

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Enacting Criminal Code Section 1.21, "Savings Clause," Section 2.23, "Refusal to
Provide Chemical Evidence," and Section 13.12, "Driving Under the Influence")**

RESOLUTION NO. 05-664

- 1 **WHEREAS, the Legislative Council is vested with the power "to enact criminal and civil laws**
2 **governing the conduct of any person within the Tohono O'odham Nation" and to**
3 **provide laws "to promote, protect and provide for public health, peace, morals,**
4 **education and general welfare of the Tohono O'odham Nation and its members"**
5 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(6) and 1(c)(2));**
6 **and**
- 7 **WHEREAS, on June 27, 2005, the Council enacted the Traffic Code of the Tohono O'odham Nation**
8 **and directed the Domestic Affairs Committee to make recommendations to the**
9 **Council for enacting new and updated traffic laws, including but not limited to**
10 **revisions to the Nation's driving under the influence ("DUI") law (Resolution No. 05-**
11 **361); and**
- 12 **WHEREAS, the Domestic Affairs Committee subsequently drafted seatbelt and child restraint**
13 **provisions which were added to the Traffic Code pursuant to Resolution No. 05-438;**
14 **and**
- 15 **WHEREAS, the Domestic Affairs Committee has worked with the Executive Office to draft two**
16 **related Criminal Code sections, Chapter 13, Section 13.12, "Driving Under the**
17 **Influence," and Chapter 2, Section 2.23, "Refusal to Provide Chemical Evidence"; and**
- 18 **WHEREAS, the enactment of these laws will enhance the protection of public safety and health**
19 **by creating higher standards for persons driving or in actual physical control of**
20 **vehicles on the Nation; and**
- 21 **WHEREAS, the Domestic Affairs Committee and the Executive Office have determined that it is**
22 **essential to take immediate action on these laws due to the grave dangers posed by**
23 **driving under the influence on the Nation; and**
- 24 **WHEREAS, in order to implement Section 13.12 and also allow DUI offenses committed before**
25 **Section 13.12 becomes effective to continue to be addressed under the Nation's**
26 **existing DUI Ordinance No. 51, it is also necessary to enact Chapter 1, Section 1.21,**
27 **"Savings Clause"; and**
- 28 **WHEREAS, the Domestic Affairs Committee has recommended that the Legislative Council enact**
29 **these laws in order to better protect the public health, safety, and welfare of all**
30 **persons on the Nation.**

RESOLUTION NO. 05-664

(Enacting Criminal Code Section 1.21, "Savings Clause," Section 2.23, "Refusal to Provide Chemical Evidence," and Section 13.12, "Driving Under the Influence")

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1 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby enacts Criminal Code**
2 **Section 1.21, "Savings Clause," Section 2.23, "Refusal to Provide Chemical Evidence,"**
3 **and Section 13.12, "Driving Under the Influence," in the form attached hereto, which**
4 **are hereby added to the Criminal Code of the Tohono O'odham Nation and shall**
5 **become effective November 21, 2005.**


6 **BE IT FURTHER RESOLVED that Section 13.12 of the Criminal Code shall govern the construction**
7 **of and punishment for any offense defined in Section 13.12 and committed upon or**
8 **after November 21, 2005.**

9 **BE IT FURTHER RESOLVED that Ordinance No. 51 shall be repealed effective November 21, 2005,**
10 **except that Ordinance No. 51 shall remain in effect and govern the construction of**
11 **and punishment for any offense as defined in Ordinance No. 51 that is committed**
12 **prior to November 21, 2005, and further provided that such an offense shall be**
13 **prosecuted, construed, and punished according to the provisions of Ordinance No.**
14 **51, regardless of the actual date of prosecution and sentencing, and in the same**
15 **manner as if Criminal Code Section 13.12 had not been enacted.**

16 **BE IT FINALLY RESOLVED that Criminal Code Chapter One, Sections 1.19 and 1.20, Chapter Two,**
17 **Section 2.22, and Chapter 13, Section 13.11, shall be reserved.**

18 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 15TH, Day**
19 **of NOVEMBER, 2005 at a meeting at which a quorum was present with a vote of 2,440.80 FOR; -0-**
20 **AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
21 **Section 1 (c)(1)(2) &(6) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by**
22 **the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
23 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
24 **18, 1934 (48 Stat. 984).**

25 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

26 
27 _____
28 **Evelyn B. Juan Manuel, Legislative Chairwoman**

29
30 15th day of November, 2005

31
32 **ATTEST:**

33 
34 _____
35 **Lucille Lopez, Acting Legislative Secretary**

36
37 15th day of November, 2005.
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39

RESOLUTION NO. 05-664

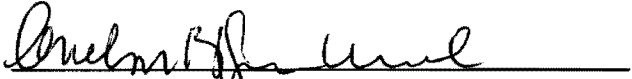
(Enacting Criminal Code Section 1.21, "Savings Clause," Section 2.23, "Refusal to Provide Chemical Evidence," and Section 13.12, "Driving Under the Influence")

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Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 15th day of November, 2005 at 4:27 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



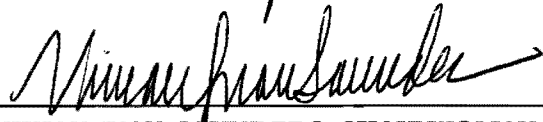
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 16 day of November, 2005

DISAPPROVED

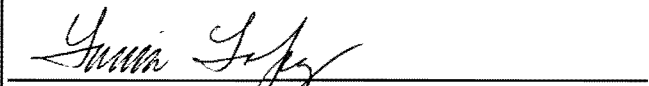
at 3:28 o'clock, P.M.



VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 16th day of

November, 2005, at 3:40 o'clock, P.M.



Lucille Lopez, Acting Legislative Secretary

ACTION: ENACTING CRIMINAL CODE SECTION 1.21, "SAVINGS CLAUSE," SECTION 2.23, "REFUSAL TO PROVIDE CHEMICAL EVIDENCE," AND SECTION 13.12, "DRIVING UNDER THE INFLUENCE"

MOVED: VICE CHAIRMAN VERLON JOSE

SECOND: COUNCILMAN RAYMOND VICTOR

DATE: NOVEMBER 15, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			X
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50	X			
	2. EVELYN B. JUAN MANUEL ()	210.50	X			
SIF Oidak 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			
	2. DARLENÉ ANDREW (Rita Martinez)	93.35	X			
TOTAL		2,440.80	2,440.80	-0-	-0-	[01]

****PASSED VOTES**