

**SISSETON-WAHPETON OYATE
OF THE LAKE TRAVERSE RESERVATION
BUSINESS LICENSE ORDINANCE
CHAPTER 53**

Title I – General Provisions		Page
53-01-01	Section Titles	1
53-01-02	Jurisdiction	1
53-01-03	Severability	1
53-01-04	Continuity of Law	2
53-01-05	Construction	2
53-01-06	Amendments.....	2
53-01-07	Effect of Headings.....	2
 Title II – Definitions		
53-02-01	Definition of Terms	2
53-02-02	Business.....	2
53-02-03	Business License	2
53-02-04	Cigarette Distributor	2
53-02-05	Council	2
53-02-06	Member	3
53-02-07	Motor Fuel Distributor	3
53-02-08	Motor Fuel Retail Dealer	3
53-02-09	Person	3
53-02-10	Person subject to the Jurisdiction of the Tribe	3
53-02-11	Vice-Chairman	3
53-02-12	Tax Office	3
53-02-13	Tribal Court	3
53-02-14	Within the Jurisdiction of the Tribe	3
 Title III – Vice-Chairman's Authority		
53-03-01	General Powers of the Vice-Chairman	4
53-03-02	Enforcement and Administration Responsibility	4
 Title IV – Business License Required		
53-04-01	Persons Required to Apply for Business License	4
53-04-02	Restrictions	5
53-04-03	Reference to Other Laws	5
53-04-04	Tax Collection Required	6
53-04-05	Engaging in Business Without a License	6
53-04-06	Establishment of Fees	7
53-04-07	Exemptions	7
53-04-08	Payment of License Fees	7
53-04-09	Schedule of Fees	8

53-04-10	Refund of License Fee	8
53-04-11	Disposition of Funds	8

Title V – Bonding Required Certain Businesses

53-05-01	Bonding	8
53-05-02	Bonding As a Condition of License	9
53-05-03	Bond Duration	9
53-05-04	Deposit in Lieu of Bond	9
53-05-05	Release and Substitution of Surety	9
53-05-06	Motor Fuel Distributor License Required	10
53-05-07	Motor Fuel Retail Dealer License Required	10
53-05-08	Cigarette Distributor License Required	11
53-05-09	Expiration and Renewal of License	11

Title VI – Vice-Chairman's Issuance of Licenses; Violations

53-06-01	Assignment or Transfer of License	12
53-06-02	Disciplinary Powers of the Vice-Chairman	12
53-06-03	Abatement of Proceedings	12
53-06-04	Suspension or Revocation of License	13
53-06-05	Notice of Suspension or Revocation of License	13
53-06-06	Hearing of Suspension or Revocation of License	13
53-06-07	Appeal of Order of Suspension or Revocation of License	14
53-06-08	Civil Action	14
53-06-09	Violations; Civil Penalties	14

SISSETON-WAHPETON OYATE

CHAPTER 53

BUSINESS LICENSE ORDINANCE

TITLE I - GENERAL PROVISIONS

53-01-01

Section Titles

It being necessary to strengthen the government of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation ("Tribe") by exercising the specific grant of authority contained in Sections 1(g) and 1(h) of the Revised Constitution and Bylaws of the Sisseton-Wahpeton Oyate to license and regulate certain conduct within the jurisdiction of the Tribe, to enhance the Tribe's ability to efficiently and effectively exercise its confirmed inherent sovereignty and governmental responsibilities, and to enhance the general well-being of members of the Tribe and others within the jurisdiction of the Tribe, the Tribe hereby adopts the Sisseton-Wahpeton Oyate Business License Ordinance, Chapter 53.

53-01-02

Jurisdiction

In accordance with Article I of the Sisseton-Wahpeton Oyate Constitution, the Tribal Council hereby affirmatively declares, asserts, and extends the criminal and civil jurisdiction of the Tribe over all areas within the original exterior boundaries of the Lake Traverse Indian Reservation, as described in Article III of the Treaty of February 19, 1867, that are held by the United States in trust for the Tribe or any individual Indian, all other lands owned by the Tribe or any individual Indian, all allotments covered by 18 U.S.C. § 1151(c), and all dependent Indian Communities within the original boundaries of the Lake Traverse Indian Reservation as defined by 18 U.S.C. § 1151(b), as well as all dependent Indian Communities otherwise deemed to be Indian Country and subject to jurisdiction of the Sisseton-Wahpeton Oyate.

53-01-03

Severability

If any clause, sentence, paragraph, section, or part of this Business License Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confirmed in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

53-01-04

Continuity of law

It is hereby declared that the legislative intent of the Sisseton-Wahpeton Oyate Tribal Council is that this Business License Ordinance be construed as amending and revising the present Business License Ordinance enacted by the Sisseton-Wahpeton Oyate Tribal Ordinance of 1986 and shall have prospective effect only, and shall not affect the validity of any license issued under such prior law.

- 53-01-05 **Construction**
This Business License Ordinance shall be interpreted and applied in a manner consistent with all other Codes, Laws, Ordinances, Resolutions, and Regulations of the Sisseton-Wahpeton Oyate.
- 53-01-06 **Amendments**
This Business License Ordinance may be amended only upon an affirmative vote of a majority of the Sisseton-Wahpeton Oyate Tribal Council.
- 53-01-07 **Effect of headings**
Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Business License Ordinance.

TITLE II - DEFINITIONS

- 53-02-01 **Definition of terms**
The following words, terms, and phrases, when used in this Chapter, have the following meanings ascribed to them:
- 53-02-02 Business includes any profession or activity engaged in by a person, firm company with the object of gain, benefit, or advantage, either direct or indirect.
- 53-02-03 Business License means a license to carry on a business within the jurisdiction of the Tribe issued under the provisions of this Chapter.
- 53-02-04 Cigarette Distributor includes every person wherever resident or located who purchases unstamped cigarettes or other tobacco products directly from the manufacturer thereof and stores, sells or otherwise disposes of the same within the jurisdiction of the Tribe. Cigarette distributor also includes any person wherever resident or located, who manufactures or produces cigarettes or other tobacco products, or causes the same to be manufactured or produced, and sells, uses, stores, or distributes the same within the jurisdiction of the Tribe.
- 53-02-05 Council means the duly elected Council members of the Sisseton-Wahpeton Oyate.
- 53-02-06 Member includes any person who is an enrolled member of the Sisseton- Wahpeton Oyate.
- 53-02-07 Motor Fuel Distributor includes any person, other than a Motor Fuel Retail Dealer, who acquires motor fuel from a refiner or supplier for subsequent wholesale distribution in bulk or transport load by truck, railcar, or in a barrel, drum or other receptacle within the jurisdiction of the Tribe.
- 53-02-08 Motor Fuel Retail Dealer includes any person who acquires motor vehicle fuel from a supplier or distributor for resale to a consumer at a site at which motor vehicle fuel is dispensed through a pump from an underground or aboveground storage tank into the supply tank of a motor vehicle.

- 53-02-09 Person includes any individual, firm, partnership, joint venture, association, corporation, municipal corporation, trust, business trust, receiver or any group or combination acting as a unit and the plural as well as the singular in number.
- 53-02-10 Person Subject to the Jurisdiction of the Tribe includes any person having or maintaining within the jurisdiction of the tribe, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business, or having any representative, agent, sales person, canvasser, or solicitor operating within the jurisdiction of the Tribe under the authority of such person or subsidiary, for any purpose, including the repairing, selling, delivering, installing, or soliciting of orders for goods or services, or the leasing of tangible personal property located within the jurisdiction of the Tribe, regardless of whether the representative, agent, salesperson, canvasser, or solicitor is located within the jurisdiction of the Tribe permanently or temporarily, or possesses a Tribal business license.
- 53-02-11 Vice-Chairman means the elected Vice-Chairman of the Sisseton-Wahpeton Oyate or any duly authorized and appointed assistants, deputies or agents of said Vice-Chairman charged with the administration or enforcement of this Chapter.
- 53-02-12 Tax Office means the Tribal Tax Director, including duly authorized and appointed assistants, deputies or agents of the Tax Director, who shall carry out the day-to-day administration of this Chapter, and shall report directly to the Vice-Chairman.
- 53-02-13 Tribal Court means the Sisseton-Wahpeton Oyate Tribal Court.
- 53-02-14 Within the Jurisdiction of the Tribe means all areas within the original exterior boundaries of the Lake Traverse Indian Reservation, as described in Article III of the Treaty of February 19, 1867, that are held by the United States in trust for the Tribe or any individual Indian, all other lands owned by the Tribe or any individual Indian, all allotments covered by I 8 U.S.C. §1151 (c), and all dependent Indian Communities within the original boundaries of the Lake Traverse Indian Reservation as defined by 18 U.S.C. § 1151 (b), as well as all dependent Indian Communities otherwise deemed to be Indian Country and subject to jurisdiction of the Sisseton-Wahpeton Oyate.

TITLE III - VICE-CHAIRMAN'S AUTHORITY

- 53-03-01 **General Powers of the Vice-Chairman**
The Vice-Chairman shall have the power and authority to issue a business license to any person desiring to engage in business within the jurisdiction of the Tribe, upon establishing, to the satisfaction of the Vice-Chairman, that such person is a proper person to engage in a trade, business, profession or vocation, under the provisions of this Business License Ordinance, Chapter 53, and the rules and regulations prescribed by the Vice-Chairman to carry into effect and execute such laws.

In the event that any application for license is filed by any person whose license has at any time been revoked, or if it is determined that such application is filed by some person as a subterfuge for the real person in interest whose license has been revoked, the Vice-Chairman may refuse such person a license.

The Vice-Chairman may refuse to issue any license pursuant to this Chapter, if the Vice-Chairman has reasonable cause to believe that an applicant to be licensed under this Chapter has been convicted of any criminal offense in any jurisdiction.

53-03-02

Enforcement and Administration Responsibility

The Tax Office of the Sisseton-Wahpeton Oyate, which shall report directly to the Vice-Chairman, is hereby charged with the day-to-day administration of the provisions of this Chapter. The Tax Office shall perform the following administrative services when appropriate: collect and record fees; maintain records and files; issue and receive application forms; notify applicants of acceptance or rejection as determined by the Vice-Chairman; issue licenses as authorized by the Vice-Chairman; issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or failure to receive the original and payment by the licensee of the established fee; notify licensees of renewal dates at least thirty (30) days before the expiration date of their licenses; compile and maintain a current register of licensees; answer routine inquiries; maintain files relating to individual licensees; and provide inspection, enforcement, and investigative services to the Vice-Chairman, regarding all licenses issued pursuant to this Chapter.

TITLE IV - BUSINESS LICENSE REQUIRED

53-04-01

Persons Required to Apply for Business License

Every person subject to the jurisdiction of the Tribe, unless exempted by Section 53-04-07, shall make application for a Tribal business license and shall present the application to the Tax Office. Upon official endorsement of the Vice-Chairman, an appropriate license shall be issued by the Tax Office.

Every contractor, before commencing under any contract to be performed within the jurisdiction of the Tribe, must obtain a business license, pursuant to the provisions of this Chapter.

No person is permitted to engage in, or conduct business of distributing cigarettes to Tribal owned tobacco outlets within the jurisdiction of the Tribe, without having first obtained the appropriate license for that purpose, pursuant to the provisions of this Chapter.

Every motor fuel distributor, before continuing in or commencing to transact business of a motor fuel distributor, must procure a license, pursuant to the provisions of this Chapter.

Every motor fuel retail dealer, before engaging in the retail sale of motor fuels, must apply for a license, pursuant to the provisions of this Chapter, for each establishment operated by such dealer.

53-04-02 Restrictions

No licensee shall use the place for business specified in the license, or permit to be used any part of such premises, for any unlawful conduct or purpose whatsoever.

No business within the jurisdiction of the Tribe may occur at any other place than specified in the business license.

No work shall commence under any contract with the Tribe, any political subdivision of the Tribe, or any Tribal program or agency, unless a contractor has secured a business license, pursuant to the provisions of this Chapter, and has shown valid proof of such license to the manager or director responsible for such contract.

No licensee shall deal in objects of antiquity removed from any historical site, ruin, or monument located on any lands controlled by the Tribe.

53-04-03 Reference to Other Laws

Any person properly licensed and operating a business within the jurisdiction of the Tribe shall comply with all applicable tribal, federal, and state laws. As required by Chapter 20 of the Tribe's Codes of Laws, each license issued by the Tax Office, pursuant to this Chapter 53, shall contain a statement that, as a condition for such license, the licensee has formally acquiesced to the civil and/or criminal jurisdiction of the Tribe.

No licensee shall use or permit any part of the place of business specified in the license to be used for the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages, in violation of the Liquor Control Law, Chapter 35.

Only Tribal owned tobacco outlets are permitted to sell cigarettes and other tobacco products at retail to consumers within the jurisdiction of the Tribe, as prescribed by the Tax Code, Chapter 67.

As required by the Gaming License Ordinance, Chapter 58, every person who sells, leases, markets or otherwise distributes gambling devices, equipment, games, implements, services (other than professional legal or accounting), products, or supplies to the Tribe's gaming operations, shall apply to the Tribal Gaming Commission for a Non-Management Gaming Contractor License, under the terms and conditions prescribed by Chapter 58.

53-04-04 Tax Collection Required

Every person subject to the jurisdiction of the Tribe shall collect, report and remit all applicable Tribal taxes imposed by the Sisseton-Wahpeton Oyate Tax Code, Chapter 67.

53-04-05 Engaging in Business Without a License

The Vice-Chairman may issue an order for a violation of this Chapter, if there is probable cause to believe a person has practiced a profession or engaged in business within the jurisdiction of the Tribe, for which a license is required by this Chapter, without holding such license. The Vice-Chairman may issue an order requiring such person to cease and desist from continuing to engage in business activities without a license required by this Chapter. Any order issued by the Vice-Chairman must be in writing.

Any person found to have engaged in business without the required Tribal business license may be assessed a civil penalty by the Vice-Chairman equal to the greater of \$1,000.00 or twenty percent (20%) of the gross income derived by such person from any unauthorized business activities conducted within the jurisdiction of the Tribe.

The Vice-Chairman may, in his/her discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed for engaging in business without obtaining the required Tribal business license.

The Vice-Chairman's assessment imposing a civil penalty and order to cease and desist shall be final and conclusive, unless the person against whom such assessment and order is issued files a petition for judicial review in the Tribal Court. The Tribal Court may enjoin, set aside, suspend (in whole or in part), or determine the validity of the Vice-Chairman's assessment and order to cease and desist. Such a petition may only be filed in Tribal Court within thirty (30) days of the date the assessment was issued by the Vice-Chairman.

If any person fails to pay a civil penalty under final order of the Vice-Chairman, the Vice-Chairman shall institute a civil action to recover the amount assessed in the Tribal Court. If the form of citation includes the essential facts constituting the offense charged and signed by the Vice-Chairman, then the citation when filed with the Tribal Court is considered to be a lawful complaint in an action of debt. In such collection action, the validity and appropriateness of the Vice-Chairman's order imposing the civil penalty shall not be subject to judicial review. The remedy of removal from the jurisdiction of the Tribe is also applicable when the authority of a person to do business within the said jurisdiction has been revoked by the Vice-Chairman.

53-04-06 Establishment of Fees

The fee charged for any license issued pursuant to this Chapter, the rate to be recommended by the Tax Commission and determined by the Tribal Council, shall approximately equal the actual regulatory cost for the business licensed. The Tribal Council and Tax Commission shall annually review fee rates to determine whether the fees collected by the Tax Office approximately equal the regulatory costs of the Tax Office for each type of business regulated under this Chapter.

53-04-07

Exemptions

No license requirement or charge shall be imposed with respect to any organization engaged in raising funds for charitable, scientific, educational, or religious purposes; nor shall any fee be charged to any school, athletic or education organization, that may charge fees for football, baseball, basketball games, and social dances, provided, that receipts from such activities do not accrue to the personal benefit of any individual, corporation or group, other than to fund charitable, scientific, educational, or religious activities.

No license requirement or charge shall be imposed with respect to any person making casual or isolated sales who is not engaged in the on-going business of selling the type of property involved within the jurisdiction of the Tribe, providing such sales activity generates no more than \$500 during any calendar year.

53-04-08

Payment of License Fees

Every person required to apply for and maintain a business license pursuant to this Chapter shall pay the Tax Office an annual business license fee at the rate specified in Section 53-04-09, due annually from the date of issue.

Every person selling tangible personal property or rendering services as a vendor at a single location or event (odeo, fair, trade show, etc.), shall pay a license fee of \$20 per event. Each vendor must be separately licensed. The license fee shall be collected by the event coordinator at the time of registration for the event and remitted to the Tax Office.

53-04-09

Schedule of Fees

The annual license rate for Tribal Members shall be \$50.00.

The annual license rate for Non-Members shall be \$100.00.

The fee charged for any license issued after July 1st shall be reduced by half. The Sisseton-Wahpeton Oyate wants to encourage Tribal members to enter business activities, which is part of the Tribal policy of self-determination. Therefore, the Tribe is allowing a reduced business license fee assessment for Tribal members. Tribal members must verify their membership during the application process.

53-04-10

Refund of License Fee

No refund of any license fee paid pursuant to this Chapter may be made to any person upon the surrender or revocation of any license, except a license fee paid or collected in error. If it shall appear, subsequent to the receipt by the Vice-Chairman of any license fee or penalty imposed, that a fee was not due under the provisions of this Chapter, whether as a mistake of fact or law, then such amount shall be credited against any license fees due, or to become due, under this Chapter to the person who made the overpayment, or such amount shall be refunded to such person by the Vice-Chairman, provided that a written request for refund is made to the Tax Office within one (1) year of the collection.

53-04-11

Disposition of Funds

License fees payable under this Chapter shall be remitted by the Tax Office to the Vice-Chairman with a schedule setting forth the name and residence of each applicant and the type of license issued. The licensing fees received by the Vice-Chairman shall be credited to the tax revenue account of the Tribe to be used in the provision of Tribal governmental services, as determined by the Sisseton-Wahpeton Oyate Tribal Council.

TITLE V - BONDING REQUIRED CERTAIN BUSINESSES

53-05-01

Bonding

The Vice-Chairman may require that a licensee, whose record of financial responsibility as a taxpayer shows any delinquency in the payment of taxes or inability to maintain accurate financial records, file a bond with the Vice-Chairman to secure the payment of taxes, penalties and interest imposed by and payable under the provisions of the Tax Code, Chapter 67, subject to the following:

- A. The total amount of the bond shall be fixed by the Vice-Chairman, and may be increased or reduced by the Vice-Chairman at any time thereafter; provided, that in fixing the total amount of a bond, the Vice-Chairman shall not require a bond greater than (3) times the tax on the greatest amount of taxable gross receipts handled during a monthly period, shown on any previous return, or assessment in the case of no return.
- B. The bond shall be duly executed by such a person as principal and by a corporation approved by the Vice-Chairman as surety payable to the Tribe, conditioned upon the faithful performance of all the requirements of this Chapter, and expressly providing for the payment of all taxes, penalties, and other obligations of such person arising under the Tax Code, Chapter 67.

53-05-02

Bonding As a Condition of License

Before granting a license authorizing any person to engage in business as a motor fuel distributor, motor fuel retail dealer, or cigarette distributor, such person shall file a bond, duly executed by such a person as a principal, and by a corporation approved by the Vice-Chairman as surety, payable to the Tribe, conditioned upon the faithful performance of all the requirements of this Chapter, and expressly providing for the payment of all taxes, penalties, and other obligations of such person arising under the Tax Code, Chapter 67.

53-05-03

Bond Duration

Every bond filed with and approved by the Vice-Chairman shall, without the necessity of periodic renewal, remain in force and effect until such time as the license is revoked for cause or otherwise canceled, or has expired.

The recovery on any bond or execution of any new bond does not invalidate an existing bond, and the revocation of any license is not deemed to affect the validity of any bond.

53-05-04

Deposit in Lieu of Bond

In lieu of any bond required under this Chapter, a like amount of money, or bonds or other obligations of the United States, of an actual market value not less than the amount fixed by the Vice-Chairman, may be deposited with the Tribe under such terms and conditions as the Vice-Chairman may prescribe.

53-05-05

Release and Substitution of Surety

The surety on any bond shall be released and discharged from all liability to the Tribe accruing on such bond after the expiration of sixty (60) days from the date upon which such surety shall have lodged with the Vice-Chairman a written request to be released and discharged. However, this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued, or which shall accrue before the expiration of the sixty (60) day period. Upon receipt of any such request, the Vice-Chairman shall notify the principal who furnished the bond, and unless the principal shall on or before the expiration of the sixty (60) day period file a new bond, the Vice-Chairman shall cancel the principal's business license.

53-05-06

Motor Fuel Distributor License Required

Every motor fuel distributor, before continuing in or commencing to transact business as a distributor, shall procure a license from the Vice-Chairman permitting him/her to engage in business as a distributor within the jurisdiction of the Tribe.

Provided the Vice-Chairman approves an application for a motor fuel distributor license, such license shall be issued upon payment of the license fee required to be paid by Section 53-04-09 and the filing of a bond in the amount determined by the Vice-Chairman in accordance with Section 53-05-01.

53-05-06

Motor Fuel Distributor License Required Continued:

Bonding is not a condition for licenser of a Tribal member as a motor fuel distributor; however, the Vice-Chairman may require the filing of a bond upon a showing of delinquency in the payment of any Tribal taxes.

All motor fuel distributors shall maintain complete records of each purchase, delivery, or supply of motor fuel for a period of not less than three years at the physical location stated on the license, and shall not move the records to another location without notifying the Vice-Chairman of the new location. A complete record for each delivery shall consist of not less than a copy, or the information contained therein, of the bills of lading from the refinery or bulk terminal from which the fuel is received, the delivery ticket or receipt showing the location of the fuel at the time of sale, and the invoice showing the purchaser of the fuel.

Any motor fuel distributor who knowingly sells or supplies motor fuel to an unlicensed motor fuel retail dealer is guilty of a Class One (1) Misdemeanor and subject to incarceration up to one (1) year, or liable for a civil penalty in an amount not to exceed \$5,000.00.

Any motor fuel distributor who continues to sell motor fuel to an unlicensed motor fuel retail dealer, after both oral and written notice to cease has been communicated by the Vice-Chairman, is guilty of a Class One (1) misdemeanor and subject to incarceration up to one (1) year, or liable for a civil penalty in an amount not to exceed \$5,000.00.

53-05-07 Motor Fuel Retail Dealer License Required

Every motor fuel retail dealer, before engaging in the sale of motor fuel, shall apply to the Tax Office for a license for each establishment operated by such dealer.

Provided the Vice-Chairman approves an application for a motor fuel retail dealer license, such license shall be issued upon payment of the license fee required to be paid by Section 53-04-09 and the filing of a bond in the amount determined by the Vice-Chairman in accordance with Section 53-05-01.

Bonding is not a condition for licenser of a Tribal member as a motor fuel retail dealer; however, the Vice-Chairman may require the filing of a bond upon a showing of delinquency in the payment of any Tribal taxes, as authorized in 53-05-01.

Any motor fuel retail dealer who knowingly sells motor fuel, which was delivered to the retail dealer by or on behalf of an unlicensed motor fuel distributor, is guilty of a Class One (1) Misdemeanor and subject to incarceration up to one (1) year, or liable for a civil penalty in an amount not to exceed \$5,000.00.

Any motor fuel retail dealer who continues to sell motor to an unlicensed distributor, after both oral and written notice to cease has been communicated by the Vice-Chairman, is guilty of a Class One (1) Misdemeanor and subject to incarceration up to one (1) year, or liable for a civil penalty in an amount not to exceed \$5,000.00.

53-05-08 Cigarette Distributor License Required

No person is permitted to engage in, or conduct business of distributing cigarettes within jurisdiction of the Tribe without having first obtained the appropriate license for that purpose, pursuant to this Chapter.

Provided the Vice-Chairman approves an application for a cigarette distributor license, such license shall be issued upon payment of the license fee required to be paid by Section 53-04-09 and the filing of a bond in the amount determined by the Vice-Chairman in accordance with Section 53-05-01.

Bonding is not a condition for licenser of a Tribal member as a cigarette distributor; however, the Vice-Chairman may require the filing of a bond upon a showing of delinquency in the payment of any Tribal taxes, as authorized by 53-05-01.

Any cigarette distributor who knowingly sells or distributes cigarettes or tobacco products to any person within the jurisdiction of the Tribe, other than to a Tribal owned tobacco outlet or continues to make unauthorized sales after both oral and

written notice to cease has been communicated by the Vice-Chairman, is guilty of Class One (1) Misdemeanor and subject to incarceration up to one (1) year, or liable for a civil penalty in an amount not to exceed \$5,000.00.

53-05-09 Expiration and Renewal of License

Licenses will be renewed annually, if the Vice-Chairman determines that the licensee is fit to continue under such license, has complied with all Sisseton-Wahpeton Oyate Codes of Law, and has made payment of the license renewal fee. If the license is not renewed on or before the due date, the license shall lapse. In addition to renewal fees required for the reinstatement of the lapsed license, the Tax Office shall impose a delayed renewal penalty that shall be paid if a license has lapsed for more than sixty (60) days prior to renewal, in the amount of \$25.00.

TITLE VI - VICE-CHAIRMAN'S ISSUANCE OF LICENSES; VIOLATIONS

53-06-01 Assignment or Transfer of License

Any license so issued by the Tax Office is not assignable, except under the following circumstances, and is valid only for the person in whose name the license is issued:

- A. In the case of death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall devolve upon another by operation of law, the Vice-Chairman may in his/her discretion extend and transfer the license for the remainder of the calendar year, to the executor, administrator, trustee, receiver, or person upon whom the license has devolved;
- B. Any executor, administrator, trustee, receiver or other person upon whom the licensed business shall devolve, shall, upon application to the Vice-Chairman, be entitled to an assignment or transfer of such license for the remainder of the year, upon payment of a transfer fee of \$10.00.

53-06-02 Disciplinary Powers of the Vice-Chairman

The Vice-Chairman may take the following disciplinary actions, singly or in combination, provided that the Vice-Chairman seeks consistency in the application of disciplinary sanctions:

- A. Permanently revoke a license;
- B. Suspend a license for a specified period;
- C. Censure or reprimand a license;
- D. Impose limitations or conditions on the business practice of a licensee; and

E. Summarily suspend a licensee from the conduct of the business pending review of a civil action filed by the Vice-Chairman in the Tribal Court to enjoin in the introduction of goods or rendering of services, which the Vice-Chairman believes pose a clear and immediate danger to the health and safety of persons within the jurisdiction of the Tribe.

The Vice-Chairman may reinstate a suspended or revoked license if, after a hearing, the Vice-Chairman finds that the applicant is able to practice the business with skill and safety, and has satisfied all tax obligations imposed by the Tax Code, Chapter 67.

53-06-03 Abatement of Proceedings

No disciplinary proceeding or action by the Vice-Chairman is barred or abated by the expiration, transfer, surrender, renewal continuance, or extension of any license issued pursuant to the provisions of this Chapter.

53-06-04 Suspension or Revocation of License

The Vice-Chairman shall have the authority to issue an order directing a licensee to stop any act or practice in violation of this Chapter.

Provided that the licensee is given notice of suspension or revocation and an opportunity to respond, the Vice-Chairman may suspend or revoke any license issued to any person under this Chapter who:

- A. Charges excessive rates or otherwise indulges in practices detrimental to the economic welfare of the Tribe, Tribal members, or any other person within the jurisdiction of the Tribe;
- B. Violates any applicable Tribal federal or state laws;
- C. Does not have a right to the use of the land on which the business is conducted;
- D. Ceases to act in the capacity for which the license was issued; or
- E. Has been convicted of a crime in any jurisdiction or made any misrepresentation on the license application; or

53-06-05 Notice of Suspension or Revocation of License

The Vice-Chairman, before suspending or revoking a license pursuant to this Chapter, shall give ten (10) days written notice to the licensee personally, or by mail addressed to his/her last known address. The notice shall recite in detail the reasons and basis for the suspension or revocation, and specify the date, time, and place for a hearing before the Vice-Chairman.

53-06-06 Hearing of Suspension or Revocation of license

The Vice-Chairman shall afford any person who has received notice of hearing to suspend or revoke any license, the right to be heard in person or by attorney and to offer evidence pertinent to the subject of the hearing.

After all parties have been given the opportunity of presenting all the evidence in support of the issues, the Vice-Chairman shall take the matter under advisement and reach a determination on the record and facts disclosed. Upon reaching a determination, the Vice-Chairman shall notify the licensee or other party in interest or his/her representative by mail of the determination made.

No person whose license has been suspended or revoked is permitted to engage in business within the jurisdiction of the Tribe in any manner or form during the period of such suspension or revocation.

3-06-07 Appeal of Order of Suspension or Revocation of License

Any person aggrieved by the final decision of the Vice-Chairman suspending or revoking the license of such person may appeal within thirty (30) days of the date of the decision to the Tribal Court through petition to the Tribal Court.

53-06-08 Civil Action

The Vice-Chairman is hereby authorized to bring any necessary civil action in Tribal Court to enjoin the acts or practices of any person in violation of this Chapter, including the introduction of any goods or rendering of services, which pose a clear and immediate danger to the health and safety of persons within the jurisdiction of the Tribe.

Whenever the authority of a person to do business within the jurisdiction has been revoked by the Vice-Chairman, the remedies of removal from the jurisdiction of the Tribe and forfeiture of goods are also available.

53-06-09 Violations; Civil Penalties

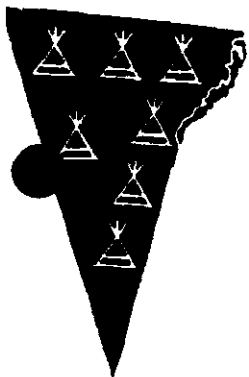
The Vice-Chairman may assess a civil penalty against any license if there is probable cause to believe the licensee is violating or has violated any provision of 53-06-04 which are grounds for suspension or revocation of licenser. Each violation shall be a separate offense. The Vice-Chairman may assess a civil penalty of not more than \$5,000.00 for each such violation of any provision of this section, unless otherwise provided.

The Vice-Chairman shall give due consideration to the appropriateness of the civil penalty with respect to the size of the business of the licensee involved, the gravity of the violation, the licensee's good faith, and the history of previous violations.

The Vice-Chairman may, in his/her discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed for a violation of any provision of this Chapter.

The Vice-Chairman's assessment imposing a civil penalty shall be final and conclusive, unless the person against whom such assessment issued files a petition for judicial review in the Tribal Court. The Tribal Court may enjoin, set aside, suspend (in whole or in part), or determine the validity of the Vice-Chairman's assessment. Such a petition may only be filed in Tribal Court within thirty (30) days of the date the assessment was issued by the Vice-Chairman.

If any person fails to pay a civil penalty under final order of the Vice-Chairman, the Vice-Chairman may institute a civil action to recover the amount assessed in the Tribal Court. If the form of citation includes the essential facts constituting the offense charged and signed by the Vice-Chairman, then the citation when filed with the Tribal Court is considered to be a lawful complaint in an action of debt. In such collection action the validity and appropriateness of the Vice-Chairman's order imposing the civil penalty shall not be subject to judicial review.



Sisseton - Wahpeton Sioux Tribe

LAKE TRAVERSE RESERVATION

OLD AGENCY BOX 509 • AGENCY VILLAGE, SOUTH DAKOTA 57262-0509
PHONE: (605) 698-3911

TRIBAL COUNCIL RESOLUTION NO. SWO-04-134

SWO Business License Ordinance Amendments of 2004

WHEREAS, The Sisseton-Wahpeton Oyate of the Lake Traverse Reservation is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966 and approved by the Commissioner of Indian Affairs on August 25, 1966; and,

WHEREAS, The said Constitution and By-laws mandates at ARTICLE II, Section 1, that the Tribal Council shall have the power: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (f) to deposit Tribal funds to the credit of the Tribe; (g) to take actions by ordinance, resolution or otherwise which are reasonably necessary to carry into effect the foregoing purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Tribe; and, (i) to adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and,

WHEREAS, The Tribe has an interest in maintaining the sovereignty of the Lake Traverse Reservation through implementation of its own laws governing the licensing of businesses which operate within the boundaries of the Lake Traverse Reservation; and,

WHEREAS, In 1986, the Tribal Council enacted the Sisseton-Wahpeton Sioux Tribe Business License Ordinance as Chapter 53 of the Sisseton-Wahpeton Tribal Codes of Law, which has been amended from time to time; and,

WHEREAS, The Tribal Council has been advised by the Sisseton-Wahpeton Oyate Tax Commission that it is necessary to amend and revise the Sisseton-Wahpeton Oyate Business License Ordinance and has determined to do the same; and,

WHEREAS, The Sisseton-Wahpeton Oyate Tax Commission, established by the Tribe through adoption of Chapter 67 Tax Code, made recommendations pertaining to amendments and other revisions to the Tribal Council in consultation with the Sisseton-Wahpeton Oyate Legal Counsel; and,

WHEREAS, The Sisseton-Wahpeton Oyate Tax Commission previously submitted the proposed amendments to seven districts for review and comment pursuant to the Legislative Policy; and,

WHEREAS, The Sisseton-Wahpeton Oyate Tax Commission recommends the attached Chapter 53, with the proposed amendments be adopted by the Tribal Council.

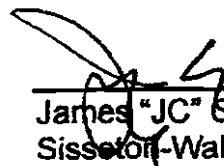
NOW THEREFORE BE IT RESOLVED, That the Tribal Council of the Sisseton-Wahpeton Oyate hereby authorizes, adopts and enacts the attached amendments to the Sisseton-Wahpeton Business License Ordinance; and,

FINALLY BE IT RESOLVED, The amendments to the Business License Ordinance shall become in full force and effect on January 1, 2005.

CERTIFICATION

We, the undersigned duly elected Chairman and Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 9 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, December 13, 2004 by a vote of 10 for, 0 opposed, 0 abstained, 2 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 14th day of December, 2004.


James "JC" Crawford, Tribal Chairman
Sisseton-Wahpeton Oyate

ATTEST:


Michael Peters, Tribal Secretary
Sisseton-Wahpeton Oyate

cc: TERO
Tribal Code - Subdual
Tax Office

DMC
DSC
DCC
CED
CFD

SWGC
LISA LOGAN
T. COURT

