

SHB 1496 - H AMD 15

By Representative Blake

ADOPTED 03/06/2013

1 On page 1, after line 8, strike all material through "hunt" on line
2 13 and insert "to the contents of the training module on tribal hunting
3 rights produced by the office of the attorney general under section 2
4 of this act and take any applicable actions consistent with the
5 contents of the module"

6 On page 2, beginning on line 4, after "agency are" strike all
7 material through "encouraged," on line 5 and insert "encouraged"

8 On page 2, after line 6, insert the following:

9 "NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10 RCW
10 to read as follows:

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

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

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

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

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

27 (d) Other sources of authority and information relevant to peace

1 officers when enforcing the hunting laws and rules contained in Title
2 77 RCW and the corresponding administrative rules adopted by the fish
3 and wildlife commission.

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

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

11 (1) In establishing policies to preserve, protect, and perpetuate
12 wildlife, fish, and wildlife and fish habitat, the commission shall
13 meet annually with the governor to:

14 (a) Review and prescribe basic goals and objectives related to
15 those policies; and

16 (b) Review the performance of the department in implementing fish
17 and wildlife policies.

18 (2)(a) The commission shall maximize fishing, hunting, and outdoor
19 recreational opportunities compatible with healthy and diverse fish and
20 wildlife populations.

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

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

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

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

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

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

1 (7) The commission shall select its own staff and shall appoint the
2 director of the department. The director and commission staff shall
3 serve at the pleasure of the commission.

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

6 (1) Fish and wildlife officers shall have and exercise, throughout
7 the state, such police powers and duties as are vested in sheriffs and
8 peace officers generally. Fish and wildlife officers are general
9 authority Washington peace officers.

10 (2) An applicant for a fish and wildlife officer position must be
11 a citizen of the United States of America who can read and write the
12 English language. Before a person may be appointed to act as a fish
13 and wildlife officer, the person shall meet the minimum standards for
14 employment with the department, including successful completion of a
15 psychological examination and polygraph examination or similar
16 assessment procedure administered in accordance with the requirements
17 of RCW 43.101.095(2).

18 (3) Any liability or claim of liability under chapter 4.92 RCW that
19 arises out of the exercise or alleged exercise of authority by a fish
20 and wildlife officer rests with the department unless the fish and
21 wildlife officer acts under the direction and control of another agency
22 or unless the liability is otherwise assumed under an agreement between
23 the department and another agency.

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

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

33 Correct the title.

EFFECT: Requires the office of the attorney general to produce and

maintain a training module on tribal hunting rights, requires the fish and wildlife commission to adopt enforcement policies and guidelines based on the module, requires training of department of fish and wildlife enforcement officers based on the module, requires fish and wildlife enforcement officers to apply the contents of the module when presented with a tribal identification card, and encourages cooperative management and mutual aid law enforcement agreements between Indian tribes and the state without statutorily conferring a legally binding status upon them.

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