

ARTICLE IV. TORTS CODE¹

Sec. 3-241. Title.

This Article shall be known as the Mohegan Torts Code (hereinafter "Code").

(Ord. No. 2005-02, § 1, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-242. Effective Date.

The effective date of this Code shall be March 25, 2009 (hereinafter the "effective date"). Its provisions shall apply to all Claims that accrued on or before the effective date. Unless otherwise provided, Amendments to this Code shall take effect prospectively following adoption.

(Ord. No. 2005-02, § 2, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-243. Authority.

This Code is enacted by the Tribal Council of The Mohegan Tribe of Indians of Connecticut pursuant to Article IX, Section 2, of the Mohegan Constitution, and is adopted by the Management Board of the Mohegan Tribal Gaming Authority ("MTGA") pursuant to Article XIII, Section 1 of the Mohegan Tribal Constitution and Mohegan Tribal Ordinance No. 952, enacted on May 15, 1995.

(Ord. No. 2005-02, § 3, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-244. Purpose.

The Mohegan Tribe of Indians of Connecticut, a federally-recognized sovereign Indian tribal nation occupying the Mohegan Reservation on land held in trust by the United States in Uncasville, Connecticut, intends this Code to govern the adjudication of Torts arising from actions of The Mohegan Tribe of Indians Connecticut and from actions of the Mohegan Tribal Gaming Authority and their subordinate entities, and their respective authorized

¹Editor's note(s)—Ord. No. 2005-02, §§ 1—11, adopted June 22, 2005, amended the Code by repealing former Art. IV, §§ 3-241—3-251, and adding a new Art. IV. Former Art. IV pertained to similar subject matter; and derived from Ord. No. 2001-07, adopted August 15, 2001. Additionally, Res. No. TGA 2007-07, adopted April 18, 2007, stipulated that the MTGA Management Board confirms the applicability of this Article to MTGA. The MTGA Management Board adopted an amendment by Res. No. TGA 2011-02 on February 9, 2011, as it applies to it, by adding Section 3-252.

Cross reference(s)—See Section 1-222 for severability clause.

employees and public officials acting within the scope of their authority or employment on behalf of such entities, wherever located.

(Ord. No. 2005-02, § 4, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-245. Definitions.

Except as otherwise provided, the terms defined herein shall be applied in proceedings under this Code:

Accrual date means the date on which an injury occurred and includes the date on which an injury was or reasonably should have been discovered by the injured party.

Act means conduct and actions and includes inactions and omissions.

Actual damages means the measurable loss of money or property sustained as a result of an injury. The cost of reasonable and necessary medical care, including hospitalization, diagnostic studies, physical therapy, rehabilitative services, custodial care, psychological counseling, and all other generally accepted therapies for the treatment of an injury, as defined in this Section, shall include the total amount of invoices submitted, regardless of the fact that some or all of the submitted invoices are subject to adjustments or write-offs resulting from contractual agreements or other relationships between providers and third-party payors, including Medicare.

Actual Notice means, with respect to an Act or Defective Condition, information about such act or condition that is reasonably available to a person.

Constructive Notice means, with respect to an Act or Defective Condition, notice of such act or condition that, based on the circumstances including location, timing, magnitude, and opportunity to obtain information, is sufficient to impute to a person adequate notice so as to permit corrective action. With respect to Actual or Constructive Notice to a Mohegan Entity, the information about an act or defect must be available to a person who is vested by such Mohegan Entity with a duty or responsibility to take action in response to such notice; provided, however, that no Constructive Notice shall be imputed to a Mohegan Entity on the basis of the Entity's mode of operation.

Claim means a civil action brought pursuant to this Code.

Claimant or *Plaintiff* means the person who files a Claim under this Code.

Collateral Source means any third-party, including but not limited to any private or governmental insurance plan, that pays, reduces, discounts, writes off, or covers the costs of health or medical care, treatment, or rehabilitation, of a Claimant's injury, whether such Collateral Source is under a legal or contractual obligation to provide such coverage or provides such coverage on a voluntary basis.

Collateral Source Deduction means a deduction from any Actual Damages proven by and otherwise payable to a Claimant. Such deduction shall be in the total amount of Collateral Source Payments paid to or for the benefit of the Claimant as of the date that the court enters judgment or at such time as the parties to any litigation may mutually agree. The Collateral Source Deduction from actual damages shall not be reduced in any way by the cost of health insurance premiums or other costs of procurement of the collateral source.

Collateral Source Payment means any payment made to or on behalf of a Claimant by a Collateral Source. The amount of any voluntary or involuntary discount or write-off in the amount of bills for services by healthcare providers shall be treated as a Collateral Source Payment.

Complaint means a document setting forth the claims of a Claimant or Plaintiff.

Defective Condition means a condition, whether temporary or permanent, in or upon the premises of a Mohegan Entity, that does or may cause an Injury actionable under this Code.

Fault means the failure to fulfill a legal duty, and includes Acts proximately causing or substantially contributing to an Injury actionable under this Code. No employee or Public Official of a Mohegan Tribal Entity shall be deemed to have breached a duty when exercising due care in the execution of law or regulation, whether or not such law or regulation is valid, or when in the exercise, performance or in the non-exercise or non-performance of a discretionary function or duty on behalf of a Mohegan Tribal Entity or its Public Officials or employees, whether or not discretion involved be abused.

Gaming Disputes Court means the Mohegan Gaming Disputes Court established by the Mohegan Tribe pursuant to The Gaming Disputes Ordinance, Section 3-21, et seq.

Gaming Facilities means all those facilities known as Mohegan Sun together with all buildings and all appurtenant roads, parking lots, access ramps, structures, developments and improvements operated or under the control of the MTGA and used directly or indirectly in connection with Mohegan Sun for gaming or for entertaining, serving, feeding, hosting patrons of Mohegan Sun, and all related activities, including any associated hotel, resort or entertainment facilities, and including the operation of motor vehicles owned or leased by the MTGA, without regard to their location either on or off the Mohegan Reservation.

Injury means the invasion of a person's legally protected interest; the loss or deprivation of a person or entity's property; or physical, emotional, intellectual or psychological damage or harm sustained by a person.

Legal Duty means an obligation to conform to a particular standard of conduct recognized under Mohegan law.

Mohegan Court means either The Mohegan Tribal Court or The Mohegan Gaming Disputes Court, as appropriate.

Mohegan Reservation means all lands within the exterior boundary of the reservation of the Mohegan Tribe and all trust lands of the Mohegan Tribe.

Mohegan Tribal Court means the Mohegan Tribal Court established by the Mohegan Tribe pursuant to Mohegan Tribal Ordinance 2002-09.

Mohegan Tribal Entity means any entity, including but not limited to the Mohegan Tribal Gaming Authority, established pursuant to the Mohegan Constitution or duly-enacted Mohegan Tribal Ordinances, without geographical limitation. References to "Mohegan Tribal Entity" include the Mohegan Tribe except where the Mohegan Tribe is separately identified.

Mohegan Tribal Gaming Authority or *MTGA* means that Mohegan Tribal Entity established by The Mohegan Tribe pursuant to the Mohegan Tribal Gaming Authority Ordinance, Sec. 2-21, et seq., enacted on May 15, 1995.

Mohegan Tribe means The Mohegan Tribe of Indians of Connecticut as recognized by the United States under 25 C.F.R. Part 83 on May 15, 1994.

Negligence means conduct that falls below the standard established by law or custom for the protection of others against unreasonable risk of injury or harm. The standard of conduct to which a person must conform to avoid being negligent is that of a reasonable person under similar circumstances. Where applicable, the rule of actual or constructive notice shall be applied to determine negligence; negligence shall not be deemed to arise from the mode of operation.

Non-economic Damages means all non-pecuniary losses including, but not limited to, a person's physical, emotional, intellectual or psychological pain or suffering and loss of enjoyment of life.

Person means any individual, firm, partnership, corporation or association.

Public Official means any person holding a position, whether elected or appointed, pursuant to the law of the Mohegan Tribe.

Strict liability means liability without fault.

Tort means an Injury to a person caused by a negligent breach of a legal duty to that person, but does not include a breach of a duty imposed by contract or interference with a business opportunity or contract.

(Ord. No. 2005-02, § 5, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021; Res. No. 2023-27, 04-05-23; Res. No. TGA 2023-10, 04-05-23)

Sec. 3-246. Limitations of Actions.

- (a) A civil action under this Code shall be brought by filing a Complaint pursuant to the procedures set forth in this Code within one (1) calendar year of the accrual date for torts occurring on the Mohegan Reservation and within two (2) calendar years of the Accrual Date for torts occurring outside the Mohegan Reservation, except as otherwise provided in Section 3-252(a)(2). All provisions of this sub-section shall be applied both prospectively and retroactively for any Claims which accrued within two (2) calendar years of July 19, 2017.
- (b) For the purpose of meeting the limitations deadline set forth in this Code, a claim is commenced when the complaint is filed with the Clerk of a Mohegan Court or the Gaming Disputes Court.
- (c) Except as provided in Section 3-247 of this Code, there shall be no tolling of the limitations deadline for any reason, including equitable reasons. The filing of a lawsuit in a jurisdiction other than either of the Mohegan Courts referenced herein shall not delay the limitations deadline.
- (d) Except as provided in Sections 3-246(a) and 3-247 of this Code, the Mohegan Courts shall have no jurisdiction over any Complaint that is filed more than one (1) calendar year after the Accrual Date.
- (e) No civil action may be brought for a claim which is subject to the Federal Torts Claim Act (U.S.C. Title 28, Section 1346(b), 2401 and 2671 et seq.), resulting from the performance of programs carried out under Public Law 638 contracts or grants or otherwise covered by the Act. In all such cases, the Federal Torts Claims Act shall provide the sole and exclusive remedy.

(Ord. No. 2005-02, § 6, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2017-42, 7-19-2017; Res. No. TGA 2017-12, 7-19-2017; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021, 05-05-2021; Res. No. 2023-27, 04-05-2023; Res. No. TGA 2023-10, 04-05-2023)

Sec. 3-247. Persons under disability.

The time for filing a Complaint under Section 3-246 shall be extended up to sixty (60) days immediately following the appointment by a court of competent jurisdiction of a legal representative for a person who has sustained an injury otherwise cognizable pursuant to this Code, when:

- (a) Such person dies after the Accrual date and before the deadline for filing a complaint;
- (b) Such person has been adjudged by a court of competent jurisdiction to be an incompetent person at any time prior to the deadline for filing a complaint; or (c) Such person is under the age of eighteen (18) at the Accrual date and is not an emancipated minor and has no parent or legal guardian at or prior to the deadline for filing a complaint; provided further that the appointment of a legal representative is made less than 61 days prior to the expiration of the applicable statute of limitations. This Amendment shall take effect retroactively.

(Ord. No. 2005-02, § 7, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-248. Procedure and venue.

- (a) Any person having a Claim under this Code shall be entitled to file a Complaint in a Mohegan Court pursuant to the Mohegan Rules of Civil Procedure except as otherwise provided pursuant to the Memorandum of Agreement regarding police powers dated May 28, 2014 between the Mohegan Tribe and the State of Connecticut ("MOA"). Any person having a claim cognizable under this Code arising from an Act of an employee or Public Official of a Tribal Entity, or arising from an alleged defective condition that is subject to the control of a Tribal Entity, shall present it as a claim against a Tribal Entity.
- (b) Venue in Mohegan Courts (i) The Mohegan Gaming Disputes Court shall have initial jurisdiction over any Claim brought pursuant to this Code for an Injury arising from, out of, or in connection with, the Gaming Facilities, any alleged defective condition in or upon the Gaming Facilities, or the act of any Gaming Facility employee or Public Official. (ii) The Mohegan Court shall have initial jurisdiction over any Claim brought pursuant to this Code for any Injury arising, from, out of, or in connection with any alleged defective condition in or upon The Mohegan Reservation or the Act of any Tribal employee or Public Official, but shall not exercise jurisdiction over any Claim over which the Gaming Disputes Court has jurisdiction. Each Mohegan Court shall exercise its initial jurisdiction in order to determine whether it has, or appears to have, personal and subject matter jurisdiction over the Claim.
- (c) In the event that a complaint is filed with a Mohegan Court but venue is determined by that court to be incorrect, the Mohegan Court may, on motion, or sua sponte, transfer the case to the other. The transfer of a case from one Mohegan Court to another shall not be construed as determinative of whether the court to which a complaint is transferred has subject matter jurisdiction. In the event of a transfer, any filing fees paid pursuant to the rules of a Mohegan Court shall be reimbursed to the plaintiff, but the plaintiff must pay any filing fees required by the Mohegan Court to which the complaint is transferred.
- (d) Transferred cases shall be considered to have been filed, for purposes of the time limitations set forth in this Code, on the date when filed in the transferring court.
- (e) Every complaint filed under this Code shall contain the following: (1) The name and address of the claimant and the name and address of the claimant's attorney, if any; (2) A concise statement, in consecutively numbered paragraphs, of the facts giving rise to the complaint; (3) The date(s), time(s), and location(s) of the alleged injury, if known; (4) The name of any individual(s) alleged to have caused the alleged injury, and their relationship, if known, to a Mohegan Tribal Entity; (5) The name of the Mohegan Tribal Entity that the claimant deems liable for the alleged injury; (6) A concise statement of the nature and extent of any alleged injury sustained by the claimant; and (7) If the complaint is brought by a personal representative of a person under a disability (as defined in this Code), the name of such personal representative and a copy of any officially-dated document probative of the appointment of such personal representative.
- (f) No person shall have a right pursuant to this Code to the trial of any matter before a jury.
- (g) A final judgment of a Mohegan Trial Court in any action brought under this Code may be appealed pursuant to the applicable Rules of the Mohegan Court in which final judgment [is] entered.

(Ord. No. 2005-02, § 8, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-249. Jurisdiction.

- (a) Jurisdiction over Tort Claims arising in connection with the Gaming Facilities, or the Act of any Gaming Facilities employee or Public Official, shall be found exclusively in the Mohegan Gaming Disputes Court. (b) Jurisdiction over Tort Claims arising in connection with any Mohegan Tribal Entity other than the MTGA

and/or the Gaming Facilities, and/or against employees or Public Officials of such Mohegan Tribal Entity, shall be found exclusively in the Mohegan Court. (c) The Mohegan Court shall have personal jurisdiction over all persons and entities wherever located to the fullest extent permitted by applicable law.

(Ord. No. 2005-02, § 9, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-250. Limited Waiver of Sovereign Immunity and Consent to Suit.

- (a) By enactment of this Code, The Mohegan Tribe waives its sovereign immunity, and the sovereign immunity of its subordinate entities except for the Mohegan Tribal Gaming Authority, and consents to be sued by persons with Tort Claims arising under this Code, but only in the Mohegan Tribal Court; provided that this waiver of sovereign immunity shall permit no recovery of damages against the Mohegan Tribe or the Mohegan Tribal Entities or their employees and Public Officials acting within the scope of their authority or employment on behalf of such entities, in any measure or amount in excess of the damages authorized to be recovered under this Code; nor shall this waiver of sovereign immunity permit (i) claims arising from or out of the employment relationship asserted by employees of the Tribe or Tribal entities; or (ii) claims of torts arising from contract or contractual relationships. Employment-based claims of employees may be addressed pursuant to the terms of the Discriminatory Employment Practices Ordinance; contract-based claims may be asserted only in the event that a contract contains an explicit waiver of sovereign immunity as required under Mohegan law.
- (b) By adoption of this Code, the Mohegan Tribal Gaming Authority waives its sovereign immunity and consents to be sued by persons with Tort Claims arising under this Code, but only in the Mohegan Gaming Disputes Court; and this waiver of sovereign immunity shall permit no recovery of damages against the Mohegan Tribal Gaming Authority, or its authorized representatives, in any measure or amount in excess of the damages authorized to be recovered under this Code.
- (c) The waivers of sovereign immunity contained herein shall be strictly and narrowly construed.
- (d) The limitations upon recovery against the sovereign Mohegan Tribal Entities and representatives as set forth herein shall not apply to limit recovery against a defendant that is not a Mohegan Tribal Entity (a "Non-Tribal Entity") or an employee, official, or authorized representative of a Non-Tribal Entity.
- (e) This Code shall not apply to any claim by a person who has a cause of action pending or adjudicated in any other judicial or arbitral forum based upon alleged acts or omissions actionable against any Tribal defendant or entity pursuant to the limited waiver of sovereign immunity contained in the MOA.
- (f) Nothing herein shall be construed as a waiver of the Mohegan Tribe, the Mohegan Tribal Gaming Authority, or any Mohegan Tribal Entity, of sovereign immunity as to claims arising under any Connecticut General Statute or arising under Connecticut common law.
- (g) This Code shall not apply to any claim by a person who has a cause of action based upon acts or omissions against any independent contractors who are not Public Officials.
- (h) Except as otherwise provided pursuant to the MOA, the remedies provided under Section 3-251 of this Code are the exclusive remedies for any injury based on a tort arising against any Mohegan Tribal Entity, or any Mohegan Tribal Entity employees or Public Officials acting colorably within the scope of authority or employment.
- (i) No employee or Public Official of a Mohegan Tribal Entity shall be personally liable for damage or injury, not wanton, reckless or malicious, caused in the discharge of his or her duties or within the scope of employment.

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- (j) With respect to any claim under this Code, a Mohegan Tribal Entity shall be entitled to assert any defense available to the employee or Public Official whose act gave rise to the claim, including but not limited to any defense based upon judicial, legislative, or litigation immunity.

(Ord. No. 2005-02, § 10 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2014-85, 9-3-2014; Res. No. TGA 2014-15, 9-3-2014; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-251. Limitations on Awards.

- (a) This Code does not permit recovery from the Mohegan Tribe, from a Mohegan Tribal Entity, or the Mohegan Tribal Gaming Authority, or from their employees or Public Officials, of: (1) Punitive or exemplary damages; (2) Damages for loss of consortium; (3) Non-economic damages in excess of up to two hundred percent (200%) of proven actual damages prior to any reduction for Collateral Source payments; or (4) Damages in excess of the limits of any applicable liability insurance policy carried by The Mohegan Tribe, the MTGA, or other Mohegan Entity.
- (b) Any award of damages to a claimant shall be reduced in proportion to the claimant's contributory negligence, provided that the claimant shall recover nothing if the claimant's contributory negligence is determined to be greater than fifty (50) percent.
- (c) Following the determination of any award of actual damages, the court shall calculate and deduct any Collateral Source Payments paid to or on behalf of the Plaintiff, provided that any Collateral Source Deduction shall be reduced in the amount and to the extent that a Collateral Source has asserted a right of subrogation or such right of subrogation exists as a matter of law. The Collateral Source Deduction shall be reduced in proportion to the Claimant's comparative negligence, if any. The Collateral Source Deduction from Actual Damages shall not be reduced in any way by the cost of health insurance premiums or other costs of procurement of the Collateral Source.

(Ord. No. 2005-02, § 11, 6-22-2005; Res. No. 2007-17, 4-18-2007; Res. No. 2009-34, 3-25-2009; Res. No. TGA 2009-09, 3-25-2009; Res. No. 2013-06, 11-14-2012; Res. No. TGA 2013-05, 11-14-2012; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Sec. 3-252. Liquor Seller Liability for Damage by Intoxicated Person.

- (a) If the Mohegan Tribe, the MTGA or any other Mohegan Tribal Entity or their authorized agents acting within the scope of employment, sells or serves any alcoholic liquor to an intoxicated person, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another whether within or beyond the Mohegan Reservation, the Mohegan Tribe, the MTGA or such other Mohegan Tribal Entity shall pay just damages to the person injured or his or her estate, up to two hundred fifty thousand dollars (\$250,000.00), or to persons injured or their estates in consequence of such intoxication up to an aggregate amount of two hundred fifty thousand dollars (\$250,000.00), to be recovered in an action under this section, provided the aggrieved person or persons shall give written notice to the Mohegan Tribe, the MTGA, or such other Mohegan Tribal Entity, as applicable, of such person's or persons' intention to bring an action under this section. Such notice shall be given: (1) Within one hundred twenty (120) days of the occurrence of such injury to person or property; or (2) In the case of the death or incapacity of any aggrieved person, within one hundred eighty (180) days of the occurrence of such injury to person or property. Any individual who participates in causing the intoxication of the intoxicated person shall be barred from recovery under this sub-section.

Such notice shall specify the time, the date and the person to whom such sale or service was made, the name and address of the person injured or whose property was damaged, and the time, date and place

where the injury to person or property occurred. It shall be sent certified mail to the persons to whom service is made for actions under this Code pursuant to Mohegan Rules of Civil Procedure. The defendant in any action brought hereunder shall be the Mohegan Tribe, the MTGA or such other Mohegan Tribal Entity, as applicable, and the action shall be brought in the Mohegan Court, as applicable. Just damages, as may be awarded under this section, shall not be interpreted to allow multiple recoveries for the same Injury under this or any other applicable law and shall be limited to the provisions in Section 3-251. No action under the provisions of this section shall be brought but within one (1) year from the date of the act or omission complained of. No such injured party shall have any cause of action for negligence or nuisance as a result of the sale or service of alcoholic liquor to a person twenty-one (21) years of age or older in any case permitted to be brought under this section. In order to sustain a claim under this section, an injured party must prove that, at the time of sale or service, the individual was intoxicated and was demonstrating outward signs of intoxication such as an abnormal mental or physical condition due to the influence of intoxicating liquors, a visible excitation of the passions and impairment of the judgment, or a derangement or impairment of physical functions and energies.

- (b) Notwithstanding the provisions of section 3-242, all provisions of this section shall be applied both prospectively and retroactively, as set forth in this subsection (b) and shall apply to cases already pending in the Mohegan Gaming Disputes Trial Court as of February 9, 2011. The notice provisions of this section shall not bar any claims from being brought pursuant to this section for injuries to person or property of another caused by an intoxicated individual, which are already pending in the Mohegan Gaming Disputes Trial Court as of February 9, 2011, provided that the complaint already contains a claim based on the sale or service of alcohol. The notice provisions of this section shall also not bar any claims which accrued within one (1) calendar year of February 9, 2011, if the limitations period is satisfied. Such aggrieved person or persons covered under this sub-section shall give written notice to MTGA of such person's or persons' intention to bring an action within one hundred twenty (120) days of February 9, 2011.

(Res. No. TGA 2011-02, 2-9-2011; Res. No. TGA 2013-05, 11-14-2012, Res. No. 2015-47, 5-27-2015; Res. No. 2015-47, 5-27-2015; Res. No. 2017-42, 7-19-2017; Res. No. TGA 2017-12, 7-19-2017; Res. No. 2018-08, 10-18-2017; Res. No. TGA 2018-03, 10-18-2017; Res. No. 2021-40, 05-05-2021; Res. No. TGA 2021-12, 05-05-2021)

Secs. 3-253—3-270. Reserved.