

SISSETON-WAHPETON OYATE

CHAPTER 27B

INFANT/CHILD PASSENGER RESTRAINT CODE

Sisseton-Wahpeton Oyate Ordinance Work Group
New Code Amended Code Repealed Code
Tribal Council Resolution No. SWO-23-010
Ordinance Work Group Adoption Date 12/2021
Tribal Council Approval Date 07/06/22

27B-01-01 INTENT

For the purpose of this Code, a passenger vehicle means a motor vehicle with motive power, except a low-speed vehicle, motorcycle, or trailer, designed for carrying ten (10) individuals or fewer, including pickup trucks and vans.

27B-02-01 INFANT/CHILD PASSENGER RESTRAINTS

Every driver, when transporting a child under twelve (12) years of age or under four feet nine inches (hereinafter 4 ft. 9 in.) in height, in a motor vehicle operated on the roadways, streets, or highways of the Lake Traverse Reservation shall provide for the protection of said child by properly using a child passenger restraint system as follows:

1. A child under four (4) years of age shall be properly secured in a child passenger restraint system. The child passenger restraint system shall be rear-facing until the child reaches two (2) years of age or until the child reaches the weight or height limit of the rear-facing child passenger restraint system as recommended by the manufacturer of the child passenger restraint system, whichever occurs first;
2. A child at least four (4) years of age but younger than twelve (12) years of age, if not taller than 4 ft. 9 in. in height, shall be properly secured in either a child passenger restraint system or child booster seat;
3. If a child is twelve (12) years of age or taller than 4 ft. 9 in. in height, a seat belt properly secured to the vehicle shall be sufficient to meet the requirements of this Section;
4. Children under the age of thirteen (13) shall not be permitted to sit in the front seat;
5. For purposes of this Section, "child passenger restraint system" means an infant or child passenger restraint system which meets the requirements set forth in 49 C.F.R. 571.213.

27B-03-01 EXEMPTIONS

The provisions of Section 27B-02-01 of this Code shall not apply to:

1. Any occupant of a passenger vehicle manufactured before September 1, 1973;
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal law;
3. The driver of an ambulance or emergency vehicle; or
4. The transportation of a child who for medical reasons is unable to be placed in a child passenger restraint system, provided that there is current written documentation from a physician of such medical reasons.

27B-04-01 ENFORCEMENT

Enforcement of this Code by Tribal Law Enforcement Officers shall be accomplished as a primary action if the police office suspects that a child under the age of twelve (12) and not taller than 4 ft. 9 in. in height is not properly restrained in a moving vehicle.

27B-05-01 PENALTY

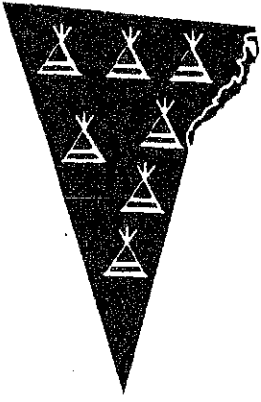
Any person violating the provisions of this Code is guilty of a Special Class Misdemeanor, punishable by a fine of one-hundred dollars (\$100). This fine may be suspended for a first-time offense upon proof of completion of Safe Native American Passengers (SNAP) training or another similar training program within thirty (30) days from the date of violation.

27B-06-01 DISCLAIMER AND SOVEREIGN IMMUNITY

A person who is certified as a Child Passenger Safety Technician or who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems shall not be liable for civil damages in a personal capacity suit resulting from any act or omission in providing such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct. Nothing in this Code shall be construed to constitute a waiver of the sovereign immunity of the Sisseton-Wahpeton Oyate, or any of its officers, employees, or agents administering or enforcing this Code.

27B-07-01 Effective Date

The effective date of this amended Code shall be July 10, 2022. The amendments to 27B-05-01 shall be applied prospectively to activities that occur after the aforementioned effective date. Activities that occurred prior to the effective date shall be prosecuted according to the law as it existed when the activities occurred.



Sisseton - Wahpeton Oyate

LAKE TRAVERSE RESERVATION

PO BOX 509 • 12554 BIA HWY. 711
AGENCY VILLAGE, SOUTH DAKOTA 57262-0509
PHONE: (605) 698-3911

TRIBAL COUNCIL RESOLUTION NO. SWO-23-010

Amendments to SWO Chapter 27B Infant/Child Passenger Restraint Code

- WHEREAS,** The Sisseton-Wahpeton Oyate is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966, and last amended effective November 15, 2006; and
- WHEREAS,** The Constitution ARTICLE III, Section 1, states that, the Sisseton-Wahpeton Oyate shall be governed by a Council, and ARTICLE VII, Section 1, states that, the Council shall have the following powers: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (b) to acquire, own, use, manage, lease and otherwise encumber and to dispose of Tribal property, both real and personal, wherever situated; (c) to engage in any business that will further the economic development of the Tribe and its Members, and to use Tribal funds or other resources for such purposes; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (e) to hire employees and agents, including legal counsel, directly or as independent contractors, and to compensate them for their services; (f) to deposit Tribal funds to the credit of the Tribe, without limitations of the amount in any account; (g) to take any action by ordinance, resolution, or otherwise which are reasonably necessary through committees, boards, agents or otherwise, to carry into effect the for-going purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Oyate; (i) adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and
- WHEREAS,** The proposed amendments to Chapter 27B were passed by the Ordinance Work Group on June 9th, 2022 and approved for recommendation to Tribal Council; and
- WHEREAS,** The Sisseton-Wahpeton Oyate desires to update Chapter 27B in accordance with the amendments passed by the Ordinance Work Group; and
- WHEREAS,** The following amendments shall be enacted to Chapter 27B:

SISSETON-WAHPETON OYATE SIOUX TRIBE

CHAPTER 27B

INFANT/CHILD PASSENGER RESTRAINT CODE

27B-01-01 INTENT

For the purpose of this Code, a passenger vehicle means is any a motor vehicle with motive power, except a low-speed vehicle, motorcycle, or trailer, designed for carrying ten (10) individuals passengers or fewer, but does not include a motorcycle or trailer including pickup trucks and vans.

27B-02-01 INFANT/CHILD PASSENGER RESTRAINTS

~~Any driver of an infant or child five (5) years of age or younger, when transporting the child in a commercial or private motor vehicle operated on any street, road, or highway on the Sisseton-Wahpeton Sioux Reservation, shall properly secure the child in an approved child passenger restraint system. The restraint system shall meet Federal Motor Vehicle Safety Standard Number 213, which requires the following information:~~

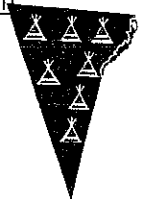
Every driver, when transporting a child under twelve (12) years of age or under four feet nine inches (hereinafter 4 ft. 9 in.) in height, motor vehicle operated on the roadways, streets, or highways of the Lake Traverse Reservation shall provide for the protection of said child by properly using a child passenger restraint system as follows:

~~1. On a permanent label attached to the restraint, the Statement "This child restraint system conforms to all applicable Federal Motor Vehicle Safety Standards"; and,~~

1. A child under four (4) years of age shall be properly secured in a child passenger restraint system. The child passenger restraint system shall be rear-facing until the child reaches two (2) years of age or until the child reaches the weight or height limit of the rear-facing child passenger restraint system as recommended by the manufacturer of the child passenger restraint system, whichever occurs first;

~~2. On a permanent label attached to the restraint, the manufacturer's recommendations of the minimum and maximum weight and height of the children who can safely occupy the system; and,~~

2. A child at least four (4) years of age but younger than twelve (12) years of age, if not taller than 4 ft. 9 in. in height, shall be properly secured in either a child passenger restraint system or child booster seat;



- ~~3. Printed installation instructions with step-by-step procedures, including diagrams of installing the system in motor vehicle, positioning the child in the system and adjusting the system to fit the child.~~
3. If a child is twelve (12) years of age or taller than 4 ft. 9 in. in height, a seat belt properly secured to the vehicle shall be sufficient to meet the requirements of this Section;
4. Children under the age of thirteen (13) shall not be permitted to sit in the front seat;
5. For purposes of this Section, "child passenger restraint system" means an infant or child passenger restraint system which meets the requirements set forth in 49 C.F.R. 571.213.

27B-03-01 CERTAIN VEHICLES EXEMPT EXEMPTIONS

The provisions of Section 27B-02-01 of this Code ~~shall~~ not apply to:

- ~~1. Any occupant of a passenger vehicle manufactured before September 1, 1973;~~
- ~~2. An occupant of a vehicle not equipped with a safety seatbelt system because federal law does not require that vehicle to be so equipped (school bus); and,~~
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal law;
- ~~3. Any rural carrier of the United States Postal Service while serving his rural postal route.~~
3. The driver of an ambulance or emergency vehicle; or
4. The transportation of a child who for medical reasons is unable to be placed in a child passenger restraint system, provided that there is current written documentation from a physician of such medical reasons.

~~27B-03-02 Any person who violates 27B-02-01 is guilty of a petty offense.~~

27B-04-01 NOT APPLICABLE UNDER CERTAIN CONDITIONS

- ~~1. If all seat positions equipped with child passenger safety seat systems of safety seatbelts are occupied.~~
- ~~2. In passenger cars manufactured before 1966 that have not been equipped with safety seatbelts.~~



~~27B-05-01~~ ~~FAILURE TO COMPLY~~

~~Failure to comply with the provisions of this Code does not constitute contributory negligence, comparative negligence or assumption of the risk. Failure to comply with the provisions of this Code may not be introduced as evidence in any criminal litigation other than a prosecution under this Code or in any civil litigation on the issue of injuries or on the issue of mitigation of damages.~~

27B-04-01 ENFORCEMENT

Enforcement of this Code by Tribal Law Enforcement Officers shall be accomplished as a primary action if the police office suspects ~~children~~that a child under the age of five~~twelve~~ (512) years of age are and not taller than 4 ft. 9 in. in height is not properly restrained in a moving vehicle.

27B-057-01 PENALTY

Any person violating the provisions of this Code is guilty of a petty offense Special Class Misdemeanor, and is punishable by a fine not to exceed \$37.50 of one-hundred dollars (\$100). This fine may be suspended for a first-time offense upon proof of completion of Safe Native American Passengers (SNAP) training within thirty (30) days from the date of violation. ~~The effective date of this Section should be June 1, 1990.~~

27B-06-01 DISCLAIMER AND SOVEREIGN IMMUNITY

A person who is certified as a Child Passenger Safety Technician or who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems shall not be liable for civil damages in a personal capacity suit resulting from any act or omission in providing such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct. Nothing in this Code shall be construed to constitute a waiver of the sovereign immunity of the Sisseton-Wahpeton Oyate, or any of its officers, employees, or agents administering or enforcing this Code.

27B-07-01 EFFECTIVE DATE

The effective date of this amended Code shall be July 22, 2022. The amendments to 27B-05-01 shall be applied prospectively to activities that occur after the aforementioned effective date. Activities that occurred prior to the effective date shall be prosecuted according to the law as it existed when the activities occurred.

~~27B-08-01~~ ~~SEVERABILITY~~

~~If any clause, sentence, paragraph, section, or part of this Code shall, for any reason, be adjudicated by any Court of competent jurisdiction to be invalid or unconstitutional such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.~~



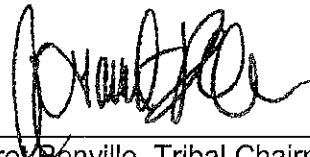
Amendments to SWO Chapter 27B Infant/Child Passenger Restraint Code

NOW, THEREFORE BE IT RESOLVED, That the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation hereby memorializes the amendments to Chapter 27B of the Tribal Code enacted via Motion No. 82 on July 6th, 2022; and

FINALLY, BE IT RESOLVED, That the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation hereby adopts and enacts the amendments to Chapter 27B passed by Tribal Council Motion No. 82 on July 6th, 2022.

CERTIFICATION

We, the Undersigned duly elected Tribal Chairman and Tribal Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 10 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, February 8, 2023, by a vote of 16 for, 0 opposed, 0 abstained, 0 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.



J. Garret Renville, Tribal Chairman
Sisseton-Wahpeton Oyate

ATTEST:



Curtis Bissonette, Tribal Secretary
Sisseton-Wahpeton Oyate



WEIGHTED VOTE ON MOTION NO. 81: 17 For: Dallas Owen (3); Milton Owen (2); Brandon Gypsy Wanna (3); Dionne Crawford (2); Curtis Bissonette (2); A. Lydia Amos (2); Louis Johnson (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.

MOTION PASSED.

***MOTION NO. 82:** made by Milton Owen, second by Curtis Bissonette, question by Brandon Gypsy Wanna, to approve the amendments/revisions to SWO Chapter 27B – Infant/Child Passenger Restraint Code, as presented by Ordinance Work Group Members Lorraine Rousseau, Bob LaFromboise, and Legal Counsel Phil Brodeen.

WEIGHTED VOTE ON MOTION NO. 82: 17 For: Dallas Owen (3); Milton Owen (2); Brandon Gypsy Wanna (3); Dionne Crawford (2); Curtis Bissonette (2); A. Lydia Amos (2); Louis Johnson (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.

MOTION PASSED.

MOTION NO. 83: made by Milton Owen, second by Curtis Bissonette, question by Brandon Gypsy Wanna, to approve the amendments/revisions to SWO Chapter 27C – Use of Safety Seat Belt System in Passenger Vehicles, as presented by Ordinance Work Group Members Lorraine Rousseau, Bob LaFromboise, and Legal Counsel Phil Brodeen.

WEIGHTED VOTE ON MOTION NO. 83: 17 For: Dallas Owen (3); Milton Owen (2); Brandon Gypsy Wanna (3); Dionne Crawford (2); Curtis Bissonette (2); A. Lydia Amos (2); Louis Johnson (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.

MOTION PASSED.

MOTION NO. 84: made by Brandon Gypsy Wanna, second by Milton Owen, question by A. Lydia Amos, to approve the amendments/revisions to SWO Chapter 54 – Animal Control Ordinance, as presented by Ordinance Work Group Members Lorraine Rousseau, Bob LaFromboise, and Legal Counsel Phil Brodeen.

WEIGHTED VOTE ON MOTION NO. 84: 17 For: Dallas Owen (3); Milton Owen (2); Brandon Gypsy Wanna (3); Dionne Crawford (2); Curtis Bissonette (2); A. Lydia Amos (2); Louis Johnson (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.

MOTION PASSED.

MOTION NO. 85: made by Edmund Johnson Jr., second by Dallas Owen, question by Curtis Bissonette, to approve by Ordinance Work Group report as presented by Lorraine Rousseau, Bob LaFromboise, and Legal Counsel Phil Brodeen.