

RIGHT TO WORK ORDINANCE

Siletz Tribal Code § 5.200

§ 5.200 POLICY

It is hereby declared to be the public policy of the Confederated Tribes of Siletz Indians of Oregon that the right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

§ 5.201 DEFINITIONS.

For purposes of this Ordinance:

(a) “Business Agent” means any person who acts or attempts to act for or on behalf of any labor organization in:

- (1) The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; or
- (2) Soliciting or receiving from any employer any right or privilege for employees.

(b) “Employer” means any person, firm, association, corporation and other business entity lawfully operating on the Tribe’s lands, and includes the Tribe and tribal enterprises, corporations or other subordinate economic entities owned or operated by the Tribe.

(c) “Labor Organization” means any organization of employees organized for the

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purpose of dealing with an employer concerning hours of employment, rate of pay, working conditions, benefits, or grievances of any kind relating to employment, and desiring to operate on the Tribe's lands and/or within the jurisdiction of the Tribe.

- (d) "Ordinance" means the Siletz Tribal Right to Work Ordinance.
- (e) "Person" means any individual, employer, labor organization, corporation, partnership, or other entity.
- (f) "Tribe" means the Confederated Tribes of the Siletz Indians of Oregon, a federally-recognized Indian tribe.
- (g) "Tribal Lands" means all lands held in trust by the United States for the benefit of the Tribe and any other lands subject to the jurisdiction of the Tribe.
- (h) "Chairman" means the Chairman of the Tribe.
- (i) "Tribal Council" means the governing body of the Tribe.
- (j) "Tribal Court" means the Siletz Tribal Court.
- (k) "Tribal Offense" means any action that violates any provision of the Criminal Code, Chapter 12, of the Siletz Tribe. Such offenses include, but are not limited to, assault, assault and battery, breaking and entry, bribery, discharging of firearms, disorderly conduct, extortion, fires, injury to property, malicious mischief, terroristic threats, and trespass.

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§ 5.202 TRIBAL COUNCIL FINDINGS.

The Tribal Council finds that:

- (a) The Tribe possesses the inherent power to exclude non-Indians from Tribal lands, which includes the lesser power to place conditions on entry, on continued presence, or on conduct, on Tribal Lands as recognized by the United States Supreme Court in *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982);
- (b) Various labor organizations and their business agents have sought to organize tribal enterprises, entities, or governments in other parts of the United States subject to tribal jurisdiction and sovereignty, or have sought to organize non-tribal businesses doing business on tribal lands and subject to tribal jurisdiction and sovereignty, and the Tribe is concerned that such organization may be attempted with regard to Siletz tribal entities, enterprises, government or non-tribal businesses doing business within Siletz tribal jurisdiction without regard to important and long-standing Siletz tribal policies;
- (c) The unauthorized entry of various entities and persons on Tribal Lands and any attempt to impose conditions or restrictions on tribal-related employment contrary to tribal policies threatens the political integrity, economic security and the health, safety and welfare of the Tribe and its members;
- (d) The individual freedom of choice in the pursuit of employment on Tribal Lands is encouraged as a matter of the public policy and law in the Constitution and laws of the

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Tribe; and

(e) The right to work should not be subject to undue restraint, coercion, or infringed based upon membership in, affiliation with, or financial support of a labor organization, or upon the refusal to join, affiliate with, or financially or otherwise support a labor organization.

§ 5.203 JURISDICTION.

All persons who enter Tribal Lands shall be deemed to have given implied consent to the jurisdiction of the Tribe with regard to any employment related matters, and shall be subject to the provisions of this Ordinance. Notices of this policy shall be posted at prominent locations on tribal lands and on and within tribal buildings.

§ 5.204 REGISTRATION OF LABOR ORGANIZATIONS AND BUSINESS AGENTS.

(a) No person or labor organization shall be granted a license to act as a business agent on Tribal Lands if that person or labor organization: (i) has been convicted of a felony or subject to a judicial decree that is the equivalent of a felony offense within the last ten years, or (ii) is not a person or organization of good moral character. All licenses shall be non-transferrable or non-assignable.

(b) Any person desiring to act as a business agent with regard to any employer or employment activity occurring on Tribal Lands, and any labor organization seeking to organize or engage in labor activity of any kind on tribal lands, shall first obtain a license

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from the Tribe by: (i) filing an application under oath with the Chairman; (ii) paying a license fee of \$25.00 to the Tribe; (iii) submitting a full set of fingerprints of the applicant, if a business agent, or of the principal officers, if a labor organization, which shall be taken by the Tribal Police Department or other law enforcement or regulatory agency authorized by the Tribal Council to do so; and (iv) submitting a statement signed by the president and the secretary of the labor organization showing the labor organization's authority to engage in business and/or the agent's authority to act as a business agent for the labor organization. The Chairman may delegate his or her duties under this Ordinance to another agency or employee of the Tribe.

(c) The Chairman, in his or her discretion, may conduct or cause to be conducted an independent background investigation of the application to determine the applicant's or labor organization's eligibility for a license.

(d) Upon full compliance with § 5.205(b), the Chairman shall issue the license. If at anytime after the issuance of the license, the Chairman receives reliable information based on the background investigation or other source that the licensee is ineligible to hold a license hereunder, the Chairman may suspend or revoke the license, in which case the licensee may within thirty (30) days appeal the suspension or revocation to the Tribal Court. The license shall run for the calendar year for which it is issued unless sooner surrendered, suspended, or revoked.

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(e) All licenses shall expire at midnight on December 31 of each year, but may be renewed by the Chairman on a form prescribed by the Chairman for that purpose and upon the payment of an annual renewal fee of \$25.00; however, if any license has been surrendered, suspended or revoked during the year, then the applicant must go through the requirements set forth in § 5.205(b) as a new applicant.

(f) Grounds for denial, suspension, or revocation of licenses shall include false statements in an application.

§ 5.205 REPORTING REQUIREMENTS.

(a) Every labor organization operating on Tribal Lands shall file an annual report with the Chairman, on or before 60-days after this Ordinance is enacted by the Tribal Council and thereafter on or before December 31 of each year. The report, which shall be filed by the president or the business agent of the labor organization, shall contain the following information:

- (1) The name and address of the labor organization;
- (2) The names and addresses of the president, secretary, treasurer, and business agent of the labor organization;
- (3) The name and address of the national or international organization, if any, with which it is affiliated; and
- (4) A copy of the collective bargaining agreement between the labor

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organization and an employer, if any, within the jurisdiction of the Tribe
and doing any business on Tribal Lands.

(b) At the time of filing the report, the labor organization shall pay an annual fee of \$25.00.

(c) The president or the business agent of the labor organization shall file with the Chairman a notice of any changes to the information required by § 5.204(a) within ten (10) days after any such changes are made, and provide any additional information that may be requested by the Chairman or his or her designate.

§ 5.206 FREEDOM OF CHOICE AND EMPLOYMENT RIGHTS.

(a) No person shall be required, as a condition of employment or continuation of employment on Tribal Lands, to (i) resign, abstain or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization; (ii) become or remain a member of a labor organization; (iii) pay dues, fees, assessments or other charges of any kind or amount to a labor union or labor organization; or (iv) pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

(b) Any actual agreement between any labor organization and an employer that violates the rights of employees guaranteed by the provisions of this Ordinance is hereby

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declared to be against the public policy of the Tribe and of no legal effect. Any agreement between any Employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for the Employer, or whereby such membership is made a condition of employment, continuation of employment, promotion or any other benefits by such Employer is hereby declared to be against public policy and void and illegal.

- (c) Any Employer who is subject to a collective bargaining agreement that requires it to pay monies for fringe benefits for its employees into a union fund, such as health or pension funds, shall offer any employee who is not a union member the option of receiving directly, in each paycheck, the amount that would otherwise have been placed into the union fund on behalf of that employee.
- (d) No person, including any labor organization, employer, or employee, shall commit any tribal offense.

§ 5.207 VIOLATIONS OF ORDINANCE.

- (a) It shall be a violation of this Ordinance for any person on Tribal Lands:
 - (1) To act as a business agent without having obtained a valid license.
 - (2) To solicit membership for or to act as a business agent of any labor organization without authority of the labor organization to do so.
 - (3) To make any false statement in an application for license.

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- (4) To unlawfully seize or occupy any property during the existence of a labor dispute.
- (5) To coerce or intimidate any employee in the enjoyment of his or her legal rights; to coerce or intimidate any elected or appointed tribal official; or to intimidate the family, picket the domicile, or injure the person or property of any employee or tribal official.
- (6) To engage in picketing in any manner which constitutes a tribal offense, including picketing in a manner to prevent ingress to and egress from any premises, and picketing other than in a reasonable and peaceful manner.

§ 5.208 PENALTIES.

Any person who, directly or indirectly, violates any provision of this Ordinance shall be subject to a fine not exceeding \$1,000.00, or exclusion from Tribal Lands, or both, for each occurrence.

§ 5.209 CIVIL REMEDIES.

Any person injured as a result of any violation or threatened violation of the provisions of this Ordinance shall be entitled to injunctive relief from the Tribal Court against any person threatening any violation, and may, in addition, thereto recover any and all damages, including costs and reasonable attorney fees, resulting from the violation or threatened violation. The remedy shall be independent of and in addition to any other penalties and remedies prescribed by

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applicable law.

§ 5.210 SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, then that declaration shall not effect the remaining provisions of this Ordinance. However, nothing in this Ordinance is intended nor shall be construed to violate the National Labor Relations Act, to the extent it is applicable to the Tribe, tribal enterprises or entities, or on Tribal Lands.

§ 5.211 SOVEREIGN IMMUNITY.

Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Tribe, its entities or enterprises, or its agents, employees or officials.