

TITLE 8C

CRIMINAL TRAFFIC OFFENSES

(formerly Title 13)

8C-1-101. Jurisdiction. The Crow Tribal Court shall have jurisdiction as provided in Section 8-1-105 of the Crow Criminal Code.

8C-2-201. Definitions. Unless otherwise specified in this Code, all words will be taken in the objective standard rather than in the subjective standard, and unless a different meaning plainly is required, the following definitions apply in this title:

(a) "Motor Vehicle" shall include automobiles, trucks, motorcycles, motorized bikes, and all other wheeled vehicles moved and automated by use of an engine or motor mechanism or both.

(b) "Crow Indian Reservation" shall include all lands within the recognized interior boundaries of the Crow Indian Reservation, as such may exist from time to time, and including all easements, right-of-ways, and fee patented lands.

8C-3-303. Reckless Driving.

- a) A person commits the offense of reckless driving if he operates any motor vehicle in willful and wanton disregard for the safety of persons or property.
- b) Every person convicted of reckless driving shall be punished by imprisonment for a period of not more than thirty (30) days or a fine not to exceed one hundred dollars (\$100) or both and may be deprived of the right to operate a motor vehicle on the Crow Indian Reservation for a period of time not to exceed one year.

8C-3-302. Persons under the influence of alcohol or drugs.

a) It is unlawful and punishable as provided in 13-3-307 for any person who is under the influence of alcohol, noxious fumes, narcotic drug, or any other drug to a degree which renders him incapable of safely driving a motor vehicle, to drive or be in actual physical control of a motor vehicle within the Crow Indian Reservation. The fact that any person charged with a violation of this subsection is or has been entitled to use such a drug under the laws of the Crow Tribe or State, does not constitute a defense against any charge of violating this subsection.

b) In any criminal prosecution for violation of subsection (a) of this section relating to driving while under the influence of alcohol, the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumption:

(i) If there was at that time 0.05% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of alcohol.

(ii) If there was at that time in excess of 0.05% but less than 0.10% by weight of alcohol in the defendant's blood such fact shall not give rise to any presumption that the defendant was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(iii) if there was at that time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of alcohol.

(iv) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 cubic centimeters of blood.

8C-3-303. Chemical Blood, Breath, or Urine Test.

- a) Any person who operates a motor vehicle upon the public highways of the Crow Indian Reservation shall be deemed to have given consent, subject to the provisions of 8C-3-302, to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if arrested by a peace officer of the Crow Tribe for driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The tests shall be administered at the direction of a peace officer of the Crow Tribe having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of the Crow Indian Reservation while under the influence of intoxicating liquor. The arresting officer may designate which one of the aforesaid tests shall be administered.
- b) Any person who is unconscious or who is otherwise in condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a) of this section.
- c) If a person under arrest refuses upon the request of a peace officer of the Crow Tribe to submit to a chemical test designated by the arresting officer as provided in subsection (a) of this section, none shall be given, but the Crow Tribal Administrative Body determining who has the privilege to drive upon the receipt of a sworn report of the peace officer of the Crow Tribe that he has reasonable grounds to believe the arrested person has been driving or was in actual physical control of a motor vehicle upon the public highways of the Crow Indian Reservation while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the peace officer of the Crow Tribe, shall suspend the license or driving privilege of such person on the highways of the Crow Indian Reservation for a period of sixty (60) days. Like refusal by a non-member shall be subject to suspension by the Crow Tribal Administrative Body determining who is privileged to drive in like manner. All such suspensions are subject to review as hereinafter provided.

8C-3-304. Right of Appeal to Court. The Crow Tribal Administrative Body determining who has the privilege to drive shall immediately notify any person whose license or privilege to drive has been suspended, as hereinbefore authorized, in writing and such person shall have the right to file a petition within thirty (30) days thereafter for a hearing in the matter in the Crow Tribal Court. Such Court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon thirty (30) day's written notice to the prosecuting attorney of the Crow Tribe wherein the appeal is filed and such prosecuting attorney shall represent the Crow Tribe, and thereupon the Court shall take testimony and examine into the facts of the case, except that the issue shall be limited to whether a peace officer of the Crow Tribe had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, whether the person was placed under arrest and whether such person refused to submit to the test. The Court shall thereupon determine whether the petitioner is entitled to a license or is subject to a suspension as heretofore provided.

8C-3-305. Evidence Admissible.

- a) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by a person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, evidence of amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, or urine, is admissible.
- b) If the person under alleged impairment refused to submit to the test as hereinabove provided, such refusal shall be admissible in any criminal action or proceeding arising out of acts alleged

while in physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor.

- c) The provisions of this part do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

8C-3-306. Administration of Tests.

- a) Only a physician or registered nurse acting at the request of a peace officer of the Crow Tribe may withdraw blood for the purpose of determining the alcohol content wherein. This limitation shall not apply to the taking of breath or urine specimens.
- b) The person tested may, at his own expense, have a physician or a registered nurse of his own choosing administer a test, in addition to any administered at the direction of a peace officer of the Crow Tribe, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath, or urine. The failure or inability to obtain an additional test by persons shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.
- c) Upon the request of the person tested, full information concerning the test taken at the direction of the peace officer of the Crow Tribe shall be made available to him or his attorney.
- d) No physician or registered nurse shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer of the Crow Tribe to administer such a test.
- e) If the test given under 8C-3-303 is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

8C-3-307. Penalty.

- a) Every person convicted of violating Section 8C-3-302 shall be sentenced to a period of not less than five (5) days nor more than ninety (90) days and to pay a fine of not less than fifty dollars (\$50) nor more than one hundred and eighty dollars (\$180). At the discretion of the judge, the driving privileges on the Crow Indian Reservation may be suspended for a period of time not to exceed one year.