
ENGROSSED SUBSTITUTE HOUSE BILL 1496

State of Washington

63rd Legislature

2013 Regular Session

By House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Sawyer, McCoy, Hunt, Appleton, Santos, Lias, Riccelli, Dunshee, Stanford, Ormsby, and Pollet)

READ FIRST TIME 02/19/13.

1 AN ACT Relating to hunting-related enforcement actions involving
2 tribal members; amending RCW 77.04.055 and 77.15.075; adding a new
3 section to chapter 77.15 RCW; and adding a new section to chapter 43.10
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW
7 to read as follows:

8 (1) Upon presentation of a tribal identification card by a member
9 of a federally recognized tribe to a fish and wildlife officer or ex
10 officio fish and wildlife officer, the officer must immediately refer
11 to the contents of the training module on tribal hunting rights
12 produced by the office of the attorney general under section 2 of this
13 act and take any applicable actions consistent with the contents of the
14 module.

15 (2) The requirements under subsection (1) of this section do not
16 abrogate or otherwise affect the terms of any intergovernmental, mutual
17 law enforcement assistance, or other cooperative agreement entered into
18 by the member's tribe and the department or local law enforcement
19 agency.

1 (3) To maximize efficiency and mutual benefit in hunting
2 enforcement, cooperative management and mutual law enforcement
3 assistance agreements agreed to by tribes and the department or local
4 law enforcement agency are encouraged on open and unclaimed lands where
5 a tribe has a treaty or other federally recognized right to hunt.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10 RCW
7 to read as follows:

8 (1) The office of the attorney general shall create a training
9 module on tribal hunting rights to assist all general authority
10 Washington peace officers with understanding the rights of tribal
11 hunters, the related complexity of enforcing hunting laws, and the
12 recommended course of action that should be taken by a peace officer
13 when an individual presents a tribal identification card.

14 (2) The training module required by this section must include
15 information on the following aspects of tribal hunting law:

16 (a) Applicable federal treaty provisions, including Article 5 of
17 the treaty of Point Elliot, Article 4 of both the treaty of Neah Bay
18 and the treaty of Point No Point, and Article 3 of both the treaty of
19 Medicine Creek and the treaty of Olympia;

20 (b) Case law interpretations of treaty rights, including *State v.*
21 *Miller* (102 Wn.2d 678), *State v. Buchanan* (138 Wn.2d 186), and *State v.*
22 *Chambers* (81 Wn.2d 929);

23 (c) Tribal government status and general organization; and

24 (d) Other sources of authority and information relevant to peace
25 officers when enforcing the hunting laws and rules contained in Title
26 77 RCW and the corresponding administrative rules adopted by the fish
27 and wildlife commission.

28 (3) The training module required by this section must be updated as
29 necessary to reflect evolving case law, treaty interpretations,
30 generally accepted academic findings, agreements entered into by the
31 states and tribes, and any other relevant developments related to
32 tribal hunting law.

33 **Sec. 3.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
34 read as follows:

35 (1) In establishing policies to preserve, protect, and perpetuate

1 wildlife, fish, and wildlife and fish habitat, the commission shall
2 meet annually with the governor to:

3 (a) Review and prescribe basic goals and objectives related to
4 those policies; and

5 (b) Review the performance of the department in implementing fish
6 and wildlife policies.

7 (2)(a) The commission shall maximize fishing, hunting, and outdoor
8 recreational opportunities compatible with healthy and diverse fish and
9 wildlife populations.

10 ~~((+2))~~ (b) The commission shall establish hunting, trapping, and
11 fishing seasons and prescribe the time, place, manner, and methods that
12 may be used to harvest or enjoy game fish and wildlife.

13 (3) The commission shall establish provisions regulating food fish
14 and shellfish as provided in RCW 77.12.047.

15 (4) The commission shall have final approval authority for tribal,
16 interstate, international, and any other department agreements relating
17 to fish and wildlife.

18 (5)(a) The commission shall adopt rules to implement the state's
19 fish and wildlife laws.

20 (b) The commission shall adopt, and review and update as necessary,
21 enforcement policies and guidelines related to tribal hunting rights
22 that are based on the contents of the training module on tribal hunting
23 rights produced by the office of the attorney general under section 2
24 of this act.

25 (6) The commission shall have final approval authority for the
26 department's budget proposals.

27 (7) The commission shall select its own staff and shall appoint the
28 director of the department. The director and commission staff shall
29 serve at the pleasure of the commission.

30 **Sec. 4.** RCW 77.15.075 and 2012 c 176 s 8 are each amended to read
31 as follows:

32 (1) Fish and wildlife officers shall have and exercise, throughout
33 the state, such police powers and duties as are vested in sheriffs and
34 peace officers generally. Fish and wildlife officers are general
35 authority Washington peace officers.

36 (2) An applicant for a fish and wildlife officer position must be
37 a citizen of the United States of America who can read and write the

1 English language. Before a person may be appointed to act as a fish
2 and wildlife officer, the person shall meet the minimum standards for
3 employment with the department, including successful completion of a
4 psychological examination and polygraph examination or similar
5 assessment procedure administered in accordance with the requirements
6 of RCW 43.101.095(2).

7 (3) Any liability or claim of liability under chapter 4.92 RCW that
8 arises out of the exercise or alleged exercise of authority by a fish
9 and wildlife officer rests with the department unless the fish and
10 wildlife officer acts under the direction and control of another agency
11 or unless the liability is otherwise assumed under an agreement between
12 the department and another agency.

13 (4) The department may utilize the services of a volunteer chaplain
14 as provided under chapter 41.22 RCW.

15 (5) All fish and wildlife officers must, as part of their new
16 officer training, receive at least four hours of training related to
17 the training module on tribal hunting rights prepared by the office of
18 the attorney general under section 2 of this act and any relevant
19 policies adopted by the commission under RCW 77.04.055. This training
20 must be repeated at least once a year for every fish and wildlife
21 officer, with a focus on any recent changes to the module.

--- END ---