

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 111

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO PEACE OFFICERS; AMENDING CHAPTER 5, TITLE 19, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 19-510B, IDAHO CODE, TO PROVIDE FOR ENFORCE-
3 MENT OF STATE LAW BY LAW ENFORCEMENT OFFICERS OF FEDERALLY RECOGNIZED
4 INDIAN TRIBES WITHIN THE STATE AND THE REQUIREMENTS THEREFOR; AND
5 AMENDING SECTION 19-5101, IDAHO CODE, TO REVISE A DEFINITION.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 5, Title 19, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 19-510B, Idaho Code, and to read as follows:

11 19-510B. ENFORCEMENT OF STATE LAW BY LAW ENFORCEMENT OFFICERS OF FED-
12 ERALLY RECOGNIZED INDIAN TRIBES WITHIN THE STATE -- REQUIREMENTS. (1) An em-
13 ployee of a police or law enforcement agency of a federally recognized Indian
14 tribe within the state of Idaho, while engaged in the conduct of his or her
15 employment as a law enforcement officer, may exercise powers given to peace
16 officers pursuant to, and in accordance with, the laws of the state of Idaho
17 within the exterior limits of the reservation of the tribe employing such
18 law enforcement officer subject to the limitations provided in this section,
19 provided that the officer:

20 (a) Is appointed by the governing body of a federally recognized Indian
21 tribe in Idaho;

22 (b) Is the holder of a certificate from the Idaho peace officers stan-
23 dards and training council certifying that the tribal law enforcement
24 officer has satisfactorily completed the basic training established
25 by the Idaho peace officer standards and training council required for
26 peace officers to be eligible for permanent employment by a police or
27 law enforcement agency administered by the state of Idaho or political
28 subdivisions thereof; and

29 (c) Such officer has not been decertified by the Idaho peace officer
30 standards and training council pursuant to section 19-5109(3), Idaho
31 Code.

32 (2) The authority of a law enforcement officer, appointed pursuant
33 to this section, to enforce state law shall be applicable thirty (30) days
34 following mailing of a written notice by the appointing Indian tribe to
35 the sheriff of each county, either wholly or partially within the exterior
36 boundaries of the reservation, which notice shall include:

37 (a) The identity of each tribal law enforcement officer appointed pur-
38 suant to subsection (1) of this section; and

39 (b) A copy of such tribal law enforcement officer's certificate from
40 the Idaho peace officer standards and training council certifying that
41 the tribal law enforcement officer has satisfactorily completed the

1 basic training established by the Idaho peace officer standards and
2 training council, as set forth in subsection (1) (b) of this section.

3 (3) A law enforcement officer, who is qualified and appointed pursuant
4 to subsection (1) of this section, shall be authorized to enforce state law
5 only during such time as the appointing Indian tribe maintains in force a
6 policy or contract of insurance, which policy or contract shall provide that
7 the insurance carrier pay on behalf of the appointing Indian tribe or its
8 peace officers, acting pursuant to authority granted to such tribe or its
9 law enforcement officers pursuant to this section, to a limit of not less
10 than two million dollars (\$2,000,000) for bodily or personal injury, death
11 or property damage or loss as the result of any one (1) occurrence or acci-
12 dent, regardless of the number of persons injured or the number of claimants.
13 Such policy or contract shall also:

14 (a) Include an endorsement providing that the insurer may not invoke
15 tribal sovereign immunity up to the limits of the policy or contract of
16 insurance set forth herein; and

17 (b) Provide that the insurance carrier shall not cancel, terminate or
18 amend the insurance coverage in such manner that the insurance cover-
19 age no longer complies with the requirements of this section, until at
20 least ten (10) days after a notice of cancellation, termination or cov-
21 erage amendment shall be filed with office of the attorney general of
22 the state of Idaho.

23 (4) Law enforcement officers appointed by a federally recognized In-
24 dian tribe within the state of Idaho pursuant to this section may exercise
25 powers of peace officers pursuant to, and in accordance with, the laws of
26 the state of Idaho only within the exterior limits of the reservation of the
27 tribe employing such law enforcement officer, subject to the following:

28 (a) When issuing a citation or summons alleging that the person com-
29 mitted or omitted an act in violation of an Idaho statute forbidding or
30 commanding it, and to which act or omission is annexed, upon conviction,
31 either fine or imprisonment, such officer shall only cite or summon the
32 person to appear before an Idaho state magistrate, as defined by and
33 having jurisdiction over the matter pursuant to Idaho state law.

34 (b) When making an arrest pursuant to a warrant, the officer must cause
35 the defendant to be taken before the state magistrate who issued the
36 warrant or, in the case of the issuing magistrate's absence or inability
37 to act, before the nearest or most accessible state magistrate in the
38 same county.

39 (c) When making an arrest without a warrant, the person arrested must
40 be taken before the nearest or most accessible state magistrate in the
41 county in which the arrest is made.

42 (d) Such officer shall comply with all duties imposed on peace officers
43 by the laws of the state of Idaho relating to arrest and custody, and the
44 entitlement to judicial proceedings, by or on behalf of the person ar-
45 rested, in a state court of competent jurisdiction.

46 (e) Such officer shall cooperate and assist with the investigative and
47 judicial requirements related to prosecution of the arrested person
48 as may be reasonably required by the respective county sheriff and/or
49 prosecuting attorney.

1 (f) A law enforcement officer appointed by a federally recognized In-
 2 dian tribe within the state of Idaho who has been certified by the Idaho
 3 peace officer standards and training council may be decertified by the
 4 Idaho peace officer standards and training council for the reasons, and
 5 in accord with the procedures set forth in section 19-5109(3), Idaho
 6 Code.

7 (5) Each Indian tribe appointing an officer pursuant to subsection (1)
 8 of this section shall be liable for any and all acts of such officer while en-
 9 gaged in the conduct of his or her employment.

10 (6) Neither the state of Idaho nor any county or city thereof shall be
 11 liable for any acts or failure to act by an officer appointed pursuant to this
 12 section.

13 (7) Appointment of an officer pursuant to this section shall constitute
 14 a waiver of the appointing tribe's tribal sovereign immunity from suit to the
 15 extent necessary to permit recovery under the policy or contract of insur-
 16 ance, but not to exceed the policy limits, as provided in subsection (3) of
 17 this section. If a claim is brought against an Indian tribe, tribal law en-
 18 forcement agency or peace officer for acts committed by such tribe, agency
 19 or officer while acting pursuant to this section, such claim shall be subject
 20 to disposition as if the tribe is a governmental entity, as defined by the
 21 Idaho tort claims act, section 6-902(3), Idaho Code; provided that the Idaho
 22 tort claims act shall not be deemed to waive the requirement that the tribe
 23 provide insurance, or any portion thereof, as required pursuant to this sec-
 24 tion.

25 (8) Nothing in this section shall be construed to prohibit any agree-
 26 ment between a state, county or city law enforcement agency and any federally
 27 recognized Indian tribe within the state of Idaho.

28 (9) Nothing contained in this section shall be construed or deemed to
 29 limit, impair or otherwise affect the existing authority and duty of state,
 30 county or city law enforcement officers to enforce state law within the exte-
 31 rior boundaries of an Indian reservation.

32 SECTION 2. That Section 19-5101, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 19-5101. DEFINITIONS. As used in this act:

35 (a) "Council" means the Idaho peace officer standards and training
 36 council.

37 (b) "County detention officer" means an employee in a county jail who is
 38 responsible for the safety, care, protection, and monitoring of county jail
 39 inmates.

40 (c) "Law enforcement" means any and all activities pertaining to crime
 41 prevention or reduction and law enforcement, including police, courts,
 42 prosecution, corrections, probation, rehabilitation, and juvenile delin-
 43 quency.

44 (d) "Peace officer" means any employee of a police or law enforcement
 45 agency which is a part of or administered by the state or any political sub-
 46 division thereof and whose duties include and primarily consist of the pre-
 47 ventation and detection of crime and the enforcement of penal, traffic or high-
 48 way laws of this state or any political subdivision. "Peace officer" also
 49 means an employee of a police or law enforcement agency ~~of~~ administered by a

1 federally recognized Indian tribe within the state of Idaho who has received
2 a certificate of having satisfactorily completed the minimum requirements
3 of basic training established by the peace officer standards and training
4 academy and has been deputized by a sheriff of a county or a chief of council
5 required for peace officers to be eligible for permanent employment by a po-
6 lice of a city or law enforcement agency administered by the state of Idaho
7 or a political subdivision thereof during such time as the employee has been
8 appointed, as provided in section 19-510B, Idaho Code, and the appointing
9 Indian tribe is in compliance with, and continues to adhere to, the require-
10 ments and standards set forth in section 19-510B, Idaho Code.

11 (e) "Political subdivision" means any city or county.