HOUSE BILL 793

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO LAW ENFORCEMENT; CLARIFYING THAT THE POWERS OF A COUNTY SHERIFF TO APPOINT DEPUTY SHERIFFS IS NOT LIMITED BY PROVISIONS OF SECTION 29-1-11 NMSA 1978 (BEING LAWS 1972, CHAPTER 8, SECTION 1, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-1-11 NMSA 1978 (being Laws 1972, Chapter 8, Section 1, as amended) is amended to read:

"29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO PEACE OFFICERS--AUTHORITY AND PROCEDURE FOR COMMISSIONED PEACE OFFICERS.--

A. All persons who are duly commissioned officers of the police or sheriff's department of any New Mexico Indian nation, tribe or pueblo or who are law enforcement officers .154729.1
employed by the bureau of Indian affairs and are assigned in New Mexico are, when commissioned under Subsection B of this section, recognized and authorized to act as New Mexico peace officers. These officers have all the powers of New Mexico peace officers to enforce state laws in New Mexico, including the power to make arrests for violation of state laws.

B. The chief of the New Mexico state police is granted authority to issue commissions as New Mexico peace officers to members of the police or sheriff's department of any New Mexico Indian nation, tribe or pueblo or a law enforcement officer employed by the bureau of Indian affairs to implement the provisions of this section. The procedures to be followed in the issuance and revocation of commissions and the respective rights and responsibilities of the departments shall be set forth in a written agreement to be executed between the chief of the New Mexico state police and the Indian nation, tribe or pueblo or the appropriate federal official.

C. The agreement referred to in Subsection B of this section shall contain the following conditions:

1. the Indian nation, tribe or pueblo, but not the bureau of Indian affairs, shall submit proof of adequate public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state;
(2) each applicant for a commission shall successfully complete four hundred hours of basic police training that is approved by the director of the New Mexico law enforcement academy;

(3) the chief of the New Mexico state police shall have the authority to suspend any commission granted pursuant to Subsection B of this section for reasons solely within [his] the chief's discretion;

(4) if any provision of the agreement is violated by the Indian nation, tribe or pueblo or any of its agents, the chief of the New Mexico state police shall suspend the agreement on five days' notice, which suspension shall last until the chief is satisfied that the violation has been corrected and will not recur;

(5) the goldenrod-colored officer's second copy of any citation issued pursuant to a commission authorized by this section shall be submitted within five days to the chief of the New Mexico state police;

(6) any citation issued pursuant to a commission authorized by this section shall be to a magistrate court of New Mexico; except that any citations issued to Indians within the exterior boundaries of an Indian reservation shall be cited into tribal court;

(7) the agreement or any commission issued pursuant to it shall not confer any authority on a tribal court.
or other tribal authority [which] that the court or authority would not otherwise have;

(8) the authority conferred by any agreement entered into pursuant to the provisions of this section shall be coextensive with the exterior boundaries of the reservation; except that an officer commissioned under this section may proceed in hot pursuit of an offender beyond the exterior boundaries of the reservation, and the authority conferred in any written agreement between the chief of the New Mexico state police and the Navajo [tribe] Nation may extend beyond the exterior boundaries of the Navajo reservation to and including the area enclosed by the following description:

Beginning at a point where the southern boundary line of the Navajo [Indian] Nation reservation intersects the western right-of-way line of US [666] 491, and running thence; southerly along the western right-of-way line of US [666] 491 to the northerly city limits of Gallup; thence, easterly along the northerly city limits of Gallup to the northern side of the right of way of I-40; thence, in an easterly direction along the northerly side of the right of way of I-40 to the northerly limits of the village of Prewitt; thence, in a straight line between the northerly boundary of the village of Prewitt to the southerly boundary of Ambrosia Lake; thence in a straight line between the southerly boundary of Ambrosia Lake to the southerly boundary of Hospah; thence, east along a straight
line from the southerly boundary of Hospah to the southern
boundary of Torreon; thence along the easterly side of the
right of way of state road 197 to the westerly city limits of
Cuba; thence, north along the westerly side of the right of way
of state road 44 to the southerly boundary of the Jicarilla
Apache [Indian Nation] reservation; thence, westerly along the
southerly boundary of the Jicarilla Apache [Indian Nation]
reservation to the southwest corner of that reservation;
thence, northerly along the westerly boundary of the Jicarilla
Apache Indian reservation to a point where the westerly
boundary of the reservation intersects the southerly side of
the right of way of state road 44; thence, northerly along the
southerly side of the right of way of state road 44 to its
intersection with the northerly side of the right of way of
Navajo road 3003; thence, along the northerly side of the right
of way of Navajo road 3003 to a point where the northerly side
of the right of way of Navajo road 3003 intersects the westerly
side of the right-of-way line of state road 371; thence,
northerly along the west side of the right of way of state road
371 to the southerly side of the right of way of Navajo road
36; thence, westerly along the southerly side of the right of
way of Navajo road 36 to the eastern border of the Navajo
[Indian Nation] reservation; thence, along the eastern and
southerly borders of the Navajo [Indian Nation] reservation to
the point of beginning.
The municipalities of Cuba and Gallup and the villages of Thoreau and Prewitt are excluded from the grant of authority that may be conferred in any written agreement entered into pursuant to provisions of this section; provided, however, any written agreement may include under such grant of authority the communities of Ambrosia Lake, Hospah, Torreon, Lybrook, Nageezi, Counselors and Blanco Trading Post and those communities commonly known as the Wingate community; the Navajo [Tribe] Nation Blue Water ranch area of the Thoreau community; the Prewitt community, exclusive of the village of Prewitt; the Haystack community; the Desidero community; the Sand Springs community; the Rincon Marquis community; the Charley Jesus Arviso and the Castillo community; and state road 264 beginning at the point where it intersects US [666 491] and ending where state road 264 intersects the Arizona-New Mexico state line; and

(9) the chief of the New Mexico state police or [his] the chief's designee and the Indian nation, tribe or pueblo or the appropriate federal official shall be required to meet at least quarterly or more frequently at the call of the chief of the New Mexico state police to discuss the status of the agreement and invite other law enforcement or other officials to attend as necessary.

D. Nothing in this section impairs or affects the existing status and sovereignty of [tribes and pueblos of]
Indians] an Indian nation, tribe or pueblo as established under
the laws of the United States.

E. All persons who are duly commissioned federal
law enforcement officers employed by the federal bureau of
investigation; drug enforcement administration; bureau of
alcohol, tobacco and firearms; United States secret service;
United States customs service; immigration and naturalization
service; United States marshals service; postal inspection
service; United States probation department; and United States
pretrial services agency; and other appropriate federal
officers whose primary duty is law enforcement related, who are
assigned in New Mexico and who are required to be designated by
the county sheriff on a case-by-case basis in the county in
which they are working, are recognized and authorized to act as
New Mexico peace officers and have all the powers of New Mexico
peace officers to enforce state laws in New Mexico, including
the power to make arrests for violation of state laws. The
department of public safety shall maintain a registry that
lists the name and affiliated federal agency of every federal
law enforcement officer recognized and authorized to act as a
New Mexico peace officer pursuant to the provisions of this
subsection. This subsection shall not be construed to impose
liability upon or to require indemnification by the state for
any act performed by a federal law enforcement officer pursuant
to this subsection.

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F. The provisions of Subsection E of this section regarding designation of federal law enforcement officers by a county sheriff do not apply to federal law enforcement officers who are duly commissioned officers of a police or sheriff's department for an Indian nation, tribe or pueblo in New Mexico or who are federal law enforcement officers employed by the bureau of Indian affairs.

G. Nothing in this section limits, impairs or nullifies the authority of county sheriffs to appoint pursuant to Chapter 4, Article 41 NMSA 1978 duly commissioned state or federally certified officers who are employees of a police or sheriff's department of an Indian nation, tribe or pueblo in New Mexico or who are federal law enforcement officers employed by the bureau of Indian affairs as deputy sheriffs authorized to enforce New Mexico criminal and traffic law."