

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2476

60th Legislature
2008 Regular Session

Passed by the House March 10, 2008
Yeas 62 Nays 32

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 34 Nays 15

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2476** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2476

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Representatives McCoy, Simpson, Lantz, Appleton, O'Brien, Kenney, Sells, Moeller, Hudgins, Dunn, Upthegrove, and Chase

Prefiled 12/20/07. Read first time 01/14/08. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to authorizing tribal police officers to act as
2 general authority Washington state peace officers; adding a new chapter
3 to Title 10 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "General authority Washington peace officer" means an officer
8 authorized to enforce the criminal and traffic laws of the state of
9 Washington generally.

10 (2) "Tribal police officer" means any person in the employ of one
11 of the federally recognized sovereign tribal governments, whose
12 traditional lands and territories lie within the borders of the state
13 of Washington, to enforce the criminal laws of that government.

14 NEW SECTION. **Sec. 2.** (1) Tribal police officers under subsection
15 (2) of this section shall be recognized and authorized to act as
16 general authority Washington peace officers. A tribal police officer
17 recognized and authorized to act as a general authority Washington
18 peace officer under this section has the same powers as any other

1 general authority Washington peace officer to enforce state laws in
2 Washington, including the power to make arrests for violations of state
3 laws.

4 (2) A tribal police officer may exercise the powers of law
5 enforcement of a general authority Washington peace officer under this
6 section, subject to the following:

7 (a) The appropriate sovereign tribal nation shall submit to the
8 office of financial management proof of public liability and property
9 damage insurance for vehicles operated by the peace officers and police
10 professional liability insurance from a company licensed to sell
11 insurance in the state. For purposes of determining adequacy of
12 insurance liability, the sovereign tribal government must submit with
13 the proof of liability insurance a copy of the interlocal agreement
14 between the sovereign tribal government and the local governments that
15 have shared jurisdiction under this chapter where such an agreement has
16 been reached pursuant to subsection (10) of this section.

17 (i) Within the thirty days of receipt of the information from the
18 sovereign tribal nation, the office of financial management shall
19 either approve or reject the adequacy of insurance, giving
20 consideration to the scope of the interlocal agreement. The adequacy
21 of insurance under this chapter shall be subject to annual review by
22 the state office of financial management.

23 (ii) Each policy of insurance issued under this chapter must
24 include a provision that the insurance shall be available to satisfy
25 settlements or judgments arising from the tortious conduct of tribal
26 police officers when acting in the capacity of a general authority
27 Washington peace officer, and that to the extent of policy coverage
28 neither the sovereign tribal nation nor the insurance carrier will
29 raise a defense of sovereign immunity to preclude an action for damages
30 under state or federal law, the determination of fault in a civil
31 action, or the payment of a settlement or judgment arising from the
32 tortious conduct.

33 (b) The appropriate sovereign tribal nation shall submit to the
34 office of financial management proof of training requirements for each
35 tribal police officer. To be authorized as a general authority
36 Washington peace officer, a tribal police officer must successfully
37 complete the requirements set forth under RCW 43.101.157. Any
38 applicant not meeting the requirements for certification as a tribal

1 police officer may not act as a general authority Washington peace
2 officer under this chapter. The criminal justice training commission
3 shall notify the office of financial management if:

4 (i) A tribal police officer authorized under this chapter as a
5 general authority Washington state peace officer has been decertified
6 pursuant to RCW 43.101.157; or

7 (ii) An appropriate sovereign tribal government is otherwise in
8 noncompliance with RCW 43.101.157.

9 (3) A copy of any citation or notice of infraction issued, or any
10 incident report taken, by a tribal police officer acting in the
11 capacity of a general authority Washington peace officer as authorized
12 by this chapter must be submitted within three days to the police chief
13 or sheriff within whose jurisdiction the action was taken. Any
14 citation issued under this chapter shall be to a Washington court,
15 except that any citation issued to Indians within the exterior
16 boundaries of an Indian reservation may be cited to a tribal court.
17 Any arrest made or citation issued not in compliance with this chapter
18 is not enforceable.

19 (4) Any authorization granted under this chapter shall not in any
20 way expand the jurisdiction of any tribal court or other tribal
21 authority.

22 (5) The authority granted under this chapter shall be coextensive
23 with the exterior boundaries of the reservation, except that an officer
24 commissioned under this section may act as authorized under RCW
25 10.93.070 beyond the exterior boundaries of the reservation.

26 (6) For purposes of civil liability under this chapter, a tribal
27 police officer shall not be considered an employee of the state of
28 Washington or any local government except where a state or local
29 government has deputized a tribal police officer as a specially
30 commissioned officer. Neither the state of Washington and its
31 individual employees nor any local government and its individual
32 employees shall be liable for the authorization of tribal police
33 officers under this chapter, nor for the negligence or other misconduct
34 of tribal officers. The authorization of tribal police officers under
35 this chapter shall not be deemed to have been a nondelegable duty of
36 the state of Washington or any local government.

37 (7) Nothing in this chapter impairs or affects the existing status

1 and sovereignty of those sovereign tribal governments whose traditional
2 lands and territories lie within the borders of the state of Washington
3 as established under the laws of the United States.

4 (8) Nothing in this chapter limits, impairs, or nullifies the
5 authority of a county sheriff to appoint duly commissioned state or
6 federally certified tribal police officers as deputy sheriffs
7 authorized to enforce the criminal and traffic laws of the state of
8 Washington.

9 (9) Nothing in this act limits, impairs, or otherwise affects the
10 existing authority under state or federal law of state or local law
11 enforcement officers to enforce state law within the exterior
12 boundaries of an Indian reservation or to enter Indian country in fresh
13 pursuit, as defined in RCW 10.93.120, of a person suspected of
14 violating state law, where the officer would otherwise not have
15 jurisdiction.

16 (10) An interlocal agreement pursuant to chapter 39.34 RCW is
17 required between the sovereign tribal government and all local
18 government law enforcement agencies that will have shared jurisdiction
19 under this chapter prior to authorization taking effect under this
20 chapter. Nothing in this act shall limit, impair, or otherwise affect
21 the implementation of an interlocal agreement completed pursuant to
22 chapter 39.34 RCW by the effective date of this act, between a
23 sovereign tribal government and a local government law enforcement
24 agency for cooperative law enforcement.

25 (a) Sovereign tribal governments that meet all of the requirements
26 of subsection (2) of this section, but do not have an interlocal
27 agreement pursuant to chapter 39.34 RCW and seek authorization under
28 this chapter, may submit proof of liability insurance and training
29 certification to the office of financial management. Upon confirmation
30 of receipt of the information from the office of financial management,
31 the sovereign tribal government and the local government law
32 enforcement agencies that will have shared jurisdiction under this
33 chapter have one year to enter into an interlocal agreement pursuant to
34 chapter 39.34 RCW. If the sovereign tribal government and the local
35 government law enforcement agencies that will have shared jurisdiction
36 under this chapter are not able to reach agreement after one year, the
37 sovereign tribal governments and the local government law enforcement
38 agencies shall submit to binding arbitration pursuant to chapter 7.04A

1 RCW with the American arbitration association or successor agency for
2 purposes of completing an agreement prior to authorization going into
3 effect.

4 (b) For the purposes of (a) of this subsection, those sovereign
5 tribal government and local government law enforcement agencies that
6 must enter into binding arbitration shall submit to last best offer
7 arbitration. For purposes of accepting a last best offer, the
8 arbitrator must consider other interlocal agreements between sovereign
9 tribal governments and local law enforcement agencies in Washington
10 state, any model policy developed by the Washington association of
11 sheriffs and police chiefs or successor agency, and national best
12 practices.

13 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a
14 new chapter in Title 10 RCW.

15 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2008.

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