

APRIL 2003 CROW TRIBAL LEGISLATURE

BILL NO. CLB03-04

INTRODUCED BY: CROW TRIBAL EXECUTIVE BRANCH

A BILL ENTITLED "AN ACT OF THE CROW TRIBAL LEGISLATURE AMENDING THE DOLLAR AMOUNT FOR THE FINES SET FORTH IN 8B-1-108, Penalties, OF THE CROW CRIMINAL CODE TO COMPLY WITH THE CROW CONSTITUTION AND TO AMEND OR ADJUST THE DOLLAR AMOUNT OF THE FINES SET FORTH THROUGHOUT THE CROW CRIMINAL CODE, 8B-1-101 ET SEQ. AND FOR OTHER PURPOSES".

WHEREAS, § 8B-1-108, Penalties, of the CROW CRIMINAL CODE in pertinent part provides:

8B-1-108 Penalties. Penalties for punishable offenses are categorized into the following penalty ranges:

- (1) Class A – includes all felony offenses and various repeat offenses. The offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 1 year or be fined an amount not to exceed \$5000.00 payable to the Crow Tribal Court, or both.
- (2) Class B – includes al repeat misdemeanors and those committed in conjunction with other offenses. Then offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 9 months or be fined in an amount not to exceed \$3750.00 payable to the Crow Tribal Court, or both.
- (3) Class C – includes all first offense misdemeanors and those offenses specified throughout the following code. The offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 6 months or be fined an amount not to exceed \$2500.00 payable to the Crow Tribal Court, or both.
- (4) ...

WHEREAS, the organic document of the Crow Tribe or Nation, the Crow Constitution in pertinent part provides:

ARTICLE XI – BILL OF RIGHTS

Section 1. ...

Section 2. ...

Section 3. ...

Section 4. In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Crow Tribe of Indians in exercising its powers of self-government shall not:

- (a) ...;
- (b) ...;
- (c) ...;
- (d) ...;
- (e) ...;
- (f) ...;
- (g) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$1000 or both;
- (h) ...;
- (i);
- (j)

WHEREAS, Article XI(4)(g) immediately above constitutionally imposes a dollar limit of \$1,000.00 on fines and the maximums of \$5000.00, \$3750.00 and \$2500.00 as set forth in 8B-1-108, *Penalties*, exceed this constitutional limitation;

WHEREAS, the fines of \$5,000.00, \$3,750.00 and \$2,500.00 as set forth in 8B-1-108 are repeated within the penalty provisions of the substantive offenses throughout the Crow Criminal Code;

WHEREAS, the Crow Tribe or Nation without hesitation should obey its organic document, the Crow Constitution, and not enact laws that are unconstitutional or if laws are enacted that violate the Crow Constitution, these laws should be amended;

WHEREAS, criminal laws and the penalties set forth in these laws should be clearly written; and,

WHEREAS, the amendments being proposed are in the best interest of persons who are subject to these criminal laws and also in the best interest of the government, the Crow Tribe or Nation, that has the solemn responsibility of enforcing these laws.

NOW, THEREFORE, BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:

Resolved that the Crow Tribal Legislature in a duly called and held session amends 8B-1-108 by deleting \$5,000.00 and inserting \$1,000.00, by deleting \$3,750.00 and inserting \$750.00, and by deleting \$2,500.00 and inserting \$500.00; and by adding the phrase "provided however that any fine imposed shall not exceed the maximum allowable under the specific offense" in paragraph (4), below.

Section 8B-1-108 after the above and foregoing amendments shall provide as follows:

8B-1-108. Penalties. Penalties for punishable offenses are categorized into the following penalty ranges:

- (1) Class A - includes all felony offenses and various repeat offenses. The offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 1 year or be fined an amount not to exceed \$1000.00 payable to the Crow Tribal Court, or both.
- (2) Class B - includes all repeat misdemeanors and those committed in conjunction with other offenses. The offender shall be imprisoned in the Crow Tribal Jail for any term not to exceed 9 months or be fined in an amount not to exceed \$750.00 payable to the Crow Tribal Court, or both.
- (3) Class C - includes all first offense misdemeanors and those offenses specified throughout the following code. The offender shall be imprisoned in the Crow Tribal jail for any term not to exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.
- (4) (a) The Crow Tribal Judge at all times may at his/her own discretion, commute, enhance, or modify any sentence by applying community service or any cultural remedies within the guidelines of the Indian Civil Rights Act provided however that any fine imposed shall not exceed the maximum allowable for a violation of the specific offense.
(b) The Crow Tribal Court may in appropriate cases order restitution for any damage, loss, or injury sustained by the victim or persons dependant [sic] upon the victim for support.

Further be it resolved that the fines set forth in the penalty portion or paragraph of the substantive offenses and in excess of the amounts set forth in the amended 8B-1-108, Penalties,

be and are hereby amended accordingly. In other words, the not to exceed amount of \$5,000.00 for the violation of a Class A offense shall be deleted and \$1,000.00 inserted; the not to exceed amount of \$3,750.00 for the violation of a Class B offense shall be deleted and \$750.00 inserted; and the not to exceed amount of \$2,500.00 for the violation of a Class C offense shall be deleted and \$500.00 inserted.

No other revisions or changes are made to the Crow Criminal Code, 8B-1-101 through 8B-10-107.

This Bill, upon adoption by the Crow Tribal Legislature and approved by the Chairman of the Crow Tribe is intended to be Codified in Title 8B of the Crow Tribal Law and Order Code.

CERTIFICATION

I hereby certify that this Crow Legislative Bill was duly approved by the Crow Tribal Legislature with a vote of 12 in favor, 0 opposed and 0 abstained and that a quorum was present this 6 day of ~~April~~^{May}, 2003.


Speaker

EXECUTIVE ACTION

I hereby X (approve) or _____ (veto) on this 7th day of ~~April~~^{May}, 2003, this Crow Legislative Bill pursuant to the authority vested in me, as Chairman of the Crow Tribe, in Article V, Section 8, Crow Constitution.


Chairman

Amend the dollar amount of fines.

Bill or resolution number _____

Introduced by *Executive*

Date of Vote MAY 06 2003

Representative	Yes	No	Abstain
Bulltail	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crooked Arm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Little Light	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plain Feather	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stewart	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Not Afraid	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Goes Ahead	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hogan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Old Elk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Passes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pease	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Medicine Horse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Russell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Real Bird	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Blackhawk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cloud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Results	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Results of vote: Passed Not Passed Tabled Veto Override

Signature of Officer: *Don J...*

Date: MAY 06 2003