the park’s total size resulted in almost 60 percent of all park enforcement activity. Thus, the beach area requires an inordinate amount of staff time, resources, and attention, much of which can be attributed to alcohol use. Pleasant Creek State Recreation Area has similar statistics.

As an interim measure, in mid-July 2015, pursuant to the authority of Iowa Code section 461A.46, the Department’s Director imposed an early closing time of 6 p.m. on both parks’ beaches due to the particular challenges posed by large evening crowds. The Department’s State Parks Bureau also entered into cooperative agreements with local law enforcement agencies to provide for scheduled backup assistance from nearby city police departments, respective county sheriff’s offices, and state troopers, a necessity as indicated by the 269 calls for backup made from Lake Macbride State Park between 2010 and 2015. Combined, the early closing time and cooperative agreements have had a positive impact on the number of arrests made, citations issued, and verbal warnings issued at these beaches. However, the early closing time has been very unpopular with park users, especially with those who would like to visit these beaches after work and with those who are overnight campers. In addition, relying on law enforcement from other public agencies is not a sustainable practice.

Thus, the Commission is banning alcohol in lieu of the early closing time at Lake Macbride State Park and Pleasant Creek State Recreation Area beaches. The Commission believes that banning alcohol from these beaches will considerably reduce the number of arrests made and citations issued at these locations. More importantly, banning alcohol at these beaches will increase the safety and enjoyment of other park users in these areas. This change will enable Department staff at Lake Macbride State Park and Pleasant Creek State Recreation Area to focus less on the beach and more on the park as a whole, permitting the State Parks Bureau’s resources to be applied to a greater variety of issues, areas, and user and resource needs (such as the large campgrounds).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2612C** on July 6, 2016. Comments were accepted through July 26, 2016, the date on which two public hearings were held. A total of 23 comments were received; 17 were in support of the rule, 4 were against, and 2 were

neutral. Reasons for support of the alcohol ban included concerns over public safety, a desire for these beaches to be more elderly- and family-friendly, a desire for the Director to rescind the early closing time implemented at the beaches last summer, and a desire for law enforcement officers and park staff to focus their time and efforts elsewhere. Reasons for opposition to the alcohol ban included concerns that the ban unfairly punishes people who abide by the law and drink alcohol responsibly, that the Commission and the Department need to enforce existing public intoxication laws rather than create new ones, and that the ban is arbitrarily limited to the beach.

This amendment is identical to that published under Notice.

This amendment does not provide for a waiver because any such request may be submitted under the Commission's general rule on waivers and variances in 571—11(17A).

This amendment was adopted by the Commission on August 11, 2016.

After analysis and review of this rule making, no negative impact on jobs has been found.

This amendment is intended to implement Iowa Code section 461A.3.

This amendment will become effective October 5, 2016.

The following amendment is adopted.

Amend subrule 61.7(2) as follows:

61.7(2) *Beach use/swimming.*

a. to d. No change.

e. Alcoholic liquor, beer, and wine, as each is defined in Iowa Code section 123.3, are prohibited on the beaches located within Lake Macbride State Park and Pleasant Creek State Recreation Area. This ban does not apply to rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the department.

[Filed 8/12/16, effective 10/5/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.