

KICKAPOO NATION TRIBAL CODE

TITLE 10 - CRIMINAL OFFENSES

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GENERAL PROVISIONS

§1. Short Title

This Title may be cited as the Tribal Criminal Code.

[History: PUBLIC LAW #KT 90-14, February 9, 1990]

§ 2. Application

(a) This Title shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Tribe, provided, that the provisions of Chapter Four of this Title shall apply to all members of the Tribe and all Indian residents of the jurisdiction of the Tribe wherever such violation may occur, if such violation has any actual or intended effect upon the political integrity or political or economic security of the Tribe.

(b) This Title shall apply to non-Indians to the extent not inconsistent with Federal law and to the extent that any person found to have violated any provision of this Title may be banished from the jurisdiction of the Tribe for a period of not more than ten (10) years, or for such longer terms as may be imposed by the Section violated, in a civil proceeding brought by the Attorney General. The non-Indian, in such cases, shall have all the procedural rights of a criminal defendant, and such cases shall be tried by the rules of criminal procedure.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER ONE: CRIMES AGAINST PROPERTY

§ 101. Arson in the First Degree

(a) It shall be unlawful to knowingly and willfully start a fire or cause an explosion with the purpose of:

- (1) Destroying or damaging any building, dwelling, occupied structure or other property of another exceeding One Thousand Dollars (\$1,000.00) in value; or
- (2) Destroying or damaging any property, by whoever owned, to collect insurance for such loss.

(b) Arson in the First degree shall be punishable by a fine not less than Two Hundred-fifty Dollars (\$250.00) nor more than Five hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term of not less than three (3) months nor more than six (6) months; or by banishment for a period of not less than five (5) years nor more than ten (10) years, or any combination of the above sentences.

(c) Should the commission of the offenses result in the death of or serious bodily injury to any person, a sentence of banishment may be imposed for any period not exceeding life in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 102. Arson in the Second Degree

(a) It shall be unlawful to knowingly or recklessly, carelessly, or negligently, without regard to the consequences start a fire or cause an explosion which:

- (1) Endangers human or safety of life, or
- (2) Damages or destroys the property of another.

(b) Arson in the second Degree shall be punishable by a fine of not less than Two Hundred-fifty Dollars (\$250.00) nor more than Five hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 103. Arson in the Third Degree

(a) It shall be unlawful after having started any fire, even though started safely for a lawful purpose, to fail to either:

- (1) Take reasonable measures to put out or control the fire, or
- (2) To give prompt alarm, if the fire is spreading in such manner that it may endanger the life or property of another.

(b) Arson in the Third Degree shall be punishable by a fine of not less than Two Hundred-fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§104. Criminal Mischief

(a) It shall be unlawful to willfully and knowingly:

- (1) Damage or destroy any property with the intent to defraud an insurer; or
- (2) Tamper with the property or another so as to recklessly endanger the safety of another, or recklessly cause any damage to any property or utility service; or
- (3) Damage, destroy, maim, or deface any domestic animal property of another;

or

- (4) Purposely or recklessly shoot or propel a missile or other object, upon or against a motor vehicle, airplane, boat, locomotive, or train.

(b) Criminal Mischief shall be punishable by a fine of not more than Three Hundred Dollars (\$300.00), or by imprisonment in more than three (3) months, or both

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 105-109. Reserved**§ 110. Burglary**

(a) It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, office, room apartment, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle, trailer or semitrailer, mobile home, or any similar enclosed structure of another without consent with the intent to steal or commit any offense punishable by imprisonment.

(b) Burglary shall be punishable by a fine of not less than Two Hundred-fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for not less than three (3) months nor more than six (6) months, or by banishment for a period of not less than five (5) years nor more than ten (10) years, or by any combination of the above sentences.

(c) Should the commission of the offense result in the death or serious bodily injury to any person, a sentence of banishment may be imposed for any period not exceeding life in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 111. Breaking and Entering

(a) It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, office, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle, trailer or semitrailer, mobile home, trunk, drawer, box coin operated machine, or similar structure, object, device of another without consent with the intent to:

- (1) Cause annoyance or injury to any person therein; or
- (2) Cause damage to any property therein: or
- (3) Commit any offense therein; or
- (4) Steal; or
- (5) Cause , or does actually cause, whether intentionally or recklessly, fear for the safety of another.

(b) Breaking and Entering shall be punishable by a fine of not less than Two Hundred-fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a period not exceeding three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 112. Criminal Trespass

(a) It shall be unlawful to enter onto, or remain upon the property of another if notice against entry or notice to leave the property has been given by:

- (1) Personal communication by the owner or someone having authority to act for the owner; or
- (2) Fencing other than barbed wire or similar field fences except hereafter provided, or other enclosure obviously designed to exclude intruders; or
- (3) Posting of signs prohibiting entry reasonably designed to come to the attention of intruders.

(b) Criminal Trespass shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding three (3) months, or both.

(c) It is a complete affirmative defense to the offense of criminal trespass that:

- (1) The property was open to the public upon entry and upon being ordered to leave the person did so without undue delay; or
- (2) Even though not open to the public, the person did not substantially interfere with the use of the property or damage any of the property, and upon being ordered to leave the person did so without undue delay.

(d) On rural lands fenced with barbed wire or other types of fencing normally meant to enclose or exclude domestic animals, signs prohibiting entry or use at least six inches by eight inches placed upon or in plain sight next to such fence not more than one hundred-fifty feet apart shall create a rebuttal presumption that reasonable notice against entry or entry for certain purposes had been given.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 113-119. Reserved

§ 120. Larceny

(a) It shall be unlawful to take or carry away any tangible or intangible personal property

by fraud or stealth with the intent to deprive the owners thereof.

(b) Larceny shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six months, or both.

(c) If the value of the property taken exceeds One Thousand dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 121. Extortion

(a) It shall be unlawful to take, receive, or control the use or disposition of property of another with the intent to deprive him of the possession or use thereof by threatening to:

- (1) Cause bodily harm to any person; or
- (2) Commit any offense; or
- (3) Unlawfully injure or destroy any property; or
- (4) Expose any personal information or secret not public knowledge tending to expose any person to hatred, contempt, or ridicule, or to impair his business or reputation, except by institution of legal proceedings to recover the debt demanded or proper reports to bona fide credit agencies; or
- (5) Unlawfully take or withhold official action.

(b) Extortion shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or both.

(c) If the value of the property extorted exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 122. False Pretenses

(a) It shall be unlawful to obtain, take, or receive any property of another by means of a trick or deception, or false or fraudulent representation, statement, or pretense with the intent to deprive the owner thereof.

(b) False pretenses shall be punishable by a fine not exceeding Five Hundred Dollars

(\$500.00), or by imprisonment in the Tribal jail or a term not exceeding six (6) months, or both.

(c) If the value of the property gained by False Pretense exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 123. *Embezzlement*

(a) It shall be unlawful to wrongfully or fraudulently appropriate for a person's own use or the use of another any property of another with which the person has been entrusted.

(b) Embezzlement shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or by both.

(c) If the value of the property embezzled exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 124. *Receiving Stolen Property*

(a) It shall be unlawful to possess, receive, buy, or conceal any person property that has been stolen or otherwise obtained from its true owner in violation of this Title with intent to deprive the true owner thereof.

(b) Receiving stolen Property shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or both.

(c) If the value of the property exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 125. Theft of Property Lost, Mislaid, or Delivered by Mistake

(a) It shall be unlawful to fail to take reasonable measures to restore property to a person entitled thereto, with the intent to deprive the owner thereof, when it is known or reasonably suspected that the property has been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient.

(b) Theft of Property Lost, Mislaid, or Delivered by Mistake shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or both.

(c) If the value of the property exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 126. Theft of Services

(a) It shall be unlawful to obtain services known to be available only for compensation by deception, threat, force of any other means with the intent to avoid due payment thereof.

(b) Theft of Services shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or both

(c) If the value of the service rendered exceeds One Thousand Dollars (\$1,000.00), a sentence of banishment for a period not exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 127-135. Reserved

§ 136. Forgery

(a) It shall be unlawful to alter any writing of another without his authority, or to make, complete, execute, authenticate, issue, or transfer any writing so that it purports to be the act of another who did not authorize that act, with the intent to defraud or injure anyone.

(b) "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

(c) Forgery shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal jail for a term not exceeding six (6) months, or by a sentence of banishment for a period of not less than one (1) year nor exceeding five (5) years, or any combination of the above punishments. Upon a second or subsequent conviction for forgery, a sentence of banishment for a period of not less than five (5) years nor exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 137. Criminal Simulation

(a) It shall be unlawful to make, alter or utter or attempt to circulate or sell as a genuine any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess, with intent to defraud anyone.

(b) Criminal Simulation shall be punishable by a fine not exceeding Five hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§138. Fraudulent Handling of Recordable Instruments

(a) It shall be unlawful to destroy, remove or conceal any will, deed, mortgage, security instrument, Tribal resolution, any Tribal record, for which the law provides public recording, or to knowingly record a false or forged instrument, with the intent to deceive or injure anyone, or to conceal wrong doing.

(b) Fraudulent Handling of Recordable Instruments shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding six (6) months, or by sentence of banishment for a period not less than one (1) year nor exceeding five (5) years, or any combination of the above punishments. Upon a second or subsequent conviction for Fraudulent Handling of Recordable instruments, a sentence of banishment for a period not less than five (5) years nor exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 139. Tampering with Records

(a) It shall be unlawful to falsify, destroy, remove, or conceal any writing or record, with the intent to deceive or injure anyone or to conceal any wrong doing.

(b) Tampering with Records shall be punishable with a fine not exceeding Five hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding six (6) months, or by both a fine and imprisonment, or by a sentence of banishment for a period not less than one (1) year nor exceeding five (5) years, or any combination of the above punishments. Upon a second or subsequent conviction for Tampering with Records, a sentence of banishment for a period not less than five (5) years nor exceeding ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 140. Bad Checks

(a) It shall be unlawful to issue or pass a check or similar sight order for the payment of money, for the purpose of obtaining any money, property, or other thing of value or paying for any services, rent, wages, or salary, knowing or believing that it will not be honored by the drawee.

(b) Bad Checks shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding six (6) months, or both. Restitution shall be required.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 141. Fraudulent Use of a Credit Card

(a) It shall be unlawful to use a credit card for the purpose of obtaining property or services with knowledge that:

- (1) The card was stolen; or
- (2) The card has been revoked or canceled; or
- (3) For any other reason his use of the credit card is unauthorized by either issuer or the person to whom the card has been issued.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 142-146. Reserved**§ 147. Deceptive Business Practices**

(a) It shall be unlawful to, in the course of business, to intentionally:

- (1) use or possess for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
- (2) Sell, offer, or expose for sale, or deliver less than the represented quality or quantity of any commodity or service; or
- (3) Take or attempt to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
- (4) Sell, offer, or expose for sale adulterated or mislabeled commodities:

(i) “Adulterated” means varying from the standard of composition or quality prescribed by law or commercial usage;

(ii) “Mislabeled” means varying from the standard of truth or disclosure in labeling prescribed by law or commercial usage; or

(5) Make a substantial false or misleading statement in any advertisement addressed to the public or a substantial segment thereof for the purpose of promoting the purchase or sale of property or services; or

(6) Make a false or misleading written statement for the purpose of promoting the sales of securities, or omit information required by law to be disclosed in written documents relating to securities.

(b) Deceptive Business Practice shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding three (3) months, or both.

(c) It is an affirmative defense to Deceptive Business Practice that the defendant’s conduct was not knowingly or recklessly deceptive.

(d) Upon a second or subsequent offense, banishment for a period of not more than ten (10) years may be imposed in addition to the punishment authorized above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 148. *Defrauding Creditors*

(a) It shall be unlawful to:

(1) Destroy, remove, conceal, encumber, transfer, or otherwise deal with property subject to a security interest with the intent to hinder enforcement of that interest; or,

(2) Deal with property with the intent to defeat or obstruct the operation of any law relating to administration of property for the benefit of creditors; or knowingly falsify any writing or record relating to the property; or knowingly misrepresent or refuse to disclose to a person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor could be legally required to furnish in relation to such administration.

(b) Defrauding Creditors shall be punishable by a fine of not exceeding Two Hundred-fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period not exceeding three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 149. *Securing Execution of Documents by Deception*

(a) It shall be unlawful to intentionally, and by deception, cause another to execute any instrument affecting or likely to affect the pecuniary interest of any person.

(b) Securing Execution of Documents by deception shall be punishable by a fine of not exceeding Two hundred-fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period not exceeding three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 150. *Criminal Usury*

(a) It shall be unlawful to intentionally provide financing or make loans at a rate of interest more than the following:

(1) If the amount to which the interest applies is less than One Hundred Dollars (\$100.00), or the period of the loan or financing is less than one (1) year, or both, the rate of interest shall not exceed a twenty-four percent (24%) per annum simple interest rate.

(2) If the amount to which the interest applies is greater than One Hundred Dollars (\$100.00), or the period of the loan or financing is greater than one (1) year, or both, the rate of interest shall not exceed an eighteen percent (18%) per annum simple interest rate.

(b) Criminal Usury shall be punishable by a fine not exceeding Two Hundred-fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period not exceeding three (3) months, or both. The victim is entitled to restitution for double the actual amount of interest which was actually paid and cancellation of all interest owing for the term of the financing.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 151. Unlawful Dealing with Property by a Fiduciary

(a) It shall be unlawful to knowingly deal with property that has been entrusted to one in a fiduciary capacity, or property of the Tribal government or of a financial institution, in a manner which is known to be a violation of his fiduciary duty, or which involves a substantial risk or loss to the owner or to a person for whose benefit the property entrusted.

(b) As used in this section, “Fiduciary” includes a trustee, guardian, executor, administrator, receiver or any person carrying on fiduciary functions on behalf of a corporation or other organization which is fiduciary.

(c) Unlawful Dealing with Property by a Fiduciary shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the Tribal Jail for a term not exceeding six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 152. Making a False Credit Report

(a) It shall be unlawful to knowingly make a materially false or misleading statement to obtain property or credit for oneself or another or to keep some other person from obtaining credit.

(b) Making a False Credit Report shall be punishable by a fine not exceeding Two Hundred -fifty Dollars (\$250.00), or by imprisonment in the Tribal jail for a period not exceeding three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER TWO: CRIMES AGAINST PERSONS

§ 201. Assault in the First Degree

(a) It shall be unlawful to wrongfully, purposely, knowingly, or recklessly under circumstances manifesting indifference to the value of human life, to:

- (1) Attempt to cause or cause serious bodily injury to another; or
- (2) To use a deadly weapon with the intent to cause serious bodily injury, or with the intent to put a person in fear of imminent serious bodily injury with the apparent ability to do so.

(b) Assault in the First Degree shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or banishment for a term of not less than one (1) year nor more than ten (10) years or any combination of the above punishments.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 202. Assault in the Second Degree

(a) It shall be unlawful to wrongfully, purposely, knowingly, or recklessly under circumstances manifesting indifference to the value of human life, to:

- (1) Attempt to cause or cause serious bodily injury to another; or
- (2) To use a deadly weapon with the intent to cause serious bodily injury, or with the intent to put a person in fear of imminent serious bodily injury with the apparent ability to do so.

(b) Assault in the First Degree shall be punishable by a fine not to exceed Five hundred Dollars (\$400.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or banishment for a term of not less than one (1) year nor more than ten (10) years or any combination of the above punishments.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 202. Assault in the Second Degree

(a) It shall be unlawful to wrongfully, purposely, knowingly, or recklessly:

- (1) Attempt to cause or cause bodily injury to another; or
- (2) Negligently cause bodily injury to another with a weapon; or
- (3) Attempt by a show of force or violence to put another in fear of imminent bodily injury with the apparent ability to do so; or
- (4) Recklessly endanger another by an act or omission to act which threatens to cause serious bodily injury to another, whether or not such harm actually occurs.

(b) Assault in the Second Degree shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 203. Mayhem

(a) It shall be unlawful to wrongfully, purposely, or knowingly deprive a human being of a member of his body or render it useless, or to cut out or disable the tongue, put out an eye or eyes, or slit the nose, ear or lip of another.

(b) Mayhem shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or banishment for a term of not less than one (1) year nor more than life, or any combination of the above punishments.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 204. Verbal or Written Assault

(a) It shall be unlawful to threaten verbally or in writing to commit any offense involving violence with apparent ability to do so:

- (1) With intent to terrorize another or place such other in fear of imminent serious bodily injury; or

(2) To cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience.

(b) Verbal or Written Assault shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 205-210. Reserved

§ 211. Homicide in the First Degree

(a) It shall be unlawful to:

(1) Purposely, knowingly, and wrongfully with the malice aforethought cause the death of another human being; or,

(2) Cause the death of another human being due to the commission or attempted commission of a felony or offense punishable by banishment.

(b) Homicide in the First Degree shall be punishable by a fine of Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months; or by banishment for a period not less than ten (10) years nor more than life; or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 212. Homicide in the Second Degree

(a) It shall be unlawful to:

(1) Recklessly or negligently with disregard of the possible consequence of one's conduct to cause the death of another human being; or

(2) Cause the death of another human being by operating a motor vehicle in a reckless, negligent, or careless manner, or while under the influence of an alcoholic beverage, intoxicating liquor, a controlled substance, or any drug, to a degree which renders the person incapable of safely driving a vehicle.

(i) a blood alcohol content in excess of 0.1% shall create a rebuttable presumption that the person was under the influence of an alcoholic beverage.

(ii) for purposes of this section, a motor vehicle is any self-propelled vehicle and includes, but is not limited to, any automobile, truck, van, motorcycle, train, engine, watercraft, aircraft, or snowmobile.

(b) Homicide in the Second Degree shall be punishable by a fine of Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months; or by banishment for a period not less than ten (10) years nor more than life; or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 213. *Causing a Suicide*

(a) It shall be unlawful to intentionally cause a suicide by force, duress, or deception.

(b) Causing a Suicide shall be punishable by a fine not exceed Five hundred Dollars (\$500.00), or by term of imprisonment in the Tribal jail not to exceed six (6) months, or banishment for a period of not less than one (1) year nor more than twenty (20) years; or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 214. *Aiding or Soliciting a Suicide*

(a) It shall be unlawful to intentionally aid or solicit another to attempt or commit suicide.

(b) Punishment:

(1) Aiding or Soliciting a Suicide shall be punishable by a fine not to Five Hundred Dollars (\$500.00), or by a term of imprisonment in Tribal jail not to exceed six (6) months, or both, if the defendant's conduct has actually caused or contributed substantially to a suicide, or attempted suicide.

(2) Otherwise, Aiding or Soliciting a Suicide is punishable by a fine not to exceed Two hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 215-220. Reserved

§ 221. Kidnapping

(a) It shall be unlawful to intentionally and wrongfully remove another from his place of residence, business, or from the vicinity where he is found, or to unlawfully confine or conceal another for a substantial period, for any of the following purposes:

- (1) To hold for ransom or reward, or as a shield or hostage; or
- (2) To facilitate commission of any offense or flight thereafter; or
- (3) To inflict bodily injury on or to terrorize the victim or another; or
- (4) To interfere with the performance of any Tribal governmental or political function.

(b) A removal, restraint, or confinement is wrongful within the meaning of this Code if it is accomplished by force, threat, or deception, or, in the case of a person under the age of fourteen (14) or incompetent, if it is accomplished without the consent of a parent, guardian, or other person responsible for general supervision of his welfare.

(c) Kidnapping shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in Tribal jail not to exceed six (6) months, or by a banishment for a period not less than five (5) years nor more than life in the case of a second or subsequent conviction for kidnapping or if death resulted, or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 222. False Imprisonment

(a) It shall be unlawful to knowingly and wrongfully restrain or imprison another so as to interfere with his liberty.

(b) False Imprisonment shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both, unless the detention occurs under circumstances which expose the victim to a risk of

serious bodily injury, in which case the offense shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 223. Custodial Interference

(a) It shall be unlawful to wrongfully:

(1) Take, entice, conceal, or detain a child under the age of sixteen (16) from his parent, guardian, or other lawful custodian, knowing he has no legal right to do so, and

(i) with the intent to hold the child for a period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction; or

(ii) with the intent to deprive another person of their lawful visitation or custody rights; or,

(2) Intentionally take, entice or detain an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, without good cause and with knowledge that there is no legal right to do so.

(b) Custodial Interference shall be punishable by a fine not to exceed Three Hundred Dollars (\$300.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 224. Criminal Coercion

(a) It shall be unlawful to intentionally and wrongfully restrict another's freedom of action to his detriment, by threatening to:

(1) Commit any criminal offense; or

(2) Accuse anyone wrongfully of a criminal offense; or

(3) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business reputation; or

(4) Unlawfully take or withhold action as an official, or cause an official to take or withhold action.

(b) It is an affirmative defense to prosecution based on this section except for subsection (1) above, that the actor believed the accusation or secret to be true or the proposed official action justified and that his purpose was limited to compelling the other in a lawful manner to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure, or proposed official action; for example, as by refraining from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.

(c) Criminal Coercion shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 225-230. Reserved

§ 231. Rape in the First Degree

(a) It shall be unlawful to intentionally and wrongfully:

(1) Compel another to submit to sexual intercourse by force or by threat of imminent death, serious bodily injury, extreme pain, or kidnapping to be inflicted on that person or anyone else; or

(2) Engage in sexual intercourse with a person under the age of fourteen (14), regardless of consent.

(b) Rape in the First degree shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term in the Tribal jail not to exceed six (6) months, or by banishment for a period not less than five (5) years nor more than life, or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 232. Rape in the second Degree

(a) It shall be unlawful to intentionally and wrongfully:

(1) Compel another to submit to sexual intercourse by any threat that would prevent resistance by a person of ordinary resolution; or

(2) Engage in sexual intercourse with another whose power to appraise or control their conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without their knowledge, and for the purpose of preventing resistance; or,

(3) Engage in sexual intercourse with a person with the knowledge that the person suffers from a mental disease or defect which renders that person incapable of appraising the nature of their conduct; or,

(4) Engage in sexual intercourse with a person who is unconscious or with a person who is unaware, or with a person who submits because they falsely suppose that the person is their spouse; or,

(5) Engage in sexual intercourse with a person under the age of sixteen (16) but over the age of fourteen (14), regardless of consent, the perpetrator being at least four (4) years older than the victim.

(b) Rape in the Second Degree shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for a period not less than one (1) year nor more than five (5) years, or any combination of the above.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 233. Deviate Sexual Intercourse

(a) It shall be unlawful to engage in deviate sexual intercourse, defined as sexual intercourse per os or per anum between human beings who are not husband and wife, or any form of sexual intercourse with an animal, and it shall be unlawful to cause another to engage in deviate sexual intercourse if:

(1) That person is compelled to participate by any threat that would prevent resistance by a person of ordinary resolution; or

(2) That person is compelled to participate by force or threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone; or

(3) The other person's power to appraise or control his conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without his knowledge, and for the purpose of preventing resistance; or

(4) The offender has knowledge that the other person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct or the offender has knowledge that the other person is unconscious or submits because he is unaware that sexual act is being committed upon him; or

(b) Deviate Sexual Intercourse shall punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 234. Sexual Assault

(a) It shall be unlawful to intentionally, wrongfully, and without consent subject another, not his/her spouse, to any sexual contact:

(1) With knowledge that the conduct is offensive to the other person; or

(2) With knowledge that the other person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct; or

(3) With knowledge that the other person is unaware that a sexual act is being committed; or

(4) After having substantially impaired the other person's power to appraise or control his conduct by administering or employing without the other's knowledge drugs, intoxicants, or other means for the purpose of preventing resistance; or

(5) If that person is less than fourteen (14) years old regardless of consent; or

(6) If that person is less than sixteen (16) years old and the actor is at least four (4) years older than the person regardless of consent; or

(7) If that person is less than twenty-one (21) years old and the actor is his parent, guardian, or otherwise responsible for general supervision of his welfare

regardless of consent; or

(8) If that person is in lawful custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him regardless of consent.

(b) Sexual contact is any touching of the sexual or other intimate parts of the person of another or otherwise taking liberties with another for the purpose of arousing or gratifying sexual desire of either party.

(c) Sexual Assault shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 235-240. *Reserved*

§ 241. *Robbery*

(a) It shall be unlawful to take anything of value from the person of another or from the immediate control of another by use of force or violence, with the intent to permanently deprive the owner thereof.

(b) Robbery shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), by a term of imprisonment in the Tribal jail not to exceed six (6) months, or, when any person is seriously injured as a result of a violation of this section, banishment for a period not less than one (1) year nor more than five (5) years may be imposed.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER THREE: INCHOATE CRIMES

§ 301. Attempt

(a) It shall be unlawful to engage in conduct within the Tribal jurisdiction constituting a substantial step toward commission of any offense under Tribal, Federal, or State laws applicable to the jurisdiction in which any part of the offense was to be completed with the kind of culpability otherwise required for the commission of the offense.

(b) Anywhere constituting a substantial step toward the commission of any tribal or Federal offenses within the Tribal jurisdiction while acting with the kind of culpability otherwise required for the commission of the offense.

(c) Attempts shall be punishable by the same penalties as the completed crime.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 302. Criminal Conspiracy

(a) It shall be unlawful to agree within the Tribal jurisdiction with one or more persons to engage in or cause the performance of conduct with the intent to commit any offense punishable by Tribal Federal, or state laws applicable to the jurisdiction in which the conduct is agreed to be performed, and any one person commits an overt act in pursuance of the conspiracy.

(b) Anywhere with one or more persons to engage or cause the performance of conduct with the intent to commit any Tribal or Federal offense within the Tribal jurisdiction and anyone person commits an overt act in pursuance of the conspiracy.

(c) Conspiracy to commit an offense carries the same possible punishment as the completed offense.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 303. Solicitation

(a) It shall be unlawful within the Tribal jurisdiction to entice, advise, incite, order, or otherwise encourage another to commit any offense, with the intent that such other person commit an offense punishable under the laws of the jurisdiction where the conduct was to be performed.

(b) In any place, entice, advise, order, or otherwise encourage another to commit any offense, with the intent that such other person commit an offense punishable by Tribal, Federal, or State laws within tribal jurisdiction.

(c) Solicitation shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term imprisonment in the Tribal jail not to exceed two (2) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER FOUR: CRIMES AGAINST PUBLIC JUSTICE

§ 401. Bribery

(a) It shall be unlawful to ask for, give, or accept any money, goods, right in action, property, thing of value or advantage, present or prospective, or any promise or undertaking, given with a wrongful or corrupt intent to influence unlawfully the person to whom it is given.

(b) Bribery shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishment. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 402. Improper Influence in Official Matters

(a) It shall be unlawful to:

(1) Threaten unlawful harm to any person with intent to influence another's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official, or voter; or,

(2) Threaten harm to any public servant or relative of a public servant with the intent to influence his decision, opinion, recommendation, vote or other exercise of discretion in a judicial, legislative, or administrative proceeding; or,

(3) Threaten harm to any public servant or official or relative of either with the intent to influence him to violate his duty; or,

(4) Privately address any public servant who has or will have an official discretion in a judicial or administrative proceeding and making thereby any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations other than those authorized by law.

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason.

(c) Improper influence in official matters shall be punishable by a fine not to exceed Five Hundred Dollars (4500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 403. *Retaliation for Past Official Action*

(a) It shall be unlawful to harm any person by an unlawful act in retaliation for anything lawfully done by another person in his capacity as a public servant.

(b) Retaliation for past official action shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 404. *Improper Gifts to Public Servants*

(a) It shall be unlawful to knowingly confer or offer or agree to confer benefit to a public servant with the intent to induce an exercise of their discretion in an unlawful manner, or to determined official impartiality.

(b) This section shall not apply to:

(1) Fees prescribed by law to be received by public servant, or any benefit for which the recipient gives lawful consideration or to which he is otherwise entitled; or,

(2) Gifts or other benefits conferred on account of kinship, traditional ceremonies, or other personal, professional or business relationship independent of the official status of the receiver; or,

(3) Trivial benefits incidental to person, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Improper gifts to public servants shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 405. Unofficial Misconduct

(a) It shall be unlawful to exercise or attempt to exercise any of the functions of a public office when one has not been elected or appointed to that office.

(b) Unofficial misconduct shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 406. Oppression in Office

(a) It shall be unlawful when acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, with knowledge that such conduct is illegal, to:

- (1) Subject another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or infringement of personal or property rights; or,
- (2) Deny or impede another in the exercise or enjoyment of any right, power, or immunity.

(b) Oppression in office shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 407. Misusing Public Money

(a) It shall be unlawful for a person charged with the receipt, safekeeping, transfer or disbursement of public monies to:

- (1) Without lawful authority appropriate the money or any portion of it to his own use or use of another; or
- (2) Loan the money or any portion thereof without lawful authority; or
- (3) Fail to keep the money in his possession until lawfully disbursed or paid out according to law; or
- (4) Deposit the money in an unauthorized bank or with a person not lawfully authorized to receive such; or
- (5) Knowingly keep any false account, or make a false entry or erasure in any account of or relating to the money; or
- (6) Fraudulently alter, falsify, conceal, destroy, or obliterate any such account; or
- (7) Knowingly refuse or omit to pay over on lawful demand by competent authority any public monies in his hands; or
- (8) Knowingly omit to transfer money when transfer is required by proper authority; or
- (9) Make a profit for himself or another when not lawfully entitled to such, or in an unlawful manner, out of public monies; or
- (10) Fail to pay over to the proper account or authority any fines, forfeitures, or fees received by him; or
- (11) otherwise handle public money in a manner not authorized by law for his own benefit; or the
- (12) Handle public money in a reckless manner as a result of which a risk of loss of such money is significant.

(b) "Public Money" includes all money, bonds, and evidences of indebtedness or their equivalent, belonging to, or received or held by the Tribe or any other government, or any

account or money held by the Tribe or government for any individual or group.

(c) Misusing public money shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 408. Perjury in the First Degree

(a) It shall be unlawful, in any official proceeding, to make a false statement under oath or equivalent affirmation, or swear or affirm the truth of a statement previously made, when the statement is material and he does not believe it to be true.

(b) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law to be decided by the Court.

(c) It is no defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation at any time when the actor presents it as being verified shall be deemed to have been duly sworn or affirmed.

(d) No person shall be guilty of an offense under this section if he retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(e) No person shall be convicted of an offense under this section where proof or falsity rests solely upon contradiction by testimony of a single person other than the defendant.

(f) Perjury in the first degree shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 409. Perjury in the Second Degree

(a) It shall be unlawful to:

(1) Make any written false statement which he does not believe to be true; or

(2) Purposely create a false impression in a written application for any benefit by omitting information necessary to prevent statements therein from being misleading; or

(3) Submit or invite reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity; or

(4) Submit or invite reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false;

with the purpose to mislead a public servant in performing his official function.

(b) A person is guilty of perjury in the second degree if he makes a false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

(c) It is no defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(d) No person shall be guilty of an offense under this section if he retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(e) No person shall be convicted of an offense under this section where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant.

(f) Perjury in the second degree shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 410. Tampering with Witnesses

(a) It shall be unlawful:

(1) While believing that an official proceeding or investigation is pending or about to be instituted, to attempt to induce or otherwise cause a person to:

(i) testify or inform falsely; or

(ii) withhold any testimony, information, document or thing, or evidence;
or

(iii) elude legal process summoning him to testify or supply evidence; or

(iv) absent himself from any proceeding or investigation to which he has been legally summoned; or

(2) To harm another by an unlawful act in retaliation for anything done by another in his capacity as a witness or informant; or

(3) To solicit, accept or agree to accept any benefit in consideration for doing any of the things specified in this section.

(b) Tampering with witnesses shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 411. Tampering with Evidence

(a) It shall be unlawful, while believing that an official proceeding or investigation is pending or about to be instituted, to:

(1) Alter, destroy, conceal or remove any record, document, or thing with the intent to impair its verity or availability in such proceeding or investigation; or

(2) Make, present, or use any record, document, or thing knowing it to be false with a purpose to mislead a public servant who is or may be engaged in such proceeding or investigation.

(c) Tampering with evidence shall be punishable by a fine not to exceed Five hundred

Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 412. Tampering with Public Records

(a) It shall be unlawful to:

- (1) Knowingly make a false entry in, or false alteration of, any record, document or thing belonging to or received or kept by, the Tribe or government for information or record, or required by law to be kept by others for information of the Tribe or government; or
- (2) Make, present or use any record, document, or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records referred to in subsection (1) above; or
- (3) Purposely and unlawfully destroy, conceal, remove or otherwise impair the truth or availability of any such record, document or thing.

(b) Tampering with Public records shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 413. Impersonating a Public Servant

(a) It shall be unlawful to falsely pretend to hold a position in the public service with the purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(b) Impersonating a public servant shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 414. Obstructing Governmental Function

(a) It shall be unlawful to:

(1) Use force, violence, intimidating, or engage in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function; or

(2) Purposely obstruct, impair, or prevent the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act, except that this section does not apply to flight by a person charged with crime, refusal to submit to arrest, failure to perform a duty other than an official duty, or any other means of avoiding compliance with law without affirmative interference with governmental functions.

(b) Obstructing governmental function shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 415-425. Reserved

§ 426. False Arrest

(a) It shall be unlawful for any public officer or person pretending to be a public officer to, under the pretense or color of any process or other legal authority, arrest or detain any person against his will, except where such person reasonably believes he is authorized by law to do so.

(b) False arrest shall be punishable by a fine not to exceed Five hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 427. Refusing to Aid an Officer

(a) It shall be unlawful to knowingly or recklessly refuse to aid a law enforcement officer or fire fighter in the performance of his official duties when called upon by the officer to do so.

(b) Refusing to aid an officer shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 428. *Obstructing Justice*

(a) It shall be unlawful, with the purpose to hinder the apprehension, prosecution, conviction or punishment of another for the commission of an offense, to:

- (1) Harbor or conceal the other; or
- (2) Provide or aid in providing a weapon, transportation, disguise or other means of avoiding apprehension or effecting escape; or
- (3) Conceal or destroy evidence of the offense, or tamper with a witness, informant, document or other source of information, regardless of its admissibility in evidence; or
- (4) Warn the other of impeding discovery or apprehension, except if such warning is given in an attempt to get the other person to comply with the law; or
- (5) Volunteer false information to a law enforcement officer for the purpose of preventing the apprehension of another; or
- (6) Obstruct by force, threat, bribery or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of another person.

(b) Obstructing justice shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both, unless the recipient of any of the above aid has been previously sentenced to banishment, in which case a conviction under this section may result in both parties being banished for a term equal to or half of the original sentence of banishment, plus a fine up to Five Hundred Dollars (\$500.00)

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 429. Providing Contraband

(a) It shall be unlawful to provide any person in official detention with alcoholic beverages, drugs, weapons, implements of escape, or any other thing or substance which the actor knows is improper or unlawful for the detainee to possess.

(b) Providing contraband shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 430. Resisting Lawful Arrest

(a) It shall be unlawful to create a substantial risk of bodily harm to anyone or employ means of resistance justifying or requiring force to overcome the resistance for the purpose of preventing a law enforcement officer from effecting an arrest or detention of himself or of any other person.

(b) Resisting arrest shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 431. Escape

(a) It shall be unlawful to:

- (1) Remove oneself from official detention or fail to return to official detention following temporary leave granted for a specific purpose or period; or
- (2) Knowingly procure, make, or possess anything which may facilitate escape while being held in official detention; or
- (3) Aid another person to escape official detention with anything which may facilitate such person's escape.

(b) "Official Detention" means arrest, detention in any facility for custody of persons under charge or convicted of a crime, or any other detention for law enforcement purposes, but official detention does not include supervision of probation or parole, or constraint incident to

release on bail.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 432. Bail Jumping

(a) It shall be unlawful to fail without just cause to appear in person, after having been released on bail or on his own recognizance by court order or other lawful authority upon condition that he subsequently appear on a charge of an offense.

(b) Bail jumping shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 433. Failure to Obey a Lawful Order of the Court

(a) it shall be unlawful to purposely or knowingly fail to obey an order, subpoena, warrant or command duly made, issued, or given by a Court of the Tribe or any officer thereof or otherwise issued according to law without just cause.

(b) This Section shall apply to a failure to appear as a party in a civil action where default or similar remedy is available to the other party.

(c) Failure to obey a lawful order of the Court shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 434. Unlawful Return of Banished Persons

(a) It shall be unlawful for any person under sentence of banishment during the term of such banishment, to:

(1) Physically return to the territorial jurisdiction of the Tribe except while actually traveling upon a public highway, or as allowed by law, or

(2) To apply for or attempt to claim any right, privilege or immunity by virtue of membership in the Tribe except as provided by law.

(b) Unlawful return of Banished persons shall be punishable by a fine of Five Hundred Dollars (\$500.00), and by imprisonment in the Tribal jail for a term not to exceed six (6) months, and by banishment for a term equal to the original term of banishment which was violated.

(c) In addition, any personal property of every kind and description which the banished person brought with him or used to return to the Tribal jurisdiction shall be contraband and forfeited to the Tribe, by civil forfeiture, provided, that if any of said property belongs to another, that person, if known, shall be served with civil process, as in forfeiture proceedings and may defend by showing that the banished person did not have permission to use or possess the property or to enter the Tribal jurisdiction with that property.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 435. Aiding Return of Banished Persons

(a) It shall be unlawful for any person to aid, abet, or assist a person under sentence of banishment to:

- (1) Physically return to the territorial jurisdiction of the tribe except while actually traveling upon a public highway, or as allowed by law; or
- (2) apply for or attempt to claim any right, privilege or immunity by virtue of membership in the Tribe, except as allowed by law.

(b) Aiding return of banished persons shall be punishable by a fine of Five hundred Dollars (\$500.00), and by imprisonment in the Tribal jail for a term not to exceed six (6) months, and by banishment for a period not in excess of one-half of the term for which the returned person was banished.

(c) In addition, any personal property of every kind and description which the banished person brought with him or used to return to the Tribal jurisdiction shall be contraband and forfeited to the Tribe, by civil forfeiture, provided, that if any of said property belongs to another, that person, if known, shall be served with civil process, as in forfeiture proceedings and may defend by showing that the banished person did not have permission to use or possess the property or to enter the tribal jurisdiction with that property.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 436-439. Reserved**§ 440. False Alarms**

(a) It shall be unlawful to knowingly:

- (1) Cause a false fire alarm or alarm of other emergency to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property; or
- (2) Give false information to any law enforcement officer with purpose to implicate another in an offense; or
- (3) Report to law enforcement authorities an offense or other incident within their concern knowing or believing that it did not occur; or
- (4) Pretend to furnish law enforcement authorities with information relating to an offense or incident when one knows he has no information relating to such an offense or incident; or
- (5) Give a false name or address to a law enforcement officer in the lawful discharge of his duties.

(b) False alarms shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 441. Doing Business Without a License

(a) It shall be unlawful to commence or carry on any business, trade, profession, or calling, the transaction or carrying on of which is required by law to be licensed, without having an appropriate license.

(b) Doing business without a license shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 442. Tampering with Public Property

(a) It shall be unlawful to:

(1) Steal, deface, mutilate, alter, falsify, or remove all or part of any record, map, book, document or thing, or any court documents or records, placed or filed in any public office, or with any public officer, or to permit another to do so; or

(2) Knowingly injure, deface or remove any signal, monument or other marker placed or erected as part of an official survey of the Tribe or Federal government without authority to do so; or

(3) Intentionally deface, obliterate, tear down, or destroy any copy or transcript or extract from any law or any proclamation, advertisement, or notice set up or displayed by any public officer or court, without authority to do so and before the expiration of the time for which the same was to remain set up.

(b) Tampering with public property shall be punishable by a fine not to exceed Two Hundred-fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 443. Injuring Public Property

(a) It shall be unlawful to:

(1) Intentionally break down, pull down or otherwise injure or destroy any jail or other place of confinement; or

(2) Intentionally and without authority dig up, remove, displace or otherwise injure or destroy any public roadway, highway or bridge or private road or other public building or structure; or

(3) Remove or injure any milepost, guidepost or road or highway sign or marker of any inscription on them while such is erected along a road or highway; or

(4) Knowingly and without authority to do so, remove, injure, deface, or destroy any public building or structure, or any personal property belonging to the Tribe, or any other government or government agency.

(b) Injuring public property shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 444-450. Reserved

§ 451. Compensation for Past Official Behavior

(a) It shall be unlawful to solicit, accept or agree to accept any financial benefit as compensation for having, as a public servant, given a decision, opinion, recommendation or vote favorable to another, or for having otherwise exercised a discretion in his favor, or for having violated his duty; or offer, confer or agree to confer compensation, acceptance of which is prohibited by this section.

(b) Compensation for past official behavior shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (60 months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 452. Official Unlawful Action

(a) It shall be unlawful, being a public servant, and with the intent to materially benefit himself or another or to harm another, to:

(1) Knowingly commit an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a non-discretionary duty imposed on him by law; or

(2) Knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant, which information has not been made public, he:

(i) acquires or divests himself or a valuable interest in any property,

transaction or enterprise which may be affected by such action or information; or

(ii) speculates or wagers on the basis of such action or information, and knowingly aid another to do any of the foregoing.

(b) Official unlawful action shall be punishable by a fine not exceed five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment of not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 453. Special Influence

(a) It shall be unlawful to solicit, receive, or agree to receive any financial benefit as consideration for exerting special unlawful influence upon a public servant, in order to influence that public servant to violate the law or to exercise his discretion in a particular fashion or procuring another to do so, or to offer, confer, or agree to confer any financial benefit receipt of which is prohibited by this section.

(b) Special influence shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or by banishment for not less than five (5) years nor more than ten (10) years, or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less than ten (10) years nor more than life.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER FIVE: CRIMES AGAINST PUBLIC, HEALTH, SAFETY, AND WELFARE

§ 501. Rioting

(a) It shall be unlawful to simultaneously, with two or more other persons, engage in tumultuous or violent conduct in a public place which endangers person or property, and thereby knowingly or recklessly create a substantial risk of causing public alarm; or to assemble with two or more persons with the purpose of engaging soon thereafter in the above described conduct.

(b) Failure to disperse shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 502. Failure to Disperse

(a) It shall be unlawful to refuse or knowingly fail to obey an order to disperse or leave the immediate vicinity given by a law enforcement officer or other public servant performing an enforcement function, at the scene of a riot, fire, or other public disorder or given in the course of the investigation of the commission of an accident, fire, offense or suspected offense.

(b) Failure to disperse shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 503. Disorderly Conduct

(a) It shall be unlawful to purposely cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof, by:

(1) Engaging in fighting, or threatening to engage in violent or tumultuous behavior; or

- (2) Making unreasonable noise or offensively coarse utterances, gestures, or displays, or addressing abusive language to any person present; or
- (3) Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor; or
- (4) Appearing in public places in an intoxicated condition and doing any of the following:
 - (i) passing out or falling or sleeping in a public place or on the property of another without permission; or
 - (ii) bothering, disrupting or otherwise intruding upon another person or group of persons; or
 - (iii) wandering about without being able to give a reasonable account of a destination to a law enforcement officer; or
 - (iv) appearing or being found in an area set aside for religious or ceremonial activities which have traditionally, or by order of the Tribal or conducting authorities, been set aside for use, free from alcoholic beverage consumption or the presence of intoxicated persons, during the period of such a religious or ceremonial or public activity.

(b) "Public" means affecting or likely to affect persons in a place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospital, apartment houses, and office buildings, transport facilities, businesses open to the public, and places of entertainment or amusement.

(c) Disorderly conduct shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

Upon a second or subsequent conviction under this section, a punishment of a fine not to exceed five hundred dollars (\$500.00) or a term of imprisonment in the Tribal jail not to exceed three months, or both may be imposed.

Upon a second or subsequent conviction under paragraph (a) (4) (iv) of this section, an additional sentence of banishment for a period not to exceed two years may be imposed.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 504. Harassment

(a) It shall be unlawful, with the purpose to annoy or alarm another, to insult, taunt, or challenge another in a manner likely to provoke a violent or disorderly response; or to make repeated communications anonymously or at extremely inconvenient hours, or in offensively coarse language.

(b) Harassment shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 505. Public Nuisance

(a) It shall be unlawful to do any act, or fail to perform any duty, without lawful authority to do so, which act or omission either:

(1) Unreasonably and substantially annoys and injures or endangers the comfort, repose, health, or safety of three or more persons; or

(2) Offends public decency; or

(3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for use or passage any lake, stream, or campground, POW-wow ground, public park, square, street, highway, or road; or

(4) In any way unreasonably renders three or more persons insecure in life or the use of the property.

(b) Public nuisance shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 506. Disrupting a Public or Religious Assembly

(a) It shall be unlawful to intentionally prevent or disrupt a lawful meeting or religious assembly, by doing any act tending to obstruct or interfere with it physically; or by making any utterance, gesture or display designed to outrage the sensibilities of the group or prevent the assembly from conducting its business.

(b) Disrupting a public or religious assembly shall be punishable by a fine not to exceed three hundred fifty dollars (\$350.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 507. Weapons Offense

(a) It shall be unlawful to:

(1) Have a dangerous weapon in one's actual possession while being addicted to any narcotic drug; or after having been declared mentally incompetent; or while being intoxicated or otherwise under the influence of alcoholic beverages or other intoxicating substance, drug, or medicine; or while possessing the intent to unlawfully assault another; or while under the age of sixteen years old, and without the consent of his parent or guardian.

(2) Carry a loaded firearm in a vehicle on a public road without lawful authority to do so; or to discharge a firearm from, upon or across any public highway without lawful authority to do so.

(b) Definitions:

(1) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In determining whether an item, object or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object or thing the character of the wound produced, if any, and the manner in which the instrument, item or thing was used shall be determinative.

(2) "Firearms" mean pistols, revolvers, rifles, shotguns, and any device that is capable of being used as a weapon because it expels a projectile by some means of force.

(3) A firearm or other weapon shall be deemed loaded when there is an unexpended cartridge, shell or projectile in the firing position except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in such position as next to be fired.

(c) Weapons offense shall be punishable by a fine not to exceed two hundred fifty dollars

(\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 508. *Aggravated Weapons Offense*

(a) It shall be unlawful to carry a dangerous weapon concealed on the person or to threaten to use or exhibit a dangerous weapon in a dangerous and threatening manner, or use a dangerous weapon in a fight or quarrel; or to possess a shotgun or rifle having a barrel or barrels of less than sixteen inches in a length or an altered or modified shotgun or rifle less than twenty-four inches overall length.

(b) Aggravated weapons offense shall be punishable by a fine not to exceed five hundred dollars, or by a term of imprisonment in the Tribal jail not to exceed six months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 509. *Dangerous Devices*

(a) It shall be unlawful to:

(1) Deliver or cause to be delivered to any express, railway company or common carrier, or place in the mail or deliver to any person, or throw or place on or about the premises or property of another or in any place where another may be injured thereby, a dangerous device, knowing it to be such, unless the threatened person is informed of the nature thereof and its placement is for some lawful purpose; or

(2) Knowingly construct or contrive any dangerous device, or with the intent to injure another in his person or property, have a dangerous device in one's possession.

(b) For purposes of this section, a "dangerous device" is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, loaded firearm or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened or after the lapse of time or under conditions or in a manner calculate to endanger health, life, limb, or property.

(c) Dangerous devices shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 510-515. Reserved

§ 516. Desecration

(a) It shall be unlawful to purposely desecrate any public monument or structure; or to purposely desecrate a place of worship or burial, or other sacred place.

(b) Desecrate means to deface, damage, pollute, destroy, take or otherwise physically mistreat in a way that the actor knows, or believes, will outrage the sensibilities of persons likely to observe or discover his action.

(c) Desecration shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 517. Littering

(a) It shall be unlawful to throw, dump, place or deposit upon the lands of another or any Tribal or public property, or highway, street, road, or other area not his own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse or other substances of any nature whatsoever which could mar the appearance or detract from the cleanliness of the area; or to store, keep, or allow to accumulate an unreasonable number of any wrecked, junked, or unserviceable vehicles, appliances, or implements unless one has a permit from the Tribe to maintain a junk yard.

(b) Littering shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 518-525. Reserved

§ 526. Abusing a Corpse

(a) It shall be unlawful to purposely and unlawfully remove, conceal, dissect, or destroy a corpse or any part of a corpse; or to disinter a corpse that has been buried or otherwise interred.

(b) Abusing a corpse shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six months, or banishment for a term of not less than one year not more than five years or any combination of the above punishments.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 527. Prostitution

(a) It shall be unlawful to:

- (1) Be an inmate or resident of a house of prostitution or otherwise engage in sexual activity as a business or for hire; or
- (2) Loiter in or within a view of a public place for the purpose of being hired to engage in sexual activity; or
- (3) Engage in or offer or agree to engage in any sexual activity with another person for a fee; or
- (4) Pay or offer or agree to pay another person a fee for the purpose of engaging in an act of sexual activity; or
- (5) Enter or remain in a house of prostitution for the purpose of engaging in sexual activity; or
- (6) Own, control, manage, supervise, or otherwise keep, alone or in association with another, a house of prostitution or a prostitution business; or
- (7) Solicit a person to patronize a prostitute; or
- (8) Procure or attempt to procure a prostitute for another; or
- (9) Lease or otherwise permit a place controlled by the actor, alone or in association with others, to be used for prostitution or the promotion of prostitution; or
- (10) Procure an inmate for a house of prostitution; or
- (11) Encouragement, induce, or otherwise purposely cause another to become or

remain a prostitute; or

(12) Transport a person with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose; or

(13) Share in the proceeds of a prostitute pursuant to an understanding that one is to share therein, unless one is the child or legal dependent of a prostitute; or

(14) Own, operate, manage, or control a house of prostitution; or

(15) Solicit, receive, or agree to receive any benefit for doing any of the acts prohibited by this subsection.

(b) Definitions:

(1) "Sexual activity": means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

(2) "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(3) "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

(4) "Public place" means any place to which the public or substantial group thereof has access.

(c) On the issue of whether a place is a house of prostitution, the following shall be admissible in evidence: its general reputation; the reputation of the persons who reside in or frequent the place; the frequency, timing and duration of visits by non-residents. Testimony of a person against his spouse shall be admissible to prove offense under this section.

(d) Prostitution shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or by a term of imprisonment in the tribal jail not to exceed six months, or both. Upon a second or subsequent conviction for prostitution, banishment may also be imposed for a term not to exceed two years.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 528. Spreading Venereal Disease

(a) It shall be unlawful to infect another person with venereal disease, if one knows or has reason to believe he/she is infected with venereal disease.

(b) The court shall, upon conviction, have the power to order the medical examination and treatment of the convicted offender and may also order an investigation to determine to what extent others have or may have been infected by the convicted offender.

(c) Spreading venereal disease shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 529. Obscenity

(a) It shall be unlawful to:

(1) Sell, deliver or provide, or offer or agree to sell, deliver or provide, any obscene writing, picture, record or other representation or embodiment that is obscene; or

(2) Present or direct an obscene play, dance, or performance, or participate in that portion thereof which makes it obscene; or

(3) Publish, exhibit or otherwise make available any obscene material; or

(4) Possess any obscene material for purposes of sale or other commercial dissemination; or

(5) Sell, advertise, or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene.

(b) Material is obscene if considered as a whole:

(1) It lacks serious literary, artistic, political, or scientific value; and

(2) It depicts or describes nudity, sex or excretion in a patently offensive manner that goes substantially beyond customary limits of candor in describing or

representing such matters; and

(3) If the average person, applying contemporary community standards, would find that the material, taken as a whole appeals predominantly to a morbid or unnatural interest in nudity, sex , or excretion.

(c) A person who disseminates or possesses obscene material in the course of his business is presumed to do so knowingly or recklessly.

(d) Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or some other specially susceptible audience.

(e) Undeveloped photographs, molds, printing plates, and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(f) It shall be a defense to a prosecution under this section that the dissemination of the obscene material was restricted to institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material.

(g) Obscenity shall be punishable by a fine not to exceed five hundred dollars (\$500.00) and all obscene material shall be confiscated and destroyed.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 530-535. *Reserved*

§ 536. *Intoxication*

(a) It shall be unlawful to be under the influence of an intoxicating beverage, drug, or other controlled substance, or a substance having the property of releasing vapors, to any degree, in a public place or in a private place where one unreasonably disturbs another person, under circumstances not amounting to disorderly conduct.

(b) Intoxication shall be punishable by a fine not to exceed one hundred fifty dollars (\$150.00), or by a term of imprisonment in the trial jail not to exceed three month, or both. However, a judge or the arresting law enforcement officer may order the release from custody and the dropping of a charge under this section if he believes further imprisonment is unnecessary for the protection of the individual or another and the individual is in a sober condition at the time of release. The Judge may also commit the person convicted to a facility

for treatment if it appears that the person is dependent upon the intoxicating beverage, drug, controlled substance, or vapor producing substance, for a period not to exceed six months.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 537. Possession of an Alcoholic Beverage

(a) It shall be unlawful to buy, sell, serve, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or any other beverage or product containing alcohol for ingestion by human beings; or to appear or be found in a place where alcoholic beverages are sold and/or consumed, without written authority of the Tribal Legislative body.

(b) Possession of an alcoholic beverage shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

(c) Any such alcoholic beverage handled in violation of this section is hereby declared to be contraband and civil proceedings may be had against such alcoholic beverages for forfeiture as provided by law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 538. Tobacco Offense

(a) It shall be unlawful to:

(1) Purchase, obtain, possess, smoke, chew, inhale or ingest any product made from or with tobacco if under the age of eighteen years; or

(2) Sell to, or otherwise obtain for or arrange for the obtaining of tobacco or a tobacco product for a person under the age of eighteen, or to knowingly permit such a person to operate a machine dispensing tobacco products in his place of business or in an area of a place of business over which he is charged with the management or operation.

(b) Tobacco offenses shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 539. Abuse of Psychotoxic Chemical Solvents

(a) It shall be unlawful to purposely smell or inhale the fumes of any psychotoxic chemical solvent, or to possess, purchase, or attempt to possess or purchase any psychotoxic chemical solvent, with the intention of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain, or nervous system; or to sell, give away, dispense, or distribute, or offer to sell, give away, dispense, or distribute any psychotoxic chemical solvent knowing or believing that the purchaser or another intends to use the solvent in violation of this Section.

(b) This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) As used in this section, "Psychotoxic chemical solvent" includes any glue, cement, or other substance containing one or more of the following chemical compounds; acetone and acetate, benzene, butyl-alcohol, methyl ethyl, peptone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. The statement of listing of the contents of a substance packaged in a container by the manufacturer or producer thereof shall be proof of the contents of such substances without further expert testimony if it reasonably appears that the substance in such container is the same substance placed therein by the manufacturer or producer.

(d) Abuse of psychotoxic chemical solvents shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both, and the Court may order any person using psychotoxic chemical solvents for inhalation to be committed to some facility for treatment for a term not exceeding six months.

(e) Such psychotoxic chemical solvents kept or used in violation of this section are hereby declared to be contraband and civil proceedings may be had against such psychotoxic chemical solvents as provided by law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 540. Dangerous Drug Offense

[History: PUBLIC LAW #KT10-33, February 6, 1990 RESCINDED October 15, 2009]

§ 540. Controlled Substance Act

**KICKAPOO NATION DISTRICT COURT
CRIMINAL OFFENSE
CONTROLLED SUBSTANCES ACT**

1. Possession, Use, Sale, Manufacture and/or Distribution of Controlled Substances.

- (a) Offense. It shall be unlawful for any person to possess, use, sell, manufacture, and/or distribute any controlled substance (including Methamphetamine) defined and/or described in the Uniform Controlled Substances Act, 21 U.S.C. Sec. 812 as updated, without prior authorization.
- (b) Sentence, Any person convicted of this offense may be sentenced to a jail term not to exceed one (1) year or to pay a fine not to exceed five thousand dollars (\$5,000.) or to both.
- (c) Repeat offenders of section 1 (a). convicted two or more times in the preceding five years are subject to permanent banishment from the exterior boundaries of the Kickapoo Tribe in Kansas reservation.
- (d) Any personal property used to transport, conceal, manufacture, cultivate, or distribute controlled substances in violation of this section shall be subject to civil forfeiture as contraband by civil proceedings as provided by law.

[History: PUBLIC LAW #KT10-32, October 15, 2009)

§§ 541-550. Reserved

§ 551. Cruelty to Animals

- (a) It shall be unlawful to purposely or knowingly:
 - (1) Torture or seriously overwork an animal; or
 - (2) Fail to provide necessary food, care, or shelter for an animal in one's custody; or
 - (3) Abandon an animal in one's custody, or
 - (4) Transport or confine an animal in a cruel manner; or

- (5) Kill, injure, or administer poison to an animal without legal privilege to do so;
or
- (6) Cause one mammal to fight with another.

(b) Cruelty to animals shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both. It is a defense to prosecution under this section that the conduct of the actor toward the animal was an accepted veterinary practice or directly related to a bonafide experimentation for scientific research provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 552. *Livestock Offense*

(a) It shall be unlawful to:

- (1) Knowingly or recklessly refuse or fail to mark or brand his livestock when such is required in the interest of livestock identification or directed by Tribal or government officials; or
- (2) Alter, obliterate, or remove a brand or mark, or misbrand or mismark livestock with a purpose to deceive another for any reason; or
- (3) Knowingly permit livestock to graze or trespass on the property of another or of the Tribe without permission to do so in excess of permitted time or amount; or
- (4) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other livestock; or
- (5) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other animals; or
- (6) Fail to dip, inoculate or otherwise treat livestock in the manner which the designated representative of the Tribe shall direct; or
- (7) Make a false report of livestock owned.

(b) Except in cases in which the owner or person having custody of livestock believed to

be in violation of this section cannot be found, for subsections 1, 3, 4, 5, or 6 set forth above no conviction may be sustained unless the owner or person having custody of the livestock involved is given forty-eight hours written notice of his alleged violation.

(c) Livestock found to be in violation of this section may be impounded without prior notice to the owner if a court so orders upon receipt of evidence that such animals seriously threaten the property of the Tribe or another or the health of other livestock and that immediate action is necessary to protect such interests from serious harm. A reasonable fee for the care of such animals may be collected prior to their release.

(d) A livestock offense shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

(e) Livestock handled or kept in violation of this section are hereby declared to be contraband and civil proceedings may be had against such animals for forfeiture as provided by law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§§ 553-560. Reserved

§ 561. False Reports

(a) It shall be unlawful to initiate or circulate a report or warning of a fire, bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of any building, place or assembly, or facility of public transport, or to cause public inconvenience or alarm or action or any sort by an official or volunteer agency organized to deal with emergencies.

(b) False reports shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 562. Emergency Telephone Abuse

(a) It shall be unlawful to knowingly refuse to yield or surrender the use of a party line or public pay telephone to another person upon being informed that said telephone is needed to report a fire, or summon police, medical or other aid in case of an emergency, unless the actor is

already using said telephone to report an emergency; or to ask for or request the use of a party line or public pay phone on the pretext that an emergency exists, knowing that no emergency exists.

(b) "Emergency" means a situation in which property or human life or safety is in jeopardy and the prompt summoning of aid is or reasonably appears to be essential to preservation of human life, safety, or property.

(c) Emergency telephone abuse shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 563. *Violation of Privacy*

(a) It shall be unlawful, except as authorized by law, to:

(1) Trespass on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or

(2) Install in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in such place, or use any such unauthorized installation; or

(3) Install or use outside of any private place any device for hearing, recording, amplifying, or broadcasting sounds originating in such place which would not ordinarily be audible or comprehensible outside without the consent of the person or persons entitled to privacy there; or

(4) Divulge without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged in transmitting it.

(b) Definitions:

(1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of an oral or written communication of others without the consent of at least one party thereto by means of any electrical, mechanical or other device.

(2) "Private place" means a place where one can reasonably expect to be safe from casual or hostile intrusion or surveillance.

(c) Violation of privacy shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 564. Criminal Defamation

(a) It shall be unlawful to knowingly and with malicious intent communicate to any person orally or in writing any information which one knows or should know to be false and knowingly that the information tends to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, or who has not been declared missing or dead for a period exceeding twenty years, and thereby expose him to public hatred, contempt or ridicule. An injurious publication is presumed to have been malicious if no justifiable motive for making it is shown by way of defense.

(b) Criminal defamation shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both. However, it shall be a defense to criminal defamation that the person making the publication was at the time engaged in the formal broadcast of publication of news by some public news media of communication and in good faith believed he was reporting a newsworthy event concerning a public figure with a basis in truth.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 565. Gambling

(a) It shall be unlawful to:

(1) Participate in gambling; or

(2) Knowingly permit any gambling to be played, conducted, or dealt upon in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(3) Win or acquire to himself or another any gambling proceeds when one know

he has a lesser risk of losing or participants, and the risk is not known to all participants; or

(4) Derive or intend to derive an economic benefit, other than personal winnings, from gambling and either:

(i) induce or aid another to engage in gambling; or

(ii) knowingly possess a gambling device with intent to use it in gambling.

(b) Definition:

(1) "Gambling" means risking anything of value of a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of change and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, or a lottery, but does not include any lawful business transaction or playing amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(2) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining the property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, regardless of whatever name such scheme may be known by.

(c) The Tribe may issue a permit authorizing a lottery pursuant to a Tribal statute on lotteries, provided all benefit therefrom, except prizes, go to a charitable or religious organization and provide further that such permit or the Statute pursuant to which it is issued specify the details of the lottery.

(d) It shall not be an offense under this section for a person to engage in bingo licensed pursuant to Tribal law, in any of its forms, conducted under the rules set out by a Tribal Bingo Ordinance, nor shall it be an offense under this section for a person to engage in any traditional Indian games designated by Tribal law as exempt from the provisions of this section, nor shall traditional raffles and similar activities conducted at POW-wows and similar functions be considered gambling under this section.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 566. Waters Offense

(a) It shall be unlawful to:

(1) Interfere with or alter the flow of water in any stream, river, or ditch, without lawful authority to do so, or a permit from the Tribe, and in violation of the right of any other person; or

(2) Knowingly break, injure, alter or destroy any bridge, dam, levee, embankment, reservoir, water tank, water line, or other structure intended to create hydraulic power or pressure or direct the flow of water, without lawful authority to do so; or

(3) Pollute or befoul any water in any of the following ways:

(i) construct or maintain a corral, sheep pen, goat pen, stable, pig pen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into waters of any stream, well, spring, or source of water used for domestic purposes; or

(ii) deposit, pile, unload or leave any manure heap, rubbish, or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well, spring or source of water used for domestic purposes; or

(iii) construct, establish, or maintain any corral, yard, vat, pond, camp, or bedding place for the shearing, dipping, washing, storing, herding, holding or keeping of livestock in such proximity to a stream, or other source of water used for domestic purposes or which flows through a city or town, so that the waste, refuse or filthy therefrom find their way into said source of water; or

(iv) knowingly cause or allow any substance harmful or potentially harmful to human life to enter into a source of water used for domestic purposes.

(b) A water offense shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 567. Contributing to the Delinquency of a Minor

(a) It shall be unlawful for a person eighteen years of age or older to:

(1) Knowingly or recklessly sell or give to or otherwise make beer, liquor, wine or other alcoholic beverages available to a person under the age of eighteen years; or

(2) Knowingly or recklessly, by act or omission, encourage, cause or contribute to the delinquency or unlawful conduct of a minor under eighteen years of age.

(b) Contributing to the delinquency of a minor shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 568. Trafficking in Children

(a) It shall be unlawful to:

(1) Accept any compensation, in money, property or other thing of value, at any time, from the person or persons adopting a child, for services of any kind performed or rendered, or purported to be performed or rendered, in connection with such adoption; or

(2) Accept any compensation, in money, property or other thing of value from any other person, in return for placing, assisting to place, or attempting to place a child for adoption or for permanent care in a foster home; or

(3) Offer to place, or advertise to place, a child for adoption or for care in a foster home, as an inducement to any woman to enter an institution or home or other place for maternity care or for the delivery of a child.

(b) "Child" means an unmarried or unemancipated person under the age of eighteen years.

(c) This section does not apply to attorneys or advocates licensed by the Tribal Courts receiving reasonable fees for legal services actually rendered in the course of lawful adoption proceedings, nor shall subparagraphs (a) (1) or (a) (2) apply to any bonafide social worker or government employee receiving their normal salary and making such placements as a part of

their official duties.

(d) Trafficking in children shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 569. Curfew Violations

(a) It shall be unlawful for a parent, guardian or other person having physical charge of a minor to allow said minor under the age of eighteen to be away from his place or residence in a public place, or a private place other than the place where he intends to spend the night with the permission of the owner of such place, or in a vehicle driving about, after the hour of eleven o'clock p.m. local time, unless accompanied by a parent, guardian, or other person having physical charge of said minor or in attendance at or returning directly home from an organized school, church or Tribal or public function.

(b) A curfew violation shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

§ 570. Fireworks Offense

(a) It shall be unlawful to possess, buy, sell, distribute, transport, activate, ignite, or detonate or to allow any minor under one's physical or actual care, custody, or control to possess, buy, sell, distribute, transport, activate, ignite, or detonate any firecracker or other firework type device which is capable of or intended to explode, ignite, become self-propelled, give off any projectile, spark, or other ignited or fused object or manifestation, or in any way give off sound or light by virtue of its burning or exploding.

(b) It shall not be an offense under this section:

- (1) To use or ignite hand held sparkler type devices in such a manner that they burn openly and singly or to use toy caps and cap guns singly and in the intended fashion; or
- (2) To use or ignite fireworks at a patriotic, religious, or tribal ceremony, gathering, or celebration in a safe manner provided that a permit to do so has been

obtained from the Tribe or a lawfully authorized Tribal agency prior to the importation and use of such fireworks.

(3) To buy, possess, use or ignite fireworks between June 24 and July 10 inclusive of each year, provided that such devices are handled safely with regard to the safety of others and their property, and provided further, that minors under the age of twelve buying, possessing, using or igniting fireworks must be under the actual direct physical supervision of some responsible adult over twenty-one years of age for this exception to apply.

(4) To possess or sell fireworks between June 25 and July 10 inclusive of each year provided that a permit to do so has been obtained from the Tribe or a lawfully authorized Tribal agency prior to such possession and sale, provided further, that upon proof of a secure and safe facility, such permit may state a particular location for year round storage of fireworks.

(c) A fireworks offense shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER SIX: TRAFFIC OFFENSES

§ 601. Definitions

(a) The term “motor vehicle” shall mean every device in, upon, or by which any person or property is or may be drawn or transported upon a public road and which device is self-propelled, but not including any vehicle which is an implement of husbandry and is designed principally for agricultural purposes, nor any mechanical device designed or used principally for construction or maintenance purposes excepting trucks.

(b) A “Public road” shall be defined as the entire width between the boundary lines of every right of way within the exterior boundaries of the Tribal jurisdiction which is maintained by any government agency, and, when open to the use of the public, is for the purpose of travel by motor vehicles.

(c) “Traffic misdemeanor” shall be defined to mean any offense designated by the Law and Order Code to be punishable by jail confinement.

(d) “Traffic infraction” shall be defined to mean an offense designated by the Law and Order Code to be punishable only by a civil penalty.

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]

§ 602. Driving While License is Suspended or Revoked

(a) It shall be unlawful to drive any motor vehicle upon any public road at a time when one’s driver’s license or permit or other driving privilege has been denied, suspended, cancelled or revoked by any State or Indian Tribe, or when one’s driving privilege has been suspended by the Tribal Court.

(b) Driving while license is suspended or revoked is a traffic infraction punishable by a civil penalty of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) upon the first conviction. The second conviction is a traffic misdemeanor punishable by a civil penalty of not less than one hundred seventy-five dollars (\$175.00) nor more than two hundred fifty dollars (\$250.00) and a term of imprisonment in the Tribal jail not to exceed three (3) months.

(c) In addition to any civil penalty or imprisonment, the Court is authorized to order suspension or revocation of the driver's license of any civil or criminal offender.

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 603. Careless Driving

(a) It shall be unlawful to operate any motor vehicle upon any public road in a careless or imprudent manner, without due regard for the width, grade, curves, corners, traffic, or existing weather conditions, and the use being made of such road or other attendant circumstances.

(b) Careless driving shall be a traffic infraction punishable by a civil penalty of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) upon the first conviction. Second and subsequent convictions shall be punishable by a civil penalty of not less than one hundred seventy-five dollars (\$175.00) nor more than two hundred fifty dollars (\$250.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 604. Reckless Driving

(a) It shall be unlawful to drive any motor vehicle upon any public road within the Tribal jurisdiction in such a manner as to indicate either a wanton or willful disregard for the safety of persons or property.

(b) Reckless driving shall be a traffic misdemeanor punishable by a civil penalty of not less than one hundred seventy five dollars (\$175.00) nor more than two hundred fifty dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or by suspension of driving privileges for a period not to exceed one year, or any combination of the above punishments.

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 605. Driving While Intoxicated

(a) It shall be unlawful to drive or be in actual physical control of any motor vehicle upon any private or public road within the Tribal jurisdiction while under the influence of intoxicating liquor, or controlled dangerous substances, or any other drugs which impair the ability to control or operate a vehicle.

(b) A person is presumed to be under the influence of intoxicating liquor if there is 0.1% or more of alcohol in the blood by weight, and a person is presumed not to be under the influence if there is less than 0.05% of alcohol in their blood, by weight. Between such percentages, results of tests showing such fact may be received in evidence, with other tests or observations, for consideration by the court or jury. A breath or blood test must be administered with the consent of the subject, by a qualified operator using a properly maintained apparatus in order to be admissible, provided that if any person refuses to take such test when requested to do so by an Officer having a reasonable suspicion that such person may be intoxicated, the person's driving privileges within the Tribal jurisdiction shall be suspended by the Court for a period of six months whether or not such person is convicted of any offense. Such suspension is mandatory.

(c) Driving while intoxicated shall be a traffic misdemeanor punishable by a civil penalty of not less than two hundred fifty dollars (\$250.00), nor more than five hundred dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six months, or by suspension of driving privileges for a period not to exceed two years or any combination of the above punishments. For a second or subsequent conviction under this section, or a violation resulting in serious injury, a term of banishment may be imposed for a period not less than one year nor more than five years, in addition to the above authorized punishments.

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]

§ 606. Duties of Drivers Involved in Accidents Involving Deaths or Personal Injuries

(a) It shall be unlawful for the driver of any motor vehicle directly involved in an accident resulting in injury to or death of any person or damage to any other moving or attended vehicle to fail to immediately stop his vehicle at the scene of the accident or as close thereto as possible; or fail to return to and remain at the scene of the accident and render such aid and assistance as may be necessary in the circumstances; or fail to give his name, address and the registration number of his motor vehicle and his operator's or chauffeur's license number and security verification information to all other drivers involved in the accident; or fail to render to any injured person such assistance as may be necessary in the circumstances; or fail to notify, or have another notify, the Tribal Police of the accident and its location as soon as possible.

(b) Failure to perform the duties of drivers involved in accidents involving deaths or personal injuries shall be a traffic infraction punishable by a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 607. Duty upon Striking Unattended Vehicle

(a) It shall be unlawful for the driver of any motor vehicle which collides with any unattended vehicle to fail to immediately stop and attempt to locate and notify the operator or owner of such vehicle of both the name and address of the driver and owner of the vehicle striking the unattended vehicle; or to fail to leave securely attended in place where it may be easily seen in the vehicle struck, a written notice giving the name and address of the driver and the circumstances thereof; or to fail to inform the Tribal Police of the accident and its location as soon as possible.

(b) Failure to perform the duty of a driver upon striking an unattended vehicle shall be a traffic infraction punishable by a civil penalty of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 608. Duty Upon Striking Highway Fixtures

(a) It shall be unlawful for the driver of any motor vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway to fail to take reasonable steps to locate and notify the owner or person in charge of such property of such fact and his name and address and of the registered number of the vehicle he is driving; or to fail to report such accident to the Tribal police as soon as possible.

(b) Failure to perform the duty of a driver upon striking highway fixtures shall be a traffic infraction punishable by a civil penalty of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00).

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 609. When Driver Unable to Report

(a) It shall be unlawful for another occupant in the vehicle at the time of an accident who is capable of making the report to fail to do so when the driver of the motor vehicle is physically unable to make a required accident report to the Tribal Police.

(b) Failure to make such report shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 610. Driver's License in Possession

(a) It shall be unlawful to operate a motor vehicle upon any private or public road within the Tribal jurisdiction without possession of a valid Federal, Tribal, or State operator's license, chauffeur's license, or permit, which must be exhibited upon demand by an authorized person.

(b) Failure to have a driver's license in possession shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 611. Permitting Unauthorized Person to Drive

(a) It shall be unlawful to knowingly cause or permit any unauthorized person to operate a motor vehicle upon any public road.

(b) Permitting an unauthorized person to drive shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 612. Traffic Control and Signal Devices

(a) It shall be unlawful to turn a vehicle from a direct course on a public road until such

movement can be made with safety, and then only after giving an appropriate signal, either by hand or arm or by a directional signal device.

- (b) Failure to properly signal shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)
- (c) It shall be unlawful to disobey the lawful command or instruction of any law enforcement officer. Failure to obey a lawful command shall be punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 613. Following Too Closely

- (a) It shall be unlawful to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic thereon and the condition of the highway.
- (b) Following too closely shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 614. Stopping for School Bus

- (a) It shall be unlawful, when meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging passengers, to fail to stop immediately and not proceed again until all passengers are received or discharged and the bus is again in motion.
- (b) Failure to stop for a school bus shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 615. Entering Public Road from Private Road

- (a) It shall be unlawful for the driver of a motor vehicle about to enter or pass a public road from a private road or driveway to fail to yield the right of way to all vehicles approaching on said public road.

- (b) Failure to yield the right of way when entering a public road from a private road shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 616. Right of Way at Intersection

- (a) It shall be unlawful for the driver of motor vehicle approaching an intersection to fail to yield the right of way to any vehicle approaching from the right, unless otherwise directed by sign, traffic light, or a proper official directing traffic.
- (b) Failure to yield the right of way at an intersection shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 617. Failure to Stop at Stop Sign and Yielding Right of Way

- (a) It shall be unlawful for the driver of a motor vehicle to fail to come to a complete stop at all intersections marked by a stop sign before entering an intersection, unless otherwise directed by an officer directing traffic.
- (b) It shall be unlawful for the driver of a motor vehicle approaching an intersection marked by a sign requiring him to yield the right of way to decrease the speed of such vehicle and yield the right of way to any traffic proceeding on the road given the right of way by such sign.
- (c) Failure to stop at a stop sign or yield the right of way shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 618. Driving on Right Side

- (a) It shall be unlawful to fail to drive on the right half of the roadway, except when overtaking and passing another vehicle proceeding in the same direction.

- (b) Failure to drive on the right side shall be at traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 619. *Passing Oncoming Vehicle*

- (a) It shall be unlawful for drivers proceeding in opposite directions to fail to pass each other to the right and to give the other at least half of the main traveled portion of the roadway.
- (b) Improper passing of oncoming vehicles shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 620. *Passing and Turning on Curve or Crest*

- (a) It shall be unlawful to pass a vehicle going in the same direction unless the driver can see the road for sufficient distance ahead to pass safely and such passing can be accomplished safely without colliding with oncoming traffic.
- (b) It shall be unlawful for a vehicle to be driven so as to pass or turn in any direction on a curve or crest or on any approach to a crest or on a bridge on any approach to a bridge unless such vehicle can pass or be turned safely and seen by traffic approaching in either direction.
- (c) Improper passing on a curve or crest shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 621. *Unsafe Vehicles*

- (a) It shall be unlawful for any person to drive or cause to knowingly permit to be driven on any public road any motor vehicle which is in such unsafe condition so as to endanger any person or is not at all times equipped with the following:
- (1) HEADLIGHTS: One on each side of the front of the motor vehicle, said

lights to be multi-beam so that the driver can adjust lights from bright to dim, and such lights must be in proper working order at all times so as to be seen by oncoming traffic for a reasonable distance during hours of darkness or other times when light conditions require the use of headlights.

(2) REAR LAMPS: One lighted red lamp on each side of the back of the motor vehicle that will plainly visible for a reasonable distance to the rear, and such lamps must be in proper working order at all times.

(3) STOP LIGHTS: All motor vehicles shall be equipped with a stop light in good working order at all times, such stop lights to be automatically controlled by brake adjustment.

(4) BRAKES: Every motor vehicle shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle.

(5) HANDBRAKE: Every motor vehicle shall be equipped with a handbrake.

(6) HORN: Every motor vehicle shall be equipped with a horn in good working order.

(7) WINDOWS UNOBSTRUCTED - WIPERS: No person shall drive any motor vehicle with any sign or other nontransparent material upon the windshield, side wings, side or rear windows of such vehicle that would obstruct the driver's view, other than a paper or certificate required to be so displayed by law. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other obstructions from the windshield and must be in proper working order at all times.

(8) LICENSE TAG LIGHT: All motor vehicles shall be equipped with a rear tag light in good working order at all times.

(9) PROOF OF VEHICLE INSPECTION TO BE DISPLAYED: All motor vehicles shall display a valid state motor vehicle inspection decal.

(b) Operating an unsafe vehicle shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]

§ 622. Speed Limits

- (a) Speed limits on any public road shall be set by the Tribal Police Chief. Speed limits may be posted at such places and at such maximum allowable speeds as deemed necessary by the Chief of the Tribal Police.
- (b) In any area of the Tribal jurisdiction where the speed limit is not posted and where no special hazard exists, the following speeds shall be lawful, but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:
 - (1) School zones, grounds, and crossings, designated areas - 20 MPH
 - (2) Residential areas - 30 MPH
 - (3) Open highway - 55 MPH

It shall be unlawful to exceed the above limits, the limits posted by authority of the Chief of the Tribal Police, or a speed which is reasonable and proper under the conditions prevailing upon the roadway.

- (c) The fact that the speed of a motor vehicle is lower than the foregoing prima facie limits does not relieve the driver from the duty of all persons to use due care.
- (d) Exceeding the speed limit or operating a motor vehicle at a speed which is not reasonable and proper shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]

§ 623. When Lights are Required to be On

- (a) It shall be unlawful for a vehicle to be on a public roadway at any time from a half hour after sunset to a half hour before sunrise or at any other time when objects on the road cannot be seen clearly at a distance of five hundred feet because of light conditions without displaying lighted lamps on the vehicle.
- (b) Every vehicle stopped or parked on the side of any road or highway during the hours set forth above, shall burn lamps, flares, or otherwise alert drivers of the potential danger, unless the vehicle is positioned at least thirty inches from the main traveled portion of the roadway in such fashion that no part of the main traveled portion of the roadway, nor the thirty inch safety zone is impeded.
- (c) Failure to operate with required lights shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 624. Pedestrians

- (a) It shall be unlawful for a pedestrian crossing a roadway at any point other than a marked crosswalk or within an unmarked crosswalk at an intersection to fail to yield the right of way to all motor vehicles on the roadway.
- (b) Notwithstanding the provisions of subsection (a) herein, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian on any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any person upon a public road.
- (c) Failure of a pedestrian crossing a roadway at any point other than a marked crosswalk to yield the right of way to motor vehicles shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 625. Throwing Trash on Roads and Roadways

- (a) It shall be unlawful to discard trash or refuse of any type on a roadway or public highway or right-of-way within the tribal jurisdiction.
- (b) Throwing trash on roads or roadways shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990
AMENDED KT 94-26, February 9, 1994]

§ 626. Illegal Parking

- (a) It shall be unlawful to stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled part of a public roadway when it is practical to stop, park, or leave such vehicle off such part of said roadway, but in every event a clear and unobstructed width of at least twenty (20) feet of such part of the roadway opposite such standing vehicle shall be left for free passage of other vehicles, a clear view of such stopped vehicles shall be available from distance of two hundred feet in each direction upon said roadway and the vehicle must be positioned at least thirty inches outside the main traveled portion of the roadway.

- (b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position, provided that reasonable provision is made by the driver thereof for the warning and safety of other vehicles traveling upon such roadway until the vehicle can be removed.
- (c) It shall be unlawful to stop, park, or leave standing a vehicle except when necessary to avoid collusion with other traffic or in compliance with the directions of a police officer or traffic control sign, in any of the following places:
 - (1) On a sidewalk;
 - (2) In front of a public or private driveway;
 - (3) Within an intersection;
 - (4) Within twenty-five (25) feet of a fire hydrant;
 - (5) On a crosswalk.
- (d) A violation of the illegal parking section shall be a traffic infraction punishable by a civil penalty not to exceed one hundred dollars (\$100.00)

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]

§627. *Issuance of Citation for Traffic Infractions*

- (a) All traffic infractions shall be commenced by serving a civil citation stating the name of the offender, the date, place, time and notice of the traffic infraction committed, and shall be served upon the alleged offender along with the notice of the time that the offender shall appear in Tribal Court.
- (b) The law enforcement officer serving the civil citation may require a bond to assure the appearance of the alleged offender in the amount of the maximum civil penalty that may be assessed against the alleged offender.

[History: PUBLIC LAW #KT-90-14, February 6, 1990

AMENDED KT 94-26, February 9, 1994]