

1 OSAGE NATION CONGRESS

2 2d Session of the 1st Congress

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4
5 BILL NUMBER ONCA 07-40

6 ENROLLED

7
8 April 15, 2007

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10
11 SPONSOR: Congressman Anthony Shackelford

12
13 **An Act**

14 Governing the imposition of business licenses by the Osage Nation on the Osage Indian Reservation.

15
16 *Be it enacted by the Congress of the Osage Nation:*

17
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56 **SECTION 1. SHORT TITLE, AUTHORITY, AND PURPOSE**

57
58 **1.1 Title and Repealer.**

59
60 This Act shall be known as the Osage Nation Business License Code. Any prior business
61 license codes imposed by the Osage Nation are repealed.

62
63 **1.2 Authority.**

64
65 This Act is enacted by the Osage Legislature pursuant to Article VI, Section 12 of the
66 Constitution of the Nation.

67
68 **1.3 Policies.**

69
70 a. The Osage Nation has existed as an independent, sovereign nation since
71 time immemorial. Today the Nation continues to govern the Osage Indian Reservation
72 limited only in its authority by its Constitution and the Constitution and laws of the
73 United States.

74
75 b. The Osage Legislature is the governing legislative body of the Osage
76 Nation in accordance with the authority of its Constitution. The Legislature is
77 responsible for economic development on the Reservation and seeks to ensure that
78 residents of the Reservation enjoy adequate employment, health care, education
79 opportunities, social services, and other governmental services.

80
81 c. It is the policy of the Nation to promote economic development on the
82 Reservation. To achieve that goal, the Nation is adopting a business license scheme to
83 identify and regulate all applicable persons and entities doing business on the
84 Reservation.

85
86 d. The Osage Nation has a primary interest in regulating the conduct of
87 business and trade on the Osage Indian Reservation. It is therefore appropriate that all
88 persons who exercise the privilege of engaging in business on the Osage Indian
89 Reservation register and obtain a business license from the Osage Nation through its Tax
90 Commission.

91
92 **SECTION 2. GENERAL PROVISIONS**

93
94 **2.1 Definitions.**

95
96 As used in this Nation Business License Code, the following definitions shall apply
97 except as otherwise provided. The following terms are defined as follows:

98
99 a. "Business" means any activity engaged in by any person, or caused to be
100 engaged in by any person, with the object of gain, benefit, or advantage, either direct or
101 indirect.

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b. "Business Licensee" or "Licensee" means any person or entity that is subject to the provisions of the "Osage" Nation Business License Code.

c. "Business License Department" or "License Department" means the Osage Nation Tax Commission established pursuant to enactment by the Osage Nation Revenue and Taxation Act of 2006.

d. "Code" means the Osage Nation Business License Code.

e. "Engaging in Business" or "Business Activity" means commencing, conducting, or continuing in business, and relates to a person who is involved in trade or commerce inclusive of service activities regardless of whether they are, or are intended to be, for profit. It shall also include the sale of real or personal property on the Osage Indian Reservation by a person generally engaged in such business whether within or outside the exterior boundaries of the Osage Indian Reservation which are under the jurisdiction of the Nation, and other such land without such boundaries as may hereafter be added thereto under any law of the United States of America, except as otherwise provided by law.

f. "Improvements" mean all structures, buildings, fences, and water rights erected upon or affixed to land, whether or not title to such land has been acquired.

g. "Indian" means an individual who is an enrolled member of a federally recognized Indian Tribe.

h. "Indian Tribe" means any Indian or Alaska Native tribe, band, village, community, or pueblo recognized by the United States Department of the Interior as eligible for services.

i. "Legislature" means the Osage Nation Congress, established pursuant to the Constitution of the Osage Nation.

j. "Nation" means the Osage Nation.

k. "Osage Nation Judiciary" means the trial and Supreme Courts of the Osage Nation.

l. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, political entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise who are or may become subject to this act, provided that the term does not include:

148 (1) The government of the Osage Nation and any governmental
149 entities of the “Osage” Nation, or the Federal or State Government and their
150 respective agencies; or
151

152 (2) Any of the above-listed forms of business entities that are wholly
153 owned and operated by the Osage Nation or the Federal or State Government.
154

155 m. “Personal property” means everything which is subject to ownership and
156 which is not included within the term of “real property”. “Personal property” includes
157 machinery, equipment, and other articles related to a commercial or industrial operation,
158 which are either affixed or not affixed to the real property for proper utilization of such
159 articles.
160

161 n. “Real Property” means all lands or interests in land including all mines
162 and quarries, and all rights and privileges thereunto appertaining; and permanent
163 improvements.
164

165 o. “Reservation” means the territory within the boundaries of the Osage
166 Indian Reservation, all lands outside and inside the exterior boundaries of the Reservation
167 which are under the jurisdiction of the Nation, and such other lands without such
168 boundaries as may hereafter be added thereto under any law of the United States of
169 America, except as otherwise provided by law.
170

171 p. “Tax Commission” means the Tax Commission of the Osage Nation
172 established pursuant to the Osage Nation Revenue and Taxation Act of 2006.
173

174 q. “Tribal Member” means an individual who is a member of the Osage
175 Nation.”
176

177 r. “Vendors” means – one that sells.

178 **2.2 Legislature to Set All License Fees**

179 All License Fees shall be set by Osage Nation Law.
180

181 **2.3 Sovereign Immunity**

182 The Osage Nation and all its constituent parts, subordinate organizations, boards, and
183 committees, including the Tax Commission, are immune from suit in any jurisdiction except to
184 the extent that such immunity has been expressly and unequivocally waived by the Nation or the
185 United States Congress. This Business License Code shall not be construed in any way as a
186 waiver of the Nation’s sovereign immunity, except as specifically stated herein.
187
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190 **2.4 Businesses Exempt from License Fees**

191
192 The following types of businesses shall be exempt from the license requirements as set by
193 this Code:

- 194
195 a. Businesses whose primary activity is to utilize federal trust land for
196 farming and/or agricultural purposes;
197
198 b. All non-profit, charitable institutions or organizations which engage in
199 business activity in order to raise funds for social, educational, religious or other purposes
200 that are for the benefit of the community;
201
202 c. All businesses or enterprises which are owned by the Osage Nation;
203
204 d. Vendors at I'n-Lon-Schka;
205
206 e. Smoke shop wholesalers and retailers who have a license pursuant to
207 Chapter 2 of the Osage Nation Revenue and Taxation Act of 2006; and
208
209 f. All other exemptions recognized by federal law and statutes.
210

211 **SECTION 3. BUSINESS LICENSE**

212
213 **3.1 Business License Required**

214
215 No person shall engage in or carry on any trade, commerce, profession, or business
216 activity of any sort on the Reservation until a business license is obtained, unless a person is
217 exempt under Section 2.
218

219 **3.2 Business License Term**

220
221 a. A Business License shall be good for the calendar year wherein it is
222 granted. All business licenses shall be renewed on or before January 1st of each year and
223 shall expire on December 31st of the same calendar year. The license fee required by
224 Section 3.3 shall accompany the application for a business license.
225

226 b. A Business License application form may be obtained during regular
227 business hours at the Business License Department of the Osage Nation, Pawhuska,
228 Oklahoma 74056. The license required to be obtained under this Code shall be in
229 addition to all other licenses, fees, permits, contracts, leases and grants required by Osage
230 Nation, State, and/or and Federal law, unless stated specifically otherwise.
231

232 **3.3 License Fee Schedule**

233
234 a. The fee schedule for Business Licenses is as follows:
235

236	(1)	Manufacturing & Processing	\$25.00
237	(2)	Mining	25.00
238	(3)	Service	25.00
239	(4)	Construction	25.00
240	(5)	Transportation	25.00
241	(6)	Communications	25.00
242	(7)	Utility	25.00
243	(8)	Real Estate Agencies	25.00
244	(9)	Peddler's License (per day)	10.00
245	(10)	Vendors	25.00
246	(11)	Any other type of business not listed above	25.00
247	(12)	Temporary (Quarterly or 3 months)	15.00

248
249 **SECTION 4. LICENSE APPLICATION**

250
251 **4.1 License Application Procedures**

252
253 a. Within ten (10) working days after receipt of a completed application,
254 other required documentation and fee the Business License Department may issue to the
255 applicant a license to engage in business activity for which the entity has been licensed.

256
257 b. Notwithstanding subsection 1 of this Section, no license shall be granted
258 to any licensee until it has presented proof to the Business License Department that it has
259 complied with all Nation requirements established as conditions of commencing business
260 on the Reservation, including, but not limited to, the following:

261
262 (1) The Osage Nation's Contract and Employment Preference Law, if
263 any;

264
265 (2) If and when the Nation adopts a Land Use Law, evidence that the
266 person is in compliance with that Law and has obtained such permits and
267 approvals required by the Law; and

268
269 (3) Evidence that the person has complied with the Nation's
270 Environmental Department requirements and the requirements of the Indian
271 Health Service and Bureau of Indian Affairs, if applicable.

272
273 c. Notwithstanding subsection 1 of this Section, where the Business License
274 Department has reason to believe that a person applying for or possessing a license
275 intends to commence or continue an activity that presents a danger to the health, safety,
276 welfare, or morals of the residents of the Reservation, the Business License Department
277 shall provide the said person with a written notice setting out the reasons it believes that
278 the person presents such danger and noticing the date for hearing on the matter; said
279 hearing to be held not later than ten (10) working days after delivery of the said notice.
280 At the said hearing, the person shall be given an opportunity to demonstrate that its
281 business activity does not present a danger to the health, safety, welfare, or morals of the

282 residents of the Reservation. The Business License Department shall establish necessary
283 procedures for said hearing to provide due process. If the Business License Department
284 finds that a danger does exist, it shall notify said person in writing, stating the reasons for
285 it's finding, and shall deny or revoke the person's Business License. The person may
286 appeal the Business License Department's decision to the Osage Nation Tax
287 Commission; if the person is not satisfied at that level, the person may appeal the
288 decision to the Osage Nation Judiciary and shall be entitled to a hearing on the matter.
289 The court's decision shall be final.
290

291 **4.2 Forms Required**

292
293 a. Prior to engaging in any business, all person(s) shall file with the Business
294 License Department the necessary completed forms as required by this Code, including
295 but not limited to a Business License Application and a routing list.
296

297 b. Prior to engaging in any business on the Reservation, all persons shall
298 have in their possession a Business License duly issued by the Osage Nation.
299

300 **4.3 Display of License**

301
302 All persons shall display the issued Business License in a conspicuous place at the
303 business location listed on the Business License or Certificate of Registration.
304

305 **SECTION 5. PENALTY AND ENFORCEMENT AND APPEAL**

306 **5.1 Transacting Business without a License**

307
308 a. Any person doing business on the Reservation who fails to obtain a
309 Business License or fails to renew a Business License as provided in this Code shall, in
310 addition to being required to immediately obtain such a Business License and pay for the
311 requested fee, be fined \$50.00 per day for each day it operates on the Reservation without
312 a license, unless good cause is shown to the Business License Department as to why such
313 a license had not been obtained in a timely manner.
314

315
316 b. If the Business License Department becomes aware that a person conducts
317 business on the Reservation without a license, it shall deliver written notice to and
318 informing the person that he/she operates on the Reservation in violation of this Code and
319 that he/she shall, within two (2) working days, obtain such a license and pay such fee and
320 fines as are indicated in the letter of notice. However, where the Business License
321 Department has reason to believe that the health, safety, welfare, or morals of the
322 residents of the Reservation are endangered by the continuation of such business activity,
323 the Business License Department may order such business to cease all business activity
324 until it has obtained a license. Such order may be appealed in accordance with the
325 procedure set forth in Section 4.1.c.
326

327 c. Upon notice from the Business License Department, pursuant to the
328 provisions of this Code, said person(s) shall immediately cease to conduct business on the
329 Reservation until a Business License has been obtained and all fees and penalties
330 applicable thereto have been paid. If the person fails to comply, the Business License
331 Department shall petition the Osage judiciary to hold an expedited hearing on the matter.
332 If the person fails to appear or fails to show good cause, the Osage Judiciary shall issue
333 appropriate relief, including, but not limited to, an injunction and/or order to cease
334 business.

335
336 d. Any entity doing business on the Reservation without a Business License
337 who fails to obtain a license within the time period required by the Business License
338 Department as provided in this Section, or any person whose license to do business has
339 been revoked by any court or agency of competent jurisdiction pursuant to any provision
340 of this Code, shall immediately cease to conduct business on the Reservation; provided,
341 that upon a showing of good cause, the Osage Judiciary may grant the entity a reasonable
342 period of time during which to conclude its business, if the business does not endanger
343 the health, safety, welfare, or morals of residents of the Reservation. Where notice to
344 cease business is issued by the Osage Judiciary, notice shall be hand delivered to the
345 business or forwarded by certified mail, return receipt requested.

346 **5.2 Exclusion**

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348
349 a. If any person doing business on the Reservation who has been directed by
350 the Osage Judiciary to cease doing business on the Reservation, either pursuant to this
351 Code or any other Nation Code, fails to comply, then the Business License Department
352 shall petition the Osage Judiciary for, or the Court on its own motion shall issue, a show
353 cause order as to why the said business shall not be excluded from the Reservation. The
354 Osage Judiciary shall hold a hearing upon the matter as soon as possible. If the person
355 fails to appear or fails to show good cause, the Osage Judiciary shall order the Nation
356 Police to take appropriate actions.

357
358 b. In conjunction with subsection (1) of this Section, where the person(s)
359 engaging in business are not members of the Osage Nation, the Osage Judiciary shall
360 order the police to physically remove all person(s) operating the business from the
361 Reservation along with any personal property that can be removed without causing
362 permanent damage to it. For property that cannot be removed, such as a building, the
363 Osage judiciary shall order, and the police shall implement, the incapacitation of said
364 property by padlocking or other means so that it can no longer be used to carry out the
365 business.

366 **5.3 Violation of Code**

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369 The Nation, through the Business License Department, may file a civil action to
370 enforce the provisions of this Code against any person(s) doing business in violation of this Code
371 and/or in violation of any court orders related to this Code for civil contempt or other relief, and
372 all real and personal property used in the conduct of the said business may be impounded,

373 padlocked, or otherwise incapacitated so that it cannot be used to carry out any further business
374 on the Reservation.

375 376 **5.4 Revocation of License**

377
378 A Business License issued under this Code may be revoked after notice and
379 hearing before the Osage Judiciary for any of the following reasons:

380 a. Fraud, misrepresentation, or incorrect statement contained in the
381 application for Business License or other documents submitted to obtain a Business
382 License;
383

384
385 b. Violations of this Code or any other Osage Nation statute or regulation;
386

387 c. Conducting business in an unlawful manner or in a manner which
388 endangers the health, safety, welfare, or morals of residents of the Reservation.
389

390 **5.5 Recovery of Property**

391
392 A person may recover all such property incapacitated or impounded under this
393 Code by paying to the Nation the costs incurred by the Nation in carrying out any legal
394 proceedings, and a civil fine not to exceed \$300.00 per day for each day that passes since the
395 person was ordered by the Osage Judiciary to obtain a Nation Business License or to otherwise
396 comply with this Code.
397

398 **5.6 Reinstatement of License**

399
400 Any person excluded, incapacitated or prohibited from doing business on the
401 Reservation may be granted a new Business License to engage in business activity on the
402 Reservation if:

403 a. No less than six months have passed since the date of the exclusion or
404 incapacitation order; and/or
405

406 b. The person has paid all costs incurred by the Nation in carrying out the
407 exclusion or incapacitation order, and has paid such civil fines as the Osage Judiciary
408 deems appropriate, but not to exceed \$50,000.00;
409

410 c. Notwithstanding subsection (a) of this Section, the Business License
411 Department may, for good cause, deny such licensee a new license, may attach such
412 conditions as it deems appropriate upon granting a license, or may waive or mitigate the
413 provisions of subsection (a) of this Section.
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416 SECTION 6. SEVERABILITY

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418 6.1 Severability

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424 6.2 Conflict with Other Applicable Law

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If any provision or section of this Code is held invalid, whether in general or in a particular case this shall not effect any other provision, and to this end the provisions of the Code shall be severable.

In the event of a conflict between the provisions of this Code and any other provisions of applicable law that by its terms is applicable to business licensing, this Code shall supercede and be controlling, unless specifically stated otherwise. This Code shall supercede and replace any prior Codes adopted by the Osage Nation that specifically address business licenses.

ENACTED by the Osage Nation Congress on this 16TH day of April, 2007.

IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has hereto attached his signature.



Archie Mason, Speaker
Osage Nation Congress

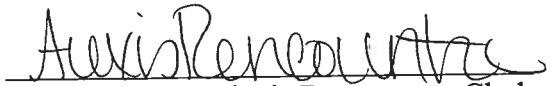
CERTIFICATION

I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve members and one ex-officio member with 12 members attending this meeting on the 16TH day of April, 2007, and that the above is in conformity with the provisions therein adopted by a vote of 12 in favor, 0 against, and 0 absent.

- Faren Revard Anderson yes
- Jerri Jean Branstetter yes
- Shannon Edwards yes
- Mark Freeman yes
- Debra Littleton yes
- Archie Mason yes
- Raymond Red Corn yes
- Eddy Red Eagle, Jr. yes
- Doug Revard yes
- Anthony Shackelford yes
- Mark Simms yes
- William Supernaw yes

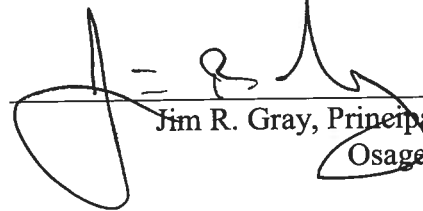
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Said Bill has not been rescinded or amended in any way and the above is the signature of the Speaker of the Osage Nation Congress.


Alexis Rencountre, Clerk
Osage Nation Congress

APPROVAL

I, the Principal Chief of the Osage Nation, hereby affix my signature this 23 day of April, 2007, to the above Bill No. ONCA 07-40 authorizing it to become a law under the Constitution of the Osage Nation.


Jim R. Gray, Principal Chief
Osage Nation