

**ORDINANCE OF THE TE-MOAK TRIBE
OF WESTERN SHOSHONE INDIANS OF NEVADA**

10-45 day review 3-2-17

**ORDINANCE AMENDING
MOTOR VEHICLE ORDINANCE,
86-ORD-TM-01**

ORDINANCE NO. :17-ORD-TM__

Be it enacted by the Tribal Council of the Te-Moak Tribe of Western Shoshone Indians of Nevada, that in accordance with Article 4, Section 3(n) of the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada, approved August 22, 1983, this "Ordinance amending Motor Vehicle Ordinance" of the Te-Moak Tribe effect upon adoption by the majority vote of the members of the Tribal Council present at a meeting duly called and held.

This ordinance is an ordinance amending the Motor Vehicle Ordinance, 86-ORD-TM-01, by adding to Article III – Traffic Offenses of 86-ORD-TM-01, Section 28, Safety Belts and Shoulder Harness Assembly; Requirements, Penalties, Exemptions; and SECTION 29, Child Restraints in Motor Vehicle for Infants and Children less than 57 inches tall.

SECTION 28: Safety Belts and Shoulder Harness Assembly; Requirements, Penalties, Exemptions

1. Any person driving and any vehicle occupant(s) whether riding in front passenger seat or back passenger seat(s); sixteen (16) years of age and older shall wear a safety belt. A citation shall be issued to any driver and/or passenger who fails to wear a safety belt.
2. Violation of this section shall be considered a primary moving violation for which a law enforcement officer shall have the authority to stop a vehicle and issue a citation upon his reasonable belief that the driver is in violation of this section.

3. Penalties:

- (a) First Offense: \$50.00 fine. In lieu of payment of the assessed fine for a first offense, the offender may attend a safety education program.
- (b) Second Offense: \$75.00
- (3) Third and Subsequent Offenses: \$100.00 fine

4. Exemptions: Drivers and passengers of vehicles shall not be cited under the following circumstances.

- (a) The vehicle is not required by law to be equipped with safety belts;
 - (b) The vehicle was manufactured prior to January 1, 1968; or
 - (c) When a physician determines that the use of a safety belt for a particular occupant would be impractical or dangerous because of factors such as occupant's weight, physical unfitness or medical condition, the occupant must carry in the vehicle a signed statement from a physician indicating such and must use a suitable restraining device for that particular occupant.
 - (d) If the vehicle is stopping frequently, the speed of that vehicle does not exceed 15 miles per hour between stops and the driver or the passenger is frequently leaving the vehicle or delivering property from the vehicle; or
 - (e) To a passenger riding in a means of public transportation, including a school bus or emergency vehicle.
5. It is unlawful for any person to distribute, have for sale, offer for sale or sell any safety belt or shoulder harness assembly for use in a motor vehicle unless it meets current minimum standards and specifications of the United States Department of Transportation.

SECTION 29: Child Passenger Restraint Usage

It shall be the responsibility of the driver of any vehicle driven within the exterior boundaries of the Te-Moak Tribe Colonies to ensure the safety of all child occupants.

1. No person shall operate a motor vehicle unless each child occupant is secured in a properly installed child passenger restraint device that meets all applicable federal motor vehicle safety standards.
 - (a) Children less than two years of age shall be properly secured in a rear-facing child passenger restraint device until they reach the height or weight limit of said child passenger restraint in the rear seat of the vehicle. If the vehicle is not equipped with a rear seat, the rear-facing child passenger restraint device may be installed in the front seat if it is not installed in front of an active airbag.
 - (b) Traditional baby carriers such as cradleboards are not acceptable forms of child passenger restraint devices and shall not be used as such in a moving motor vehicle.
 - (c) Children two to five years of age regardless of weight shall be properly secured in a child passenger restraint device that meets the requirements for the height and weight of the child. If the vehicle is not equipped with a rear seat, the child passenger restraint device may be installed in the front seat if it not installed in front of an active airbag.

- (d) Children five years of age until the seat belts fit properly, shall be properly secured in a booster seat with a lap and shoulder belt until they reach 57 inches tall (4'9"). If the vehicle is not equipped with a rear seat, the booster seat may be installed in the front seat if it is not installed in front of an active airbag.
 - (e) Children less than 16 years of age and taller than 57 inches (4'9") shall be properly restrained in a lap and shoulder seatbelt. If the vehicle is not equipped with a rear seat, the child may sit in the front seat. A lap-only seatbelt should only be used when a lap and shoulder seatbelt is not available in any other seating positions.
2. Violation of this section shall be considered a primary moving violation for which a law enforcement officer shall have the authority to stop a vehicle and issue a citation upon his reasonable belief that the driver is in violation of this section.
3. Penalties
- (a) First Offense: Pay a fine not less than \$100 or more than \$300 or order the defendant to perform not less than 10 hours or more than 50 hours community service.
 - 1. Fine may be reduced or waived with submission to the Court proof that the violator has obtained a proper child passenger restraint device designed to fit the child and it has been properly installed by a Certified Child Passenger Safety Technician along with educational materials on best practices for Child Passenger Safety.
 - (b) Second Offense: Pay a fine of not less than \$300 or more than \$500 or order the defendant to perform not less than 50 hours or more than 100 hours of community service;
 - (c) Third and Subsequent Offenses: The defendant shall be ordered by the Court that the defendant shall not be able to drive a vehicle within the jurisdiction of the Court for not less than 30 days or more than 180 days.
4. A person or agency approved by the Court of the Te-Moak Tribe to conduct programs of the training and perform inspections of child restraint systems may, in cooperation with the law enforcement agency with jurisdiction, establish a fee to be paid by defendants who are ordered to complete a program of training. The amount of the fee, if any:
- (a) Must be reasonable; and
 - (b) May, if a defendant desires to acquire a child restraint system from such a person or agency, include the cost of a child restraint system provided by the person or agency to the defendant.
- A program of training may not be operated for profit.

5. Drivers who habitually fail to comply with this section may be cited under other relevant sections of the Law and Order Code for child abuse or neglect for which appropriate penalties will apply.
6. This section does not apply:
 - (a) To a person who is transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle.
 - (b) When a physician determines that the use of a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition. In this case, the person transporting the child shall carry in the vehicle the signed statement of the physician to the effect.
7. As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat or position children. The term includes, without limitation:
 - (a) Booster seats and belt-positioning seats that are designed to elevate or otherwise position a child to allow the child to be secured with a safety belt;
 - (b) Integrated child seats; and
 - (c) Safety belts that are designed specifically to be adjusted to accommodate children.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned, as Chairperson of the Tribal Council for the Te-Moak Tribe of Western Shoshone Indians of Nevada, do hereby certify that the Tribal Council is composed of 9 members, of whom ___ constituting a quorum were present at a duly held meeting on _____, 2017, and that the foregoing Ordinance was duly adopted as such meeting by affirmative vote of ___ FOR; ___ AGAINST; and ___ ABSTENTIONS, pursuant to the authority contain under Article 4, Section 3(n) of the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada.

Lydia Johnson, Tribal Chairperson
Te-Moak Tribe of Western Shoshone Indians
of Nevada

ATTEST:

Phaline Conklin, Recording Secretary

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