



# [Document title]

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**LAW RESPECTING THE LICENSING OF BUSINESSES  
IN ALDERVILLE FIRST NATION**

**[Short title: “Alderville Business License Law”]**

**Date enacted: [●]  
Coming into force: [●]**

**WHEREAS:**

1. Alderville First Nation (“AFN”) is a sovereign nation as codified in Alderville's *Chi-Naaknigewin*, with rights of self-government affirmed by s. 35 of the *Constitution Act*, 1982.
2. The Chi-Naaknigewin affirms Alderville's inherent right of governance and authority to pass laws with respect to those matters that are integral to Alderville as a community.
3. Alderville values the health, safety, and security of its E-dbendaazijig and residents and seeks to ensure the protection of these paramount values at all times.
4. The Council of Alderville desires to make a law for the licensing of Businesses on AFN Lands.
5. Pursuant to paragraphs 83(1) (a. 1), (e), (e. 1) and (g) of the *Indian Act*, Alderville also may make by-laws for the licensing of Businesses and with respect to any matter arising out of or ancillary to the exercise of powers under this section, including the enforcement of payment of amounts that are payable thereof, and for the imposition and recovery of interest on amounts that are payable thereof.
6. AFN wishes to enact this law pursuant to its inherent right of self-government and Section 81 of the *Indian Act*, to the extent the same is not inconsistent with Alderville law.
7. The Council of Alderville deems that for the orderly conduct and administration of Businesses, and for the health, welfare, safety and environment of the Members and the occupants on AFN Lands, to license Businesses operating on AFN Lands.
8. All Persons and Business Entities operating a Business on AFN Lands must adhere to the requirement to obtain a Business Licence pursuant to the *Alderville Business Licence Law*; and
9. All Cannabis Businesses shall be regulated pursuant to the terms contained in the *Alderville Cannabis Law*, however certain enforcement and other provisions of this law shall still remain applicable.

**NOW THEREFORE** the Council, hereby enacts the following law:

**PART I – TERMS OF GENERAL APPLICATION**

**2. Short Title**

This law governing Businesses located on AFN Lands may be cited as the “Business Law”.

**3. Interpretation**

**3.1 Definitions**

In this Business Law:

“**Alderville First Nation**” or “**Mississaugas of Alderville First Nation**” or “**Alderville**” or “**AFN**”, as the case may be, means a band, as defined in section 2 of the *Indian Act*.

“**AFN Lands**” means AFN Reserve (s) No. 37 and No. 37A.

“**Applicable Law**” means AFN laws and by-laws including all applicable laws, by-laws, codes, regulations that have been duly enacted by any applicable federal or provincial laws, each as amended from time to time, provided that in the event of

inconsistency, the AFN laws and by-laws shall prevail.

“**Applicant**” means any Person or Business Entity who makes an Application for a Business Licence under the provisions of this Business Law.

“**Application**” means an application for a Business Licence in the form established by the License Inspector, as may be amended from time to time.

“**Business**” or “**Business Services**” means carrying on a calling, trade, occupation, employment or Profession, vocation, commercial, industrial, office, retail or services, or an enterprise which habitually busies, occupies or engages the regular time, attention, labour and effort, of the Licensee or Person(s) within the AFN Lands, for purposes of gain, benefit, advantage, livelihood or profit, or, in which the Licensee or Person(s) show(s) willingness to invest time and capital on future outcome, including cultural but does not include: i) any activities carried on directly or indirectly by the AFN government and ii) a Cannabis Business;

“**Business Entity**” includes a sole proprietorship, corporation, partnership, limited partnership, joint venture, or party, whether acting on their own behalf or as Persons Engaged in the Business and includes successors and permitted assigns.

“**Business License**” means a license issued under the Business Law.

“**Cannabis Business**” has the meaning prescribed under the *Alderville Cannabis Control Law*.

“**Carrying on a Business**” includes without restricting the generality of the term, any Person or Business Entity who advertises their venture by print or social media, publicity or otherwise as open for Business of any kind, or who deals in, or buys, rents, sells, barter, or displays, or offers by advertisement to buy, sell, barter, rent or display any goods or service of any kind, either on behalf of themselves or others, for the purpose of gain or profit, and all such Persons or Business Entity will be deemed to be carrying on, engaged in or practising within the AFN Lands their respective Profession, Business, Trade, Occupation or employment (and “**Carry on the Business**” and any variation thereof shall be interpreted accordingly);

“**Council**” means the Chief and Council of AFN.

“**Councillor**” means the Councillor(s) of AFN.

“**Enforcement Officer**” means the person(s) appointed under Part V of the Business Law.

“**E-dbendaazijig**” means a person or persons whose name appears on the Alderville First Nation Membership List.

“**Fee Schedule**” means *Schedule “B” – Prescribed Fees*, which forms part of this Business Law and which may be amended from time to time by AFN at its discretion and without notice.

“**Licensee**” means a Person or a Business Entity to whom a Business License is issued under the Business Law.

“**List of Forms**” means *Schedule “C” – List of Forms*, which forms part of this Business Law and which may be amended from time to time by AFN at its discretion and without notice.

“**Person**” means any individual and includes an E-dbendaazijig.

“**Persons Engaged in the Business**” means and include the proprietor, owner(s), shareholders, partners, entities, officers and directors, employees, and independent contactors to the Business.

“**Premises**” means the location or venue on AFN Lands and identified in the Business Licence in which the Licensee Carries on the Business and includes a store, office, warehouse, factory, building, enclosure, residential or commercial property, yard and includes various places within the AFN Lands where the Business Services may be provided from time to time; and

“**Profession**” means a vocation, Occupation or Calling requiring special, usually advanced, education and skill, and as

defined in the Business Law.

3.2 In this Business Law:

- (a) the word “shall” signifies an obligation that, unless this Business Law provides to the contrary, must be carried out as soon as practicable after this Business Law comes into effect or the event that gives rise to the obligation.
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes but is not limited to”.
- (c) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.
- (d) titles and headings of Parts and sections have been inserted in the Business Law for convenience of reference only and are not interpretive aids; all references to a time period of days means consecutive days and not business days unless otherwise noted.
- (e) where the time limited for the doing of an act expires or falls on a Saturday or Sunday or an AFN, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday, or holiday.
- (f) where the time limited for the doing of an act in the AFN administration building falls on a day when the administration building is not open during regular business hours, the act may be done on the next day that the administration building is open; and
- (g) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded.

## **PART II – LICENSE ISSUANCE, RENEWAL AND TERMINATION**

### **4. Requirements for a Business License**

- 4.1 Every Person or Business Entity who wishes to conduct or who is Carrying on a Business on AFN Lands must hold a valid Business License issued under this Business Law unless Carrying on a Business is in relation to any Exempt Activities listed in Schedule A, which Exempt Activities may be amended from time to time by AFN at its discretion.
- 4.2 Every Person or Business Entity operating more than one Business or Carrying on a Business at multiple Premises on AFN Lands must obtain a separate Business License for each Business, and where a Business is conducted in or from more than one Premise, the Business conducted in or from each Premise will be deemed a separate and distinct Business and will require a separate Business License.
- 4.3 Every Business License granted under this Business Law is valid and permits the Licensee to Carry on the Business in a lawful manner.
- 4.4 A Business License shall specify:
  - (a) Date of issuance, type of Business and location of the Business.
  - (b) hours during which the Business shall be permitted to operate.
  - (c) length of term of the Business Licence.
  - (d) any other terms and conditions deemed necessary for the Business to be carried out on AFN Lands.

4.5 No Person shall publish or cause to be published any representation that a Person or Business Entity has the requisite Business Licence or authorization under this Business Law unless such Person or Business Entity is so permitted.

### **5. Issuance of the Business License**

- 5.1 Upon an Applicant meeting the requirements for a Business License issuance under section 4.3 of the Business Law, a Business License will be issued according to the terms set out therein.
- 5.2 Every Business Licence granted under this Business Law is valid according to its terms and permits the Licensee to

Carry on a Business in a lawful manner so long as the Business is carried out on AFN Lands for which it is approved.

5.3 The License Inspector will promptly issue a Business Licence to the Licensee at the address shown in the Application provided:

- (a) the Application is complete, and the Applicant has disclosed all required information in the Application and the License Inspector is satisfied that the Applicant's Business complies with all provisions in this Law and any other AFN Laws or by-law(s) as applicable.
- (b) the Applicant has not, within the preceding three years, been convicted of an offence under the *Criminal Code*, RSC 1985, c C-46, relating to the conduct of the Business whether on or off AFN Lands, for which the Applicant has not been pardoned.
- (c) all property and liability insurance requirements have been met.
- (d) where requested by the Enforcement Officer, an agreement to indemnify AFN for any losses incurred by AFN as a result of the Business if the License Inspector is requiring such an agreement.
- (e) the Applicant's Business would not be detrimental to the health, welfare, safety of Members and occupants of AFN nor would it pose an adverse or environmental risk to AFN Lands.
- (f) the License Inspector's investigations do not disclose any reason to believe that the Carrying on the Business may result in a breach of Applicable Laws, or may be in any way adverse to the public interest; and
- (g) the required fee for the Business Licence has been paid.

5.4 The License Inspector is authorized to deny, grant, issue or transfer Business Licences as provided in this Business Law.

5.5 If the Applicant or Licensee fails to comply with or if the License Inspector is not satisfied with the information received from the Applicant or Licensee under section 4.3 of the Business Law, the License Inspector will forthwith serve the Applicant with a notice containing sufficient detail as reasonably required and said notice will be send in accordance with the notice provisions of this Business Law.

5.6 The Business Licence so issued will be deemed a personal license to the Licensee. Therefore, it cannot be assigned, transferred, given, lent, or sold to any other Person except as per section 13 on transferability.

5.7 Pursuant to this Business Law, it is an offence to:

- (a) Carry on a Business that is prohibited under this Business Law.
- (b) Carry on a Business at a different Premises than the Premises specified in the Business Licence; and/or
- (c) Transfer the Business Licence, except in accordance with this Business Law.

## **6. Business License Prerequisite**

6.1 Notwithstanding anything else contained herein to the contrary, it shall be the sole responsibility of the Applicant to ensure that the Business complies with Applicable Laws and that the Applicant has obtained all necessary approvals, permits, certificates or other form of authorization required to Carry on the Business under Applicable Law.

6.2 The Applicant shall, upon request by the License Inspector, during the Application process and from time to time, thereafter, produce evidence of any approvals, permits, certificates or other form of authorization required under Applicable Law to Carry on the Business.

6.3 No Business Licence shall be granted for Businesses requiring other authorizations until the Applicant has demonstrated that the applicable preconditions have been met including the following:

- (a) Environmental approval where applicable or if requested by AFN given the nature of the Business.
- (b) Proof of compliance with all applicable fire safety regulations and inspection by the AFN Fire Department.

- (c) Demonstrated compliance with any other applicable AFN law or by-laws.
  - (d) Any other specific approval, permit, certificate, or other form of authorization as required based on the nature of the Business and in consideration of all other Applicable Laws, including all provincial and federal laws.
- 6.4 Before any Business Licence is issued to a Person or a Business Entity to Carry on a Business that requires insurance coverage, such proof of insurance coverage must be submitted to the License Inspector with the Application for such Business Licence and shall name AFN as insured and/or loss payee. The manner of proof of insurance must be in a form acceptable to the License Inspector.

## **7. Business License Application**

- 7.1 Every Person or Business Entity who wishes to conduct a Business on AFN Lands must apply in writing and must disclose all information required on the Application.
- 7.2 Every Person or Business Entity applying for a Business License under the Business Law to operate a Business that is governed or requires registration by any federal statute, or self-regulating professional body, must supply proof of his or her qualifications and of the qualifications of the employees to Carry on such a Business.
- 7.3 Where the Applicant is a Business Entity, proof of incorporation or partnership must be provided and shall include a copy of the partnership or joint venture agreement.
- 7.4 Each Application must list all owners, shareholders or partners involved in the Business and the Business Entity and must provide an organizational chart to confirm ownership holdings in the Applicant.
- 7.5 Every Application for a Business Licence must be signed by each owner or authorized representative of the Business entity, who is authorized in writing, to make such Application on behalf of the Business Entity, provided that:
- (a) in the case of a Business Entity that is a corporation, it may be signed by a director or officer of the corporation in accordance with the corporation's laws; and
  - (b) in the case of a Business Entity that is a partnership, limited partnership or joint venture, such partners in the partnership shall execute the Application, or the general partner in the case of a limited partnership or the parties comprising the joint venture.
- 7.6 The Application shall be delivered to the Enforcement Officer and must be accompanied by the established non-refundable fee as prescribed in Schedule B of the Business Law and any supporting inspection certificates, approvals and confirmations required under this Business Law including information about the Business and/or a business plan or feasibility study if deemed necessary based on the nature of the Business.
- 7.7 It is an offence to provide any false or misleading information in order to obtain a Business Licence.

## **8. Revocation and Suspension**

- 8.1 The Enforcement Officer may immediately revoke or suspend a Licence, as a result of carrying on illegal activities on or in relation to the Premises outside the acceptable terms and conditions of the issued Licence, for any period of time deemed necessary by AFN Lands if the Licensee, or in the case a Licensee that is a Business Entity, an individual that owns, directly or indirectly, all or part of such Business Entity:
- (a) is convicted under any Applicable Laws of an offense in relation to the activities of the Business for which the Licensee is licenced.
  - (b) has, in the opinion of the Enforcement Officer acting reasonably, been guilty of misconduct or negligence in respect of the Business for which the Licensee is licenced or with respect to the Premise as to warrant the suspension of the Business Licence.
  - (c) has ceased to meet the legal or regulatory requirements under Applicable Laws to carry on the Business for which the Licensee is licenced or with respect to the Premises.
  - (d) has failed, or ceased, to meet the conditions of the Licence.

- (e) within the preceding three years of the Business License issuance and since the Business License issuance, has been convicted of an offence under the *Criminal Code*, RSC 1985, c C-46, relating to the conduct of the Business whether on or off the AFN Lands, for which the Licensee has not been pardoned.
  - (f) has conducted the Business in a manner that is detrimental to the health, welfare, safety and environment of the Members and the occupants on AFN Lands; or
  - (g) is Carrying on a Business, the purpose of which is to engage in or permit, allow, facilitate, encourage, or assist others to engage in, any activity which violates the *Criminal Code*, RSC 1985, c C-46.
- 8.2 A revocation or suspension of a Business Licence under this Business Law must be made in writing by the Enforcement Officer and served on the Licensee in accordance with the notice provisions of this Business Law.
- 8.3 No Licensee will engage in any Business operations or activities or otherwise Carry on a Business for which a suspension or revocation is in effect notwithstanding any right to appeal hereunder.
- 8.4 The License Inspector will post the notice of suspension or revocation of a Business License upon the Premises for which the Business License was issued, and the notice must not be removed until the Business License is reinstated or the Licensee ceases to occupy the Premises, or a new Business other than the one carried on by the former Licensee is licensed on the Premises.

### **PART III – OPERATION OF THE BUSINESS LICENCE**

#### **9. Validity, Term, Renewal & Fees**

- 9.1 A Business License is valid throughout the AFN Lands and shall be granted for a one (1) year period commencing on the date of issuance of the Business License.
- 9.2 Business Licenses must be renewed by completing the applicable form and shall be submitted 60 days before the expiration of the 12 months period, or the Business License will have expired and be suspended. Business Licenses may be renewed and reinstated from suspension for non-timely renewal in accordance with this Business Law.
- 9.3 The Licensee must pay the fees prescribed in the Fee Schedule at Schedule B of this Business Law, which fees shall be non-refundable. Failure to pay such fees within ten (10) days of date payable shall be grounds for suspension of the Business Licence.
- 9.4 Where a Licensee has not renewed the Business License on or before the expiry date thereof, the Business License will be suspended, and the Licensee has 15 days after the date of expiry to renew the Business License and shall have the Business License reinstated.
- 9.5 Where a suspended Licensee has not renewed the Business License within the 15 days after the expiry date, the suspended Licensee shall be granted an additional 30 days to renew the Business License and may have the Business License reinstated.

#### **10. Display of Business License**

- 10.1 The Licensee or person in charge or control of the Premises where the Business is conducted must at all times keep the Business License or Business Licenses prominently displayed in an area of the Premises to which the public has access or in an area designated by the License Inspector.

#### **11. Transferability of Business License**

- 11.1 In the event of a transfer of the Business for which a Business License has been issued, the License Inspector will permit the transfer or assignment of the Business License from one Person to another or one Premises to another, provided there is no material change to the Business, and the transferee or assignee completes an Application with the updated information and such application is accepted by the Licence Inspector.

### **PART IV – APPEALS AND ENFORCEMENT**

## **12. Appeal**

- 12.1 The Applicant or Licensee may appeal a decision of the Enforcement Officer made pursuant to this Business Law to the Council.
- 12.2 The License Inspector will forthwith transmit to Council and Applicant:
- (a) a copy of the original Business License Application as completed by the Applicant and copies of any supporting documentation accompanying the Business License Application.
  - (b) a copy of the Applicant's completed form(s); and
  - (c) a copy of the License Inspector's refusal and written reasons for refusal or written reasons for revocation or suspension of the Business License.
- 12.3 Upon receipt of the material described in section 15.2 of this Business Law, Council will determine the time and date of the review hearing and will advise the License Inspector of its decision to hold such review hearing. The License Inspector will forthwith serve notice of that decision. Council will hold the review hearing at the time and date. The Applicant or the Licensee shall be given at least seven (7) days notice before the review hearing.
- 12.4 At the review hearing, the Applicant or the Licensee may adduce evidence, submit argument in support of the Application for the Business License or, in the case of a renovation or suspension, its defense. Applicant or Licensee will also be permitted to answer any questions that may arise.
- 12.5 At the review hearing, the License Inspector is entitled to submit arguments in reply to evidence and argument presented by the Applicant or the Licensee.
- 12.6 At the review hearing, the onus will be upon the Applicant or the Licensee to show just cause why the Business License applied for should be granted, or, in the case of a renovation or suspension, why the Business License should be reinstated.
- 12.7 Council will give its decision in writing to the Applicant or the Licensee within ten (10) days of the date of the completion of the review hearing. The decision will include a notification that the Applicant or the Licensee has a further right of appeal to a court of competent jurisdiction, by serving a copy of the decision personally or by registered mail to the Applicant or the Licensee at the address shown in the Applicant's Business License Application.
- 12.8 If the Applicant or the Licensee agrees at the review hearing to accept conditions upon the Business License, Council may render a decision granting the Applicant the Business License applied for upon such conditions, as it considers fair and appropriate and authorized by Applicable Laws or, in the case of a revocation or suspension, Council may reinstate the Business License upon such conditions, as it considers fair and appropriate and authorized by Applicable Laws.
- 12.9 All review hearings will be held in camera unless the Applicant or the Licensee requests that the hearing be open to the public and Council must approve the request by a band council resolution. The decision resulting from the review hearing will be made public forthwith, and any minutes of the review hearing will be available to the public within fifteen (15) days of the decision.
- 12.10 If Council renders a decision granting the Applicant the Business License applied for, the Business License approval will be issued upon the Applicant complying with this Business Law.

## **13. Enforcement**

- 13.1 The License Inspector may charge a Licensee, with an expired, revoked, or suspended Business License, with all reasonable costs which are incurred in the collection of all fees, fines, interest, penalties, or other costs imposed by this Business Law.
- 13.2 In addition to any other applicable penalties under this Business Law, any violation or offence committed and upon conviction under this Business Law or any of the above conditions shall cause the Business Licence to be invalid.



- 13.3 An order imposed under this Business Law:
- (a) may be registered in court and enforced as a court order; and
  - (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the order receives a Business Licence under this Business Law.
- 17.4 It is an offence for any Person or Business Entity to prevent or obstruct or attempt to prevent or obstruct the Enforcement Officer or other federal or provincial inspector from carrying out any of their official duties under this Business Law.

#### **14. Penalty**

- 14.1 Any Person or Business Entity who contravenes any provision of the Business Law or who takes part in the contravened activity upon conviction is liable to a fine not exceeding \$1,000.00 and a term of imprisonment not to exceed six months or to both fine and imprisonment pursuant to such rights as are contained in the *Indian Act*. As part of the penalty, the Person or Business Entity and all directors, officers, shareholders, partners, or owners may be prohibited from Carrying on a Business on AFN Lands for a period of 12 months.

### **PART V – LICENSE INSPECTOR**

#### **15. License Inspector**

- 15.1 Council, by band council resolution:
- (a) will appoint a License Inspector who will receive and review Applications, issue Business Licenses and carry out the Business licensing administrative functions under this Business Law including enforcement, subject to any other applicable law.
  - (b) will provide for reasonable remuneration to be paid to the License Inspector, and other appointed officers.
  - (c) will appoint the License Inspector for a fixed term of not less than one (1) year after which reappointment shall be discussed by both Council and the Enforcement Officer; and
  - (d) may dismiss the License Inspector from the appointed position, for failure to carry out duties as described in this Business Law or, for having been convicted of an employment related offense under the *Criminal Code*, RSC 1985, c C-46, or, for contravening AFN's Conflict of Interest guidelines.

#### **16. Duties of License Inspector**

- 16.1 The License Inspector will:
- (a) receive and process all Applications, appeals, renewals, transfers, and assignments of Business Licenses to be issued under this Business Law.
  - (b) maintain a record of all Applications and fees for Business Licenses and retain on file a copy of all Business Licenses issued, together with their particulars.
  - (c) ascertain, as far as reasonably practicable, that all information furnished by the Applicant in connection with an Application for a Business License is accurate.
  - (d) make all investigations required by this Business Law or by AFN, relative to an Application.
  - (e) in response to receipt of a written complaint, or at least once a year, with the consent of the Licensee (such consent not to be unreasonably withheld) make inquiries and inspect Premises to determine whether every holder of a Business License issued under this Business Law complies with the Business License issued and the by-laws or laws of the Council, and no Business Licensee shall obstruct or hinder the making or completing of the inspection.
  - (f) report monthly in writing to the First Nation Administrator stating the number of Business Licenses issued, the type of Business conducted under each Business License, and the fees received since the previous report along with a summary stating the total number of Business Licenses issued and the total amount of money

received to date for the current year; and

(g) perform such other duties as may be requested by the First Nation Administrator.

16.2 In addition to any other applicable fine, penalty or remedy, the Enforcement Officer may with the approval of the First Nation Administrator and Council where deemed necessary in the reasonable opinion of the First Nation Administrator:

- (a) issue a notice of contravention and require the Business to rectify any contravention to the Business Licence.
- (b) issue a cease-and-desist order to order any Person or Business entity who requires a Business Licence under this Business Law but who has not received a Business Licence to cease Carrying out the Business and any related activity or use until such time as that Person applies for and receives a Business Licence.
- (c) in addition to (a) or (b) where a Person or Business entity is Carrying on a Business without a Business Licence, order that a Premises, or a portion of a Premises, be closed, shut down, sealed off, or otherwise made unavailable for Business use until such time as there is a Business Licence in place for that Premises.
- (d) revoke or suspend the Business Licence.
- (e) revoke or suspend consideration of any AFN contracts with the non-compliant Business.
- (f) publicly post notice of lack of compliance with this Business Law in the community newsletter and website; and
- (g) take any other action as may be necessary in compliance with law.

#### **PART VI– GENERAL**

#### **17. Coming into Force, Amendments and Notice**

17.1 The provisions of this Business Law shall come into force and effect after having been enacted by Council.

17.2 This Business Law may be amended by Council from time to time.

17.3 Any notice required by this Business Law to be given to the Applicant or Licensee may be given at the address of the Applicant or location of the business on AFN Lands. All notices by the Licensee or Applicant, as the case may be, must be provided to the Enforcement Officer in writing

#### **Schedule “A”– Exempt Activities**

1. Cannabis Businesses (see Cannabis law for licensing requirements)
2. Annual Fundraisers or other charitable or cultural activities
3. Seasonal small businesses (i.e., landscaping, snow plowing, catering, canning etc.)
4. Traditional craft making, teaching, artistry and product/supply making carried out of the home.

#### **Schedule “B”– Prescribed Fees**

<b>Item</b>	<b>Fee Payable</b>	<b>Date payable</b>
License Fee for a new Business License Application or Business License Renewal	\$25	Upon Application
Late Renewal	licence fee + \$25	Upon Application for renewal
Fee when Suspended Licensee	licence fee + \$25	Upon Application after suspension

