

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 850
PROPOSED COMMITTEE SUBSTITUTE H850-PCS20325-ST-30

Short Title: Eastern Band of Cherokees/Law Enforcement.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE AUTHORITY FOR THE EASTERN BAND OF CHEROKEE
3 INDIANS TO ESTABLISH A POLICE DEPARTMENT, A TRIBAL ALCOHOL LAW
4 ENFORCEMENT DIVISION, A NATURAL RESOURCES LAW ENFORCEMENT
5 AGENCY, AND A PROBATION AND PAROLE AGENCY.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 1E of the General Statutes reads as rewritten:

8 "Chapter 1E.

9 "Eastern Band of Cherokee Indians.

10 "Article 1.

11 "Full Faith and Credit.

12 "§ 1E-1. Full faith and credit.

13 (a) The courts of this State shall give full faith and credit to a judgment, decree, or order
14 signed by a judicial officer of the Eastern Band of Cherokee Indians and filed in the Cherokee
15 Tribal ~~Court~~Courts to the same extent as is given a judgment, decree, or order of another state,
16 subject to the provisions of ~~subsection (b)~~subsections (b) and (c) of this section; provided that
17 the judgments, decrees, and orders of the courts of this State are given full faith and credit by
18 the Tribal ~~Court~~Courts of the Eastern Band of Cherokee Indians.

19 (b) Judgments, decrees, and orders specified in subsection (a) of this section shall be
20 given full faith and credit subject to the provisions of ~~G.S. 1C-1705, G.S. 1C-1708,~~
21 ~~G.S. 1C-1804, and G.S. 1C-1805~~G.S. 1C-1705 and G.S. 1C-1708 and shall be considered a
22 foreign judgment for purposes of these statutes.

23 (c) Any limited driving privilege signed and issued by a Judge or Justice of the
24 Cherokee Tribal Courts in accordance with the applicable provisions of Chapter 20 of the
25 General Statutes and filed in the Cherokee Tribal Courts Clerk's Office shall be valid and given
26 full faith and credit as specified in subsection (a) of this section. For purposes of this
27 subsection, any reference to the issuing "judge" or "court" in the applicable provisions of
28 Chapter 20 of the General Statutes shall be construed to mean the appropriate Judge or Justice
29 in the Cherokee Tribal Courts or the appropriate Cherokee Tribal Court.

30 "Article 2.

31 "Tribal Law Enforcement Authority.

32 "§ 1E-2. Tribal law enforcement.

33 (a) Except for the sections listed in subsection (b) of this section, Article 13 of Chapter
34 160A of the General Statutes is applicable to the Eastern Band of Cherokee Indians.

35 (b) The following provisions of Article 13 of Chapter 160A of the General Statutes
36 shall not apply to the Eastern Band of Cherokee Indians:



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- 1 (1) G.S. 160A-283.
- 2 (2) G.S. 160A-286.
- 3 (3) G.S. 160A-287.
- 4 (4) G.S. 160A-289.1.

5 **"§ 1E-3. Application and meaning of terms.**

6 For purposes of the application of the applicable provisions of Article 13 of Chapter 160A
7 of the General Statutes, the following terms contained in Article 13 of Chapter 160A of the
8 General Statutes shall be construed as follows:

- 9 (1) City. – To mean the Eastern Band of Cherokee Indians.
- 10 (2) Council or governing body. – To mean the Tribal Council of the Eastern
11 Band of Cherokee Indians.
- 12 (3) City clerk. – To mean the clerk of the Tribal Council of the Eastern Band of
13 the Cherokee Indians.
- 14 (4) Corporate limits of the city. – To mean the boundaries of the trust lands of
15 the Eastern Band of the Cherokee Indians wherever located within the State
16 of North Carolina.
- 17 (5) Law enforcement agency or local law enforcement agency. – To include the
18 Cherokee Police Department, the Cherokee Marshals Service, the Tribal
19 Alcohol Law Enforcement Division of the Eastern Band of the Cherokee
20 Indians, and the Natural Resources Enforcement Agency of the Eastern
21 Band of Cherokee Indians.

22 **"§ 1E-4. Qualification of law enforcement officers; limitations of authority.**

23 (a) For purposes of this section, "law enforcement officer" means any person appointed
24 or employed as (i) Chief of Police of the Cherokee Police Department, Chief of the Cherokee
25 Marshals Service, Chief of the Tribal Alcohol Law Enforcement Division of the Eastern Band
26 of the Cherokee Indians, or Chief of the Natural Resources Enforcement Agency of the Eastern
27 Band of the Cherokee Indians or (ii) a police officer, auxiliary police officer, marshal, alcohol
28 law enforcement agent, reserve alcohol law enforcement agent, or resources officer with the
29 Cherokee Police Department, the Cherokee Marshals Service, the Tribal Alcohol Law
30 Enforcement Division of the Eastern Band of the Cherokee Indians, or the Natural Resources
31 Enforcement Agency of the Eastern Band of the Cherokee Indians.

32 (b) A law enforcement officer shall, prior to the exercise of the officer's authority
33 pursuant to Article 13 of Chapter 160A of the General Statutes, comply with the provisions of
34 Chapter 17C of the General Statutes and any rules or regulations adopted pursuant to the
35 authority of Chapter 17C of the General Statutes. The courts of this State shall have the
36 jurisdiction pursuant to G.S. 17C-11 to enjoin the Cherokee Police Department, the Cherokee
37 Marshals Service, the Tribal Alcohol Law Enforcement Division of the Eastern Band of
38 Cherokee Indians, the Natural Resources Enforcement Agency of the Eastern Band of the
39 Cherokee Indians, or any law enforcement officer or agent employed or appointed by the
40 department, agency, or division from exercising any or all of the authority under color of State
41 law conferred by Article 13 of Chapter 160A of the General Statutes if any law enforcement
42 officer or agent of the department, agency, or division fails to meet the required standards
43 established pursuant to Chapter 17C of the General Statutes.

44 (c) The jurisdiction of a law enforcement officer shall be (i) on all property owned by
45 or leased to the Eastern Band of Cherokee Indians located within the trust lands of the Eastern
46 Band of the Cherokee Indians and (ii) during the immediate and continuous flight of an
47 offender in accordance with G.S. 15A-402(d).

48 (d) Service as a law enforcement officer shall constitute service as (i) a "criminal justice
49 officer" as defined in G.S. 17C-2(c) and (ii) a "law enforcement officer" for purposes of Article
50 12E of Chapter 143 of the General Statutes. For purposes of Article 12E of Chapter 143 of the

1 General Statutes, the term "employer," as defined in G.S. 143-166.50, shall be construed to
2 include the Eastern Band of Cherokee Indians with respect to law enforcement officers.

3 (e) A law enforcement officer may be enjoined from exercising his authority under
4 color of State law pursuant to Article 13 of Chapter 160A of the General Statutes for the
5 reasons set forth in G.S. 128-16 and pursuant to the provisions of Article 2 of Chapter 128 of
6 the General Statutes.

7 (f) Nothing contained in this Chapter or in Article 13 of Chapter 160A of the General
8 Statutes shall be construed as doing any of the following:

9 (1) Limiting or revoking the authority of the Eastern Band of Cherokee Indians,
10 the Cherokee Police Department, the Cherokee Marshals Service, the Tribal
11 Alcohol Law Enforcement Division of the Eastern Band of the Cherokee
12 Indians, the Natural Resources Enforcement Agency of the Eastern Band of
13 the Cherokee Indians, or any law enforcement officers or other persons
14 appointed or employed by those entities, in the exercise of their inherent
15 powers of self-government, or exercise of authority conferred by federal law,
16 regulation, or common law.

17 (2) Modifying, either by way of enlargement or limitation, the jurisdiction of the
18 Cherokee Tribal Courts.

19 (3) Waiving any sovereign immunity that may otherwise apply.

20 (g) Nothing contained in this Chapter shall be construed as modifying, either by way of
21 enlargement or limitation, the jurisdiction or authority of any federal, State, or local law
22 enforcement agency, governmental entity, or any of their officers or employees, except the
23 Eastern Band of Cherokee Indians, the Cherokee Police Department, the Cherokee Marshals
24 Service, the Tribal Alcohol Law Enforcement Division of the Eastern Band of the Cherokee
25 Indians, the Natural Resources Enforcement Agency of the Eastern Band of the Cherokee
26 Indians, and their law enforcement officers, agents, and employees to the extent set forth in this
27 Chapter.

28 "Article 3.

29 "Probation and Parole.

30 "§ 1E-5. Cherokee Marshals Service.

31 (a) The Supreme Court of the Eastern Band of Cherokee Indians is authorized to
32 establish a probation and parole agency known as the "Cherokee Marshals Service."

33 (b) Marshals of the Cherokee Marshals Service shall (i) be required to meet the
34 standards set forth in G.S. 1E-4 for law enforcement officers and (ii) have the same territorial
35 jurisdiction, powers, and immunities as a law enforcement officer under G.S. 1E-4.

36 (c) Notwithstanding any other provision of law, marshals of the Cherokee Marshals
37 Service shall have access to all probation and parole records of the North Carolina Department
38 of Public Safety to the same extent as a probation or post-release supervision officer of the
39 Department for any person over which the Cherokee Tribal Courts have jurisdiction to proceed
40 in a criminal case and impose a sentence, including a fine, community service, or
41 imprisonment. The Department may enter into a memorandum of understanding addressing the
42 specifics of transferring information to the Cherokee Tribal Courts."

43 **SECTION 2.** The North Carolina Department of Public Safety is authorized to
44 work with the Eastern Band of Cherokee Indians to establish Originating Agency Identification
45 (ORI) numbers for the law enforcement departments, agencies, and divisions authorized by this
46 act. Each department, agency, and division shall be issued its own ORI number.

47 **SECTION 3.** Sections 1 through 9 of S.L. 1987-427 are repealed.

48 **SECTION 4.** This act is effective when it becomes law.