

**ASSEMBLY BILL**

**No. 1398**

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**Introduced by Assembly Member Oller**

February 28, 1997

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An act to amend Section 830.8 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as introduced, Oller. Peace officers: Washoe tribal law enforcement officers.

Existing law expressly includes all persons designated by a Native American tribe recognized by the United States Secretary of the Interior, who are deputized by the county sheriff as reserve or auxiliary sheriffs or reserve deputy sheriffs, among those reserve officers who are considered peace officers, if they satisfactorily complete an introductory course of training.

This bill would provide that any qualified person who is appointed as a Washoe tribal law enforcement officer is not a California peace officer, but may exercise the powers of a Washoe tribal peace officer when engaged in the enforcement of Washoe tribal criminal laws against any person who is an Indian on Washoe tribal land.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 830.8 of the Penal Code is  
2 amended to read:

3 830.8. (a) Federal criminal investigators and law  
4 enforcement officers are not California peace officers,  
5 but may exercise the powers of arrest of a peace officer  
6 in any of the following circumstances:

7 (1) Any circumstances specified in Section 836 or  
8 Section 5150 of the Welfare and Institutions Code for  
9 violations of state or local laws.

10 (2) When these investigators and law enforcement  
11 officers are engaged in the enforcement of federal  
12 criminal laws and exercise the arrest powers only  
13 incidental to the performance of these duties.

14 (3) When requested by a California law enforcement  
15 agency to be involved in a joint task force or criminal  
16 investigation.

17 (4) When probable cause exists to believe there is any  
18 public offense that involves immediate danger to persons  
19 or property.

20 In all of these instances, the provisions of Section 847  
21 shall apply. These investigators and law enforcement  
22 officers, prior to the exercise of these arrest powers, shall  
23 have been certified by their agency heads as having  
24 satisfied the training requirements of Section 832, or the  
25 equivalent thereof.

26 This subdivision does not apply to federal officers of the  
27 Bureau of Land Management. These officers have no  
28 authority to enforce California statutes without the  
29 written consent of the sheriff or the chief of police in  
30 whose jurisdiction they are assigned.

31 (b) Duly authorized federal employees who comply  
32 with the training requirements set forth in Section 832 are  
33 peace officers when they are engaged in enforcing  
34 applicable state or local laws on property owned or  
35 possessed by the United States government, or on any  
36 street, sidewalk, or property adjacent thereto, and with  
37 the written consent of the sheriff or the chief of police,



1 respectively, in whose jurisdiction the property is  
2 situated.

3 (c) National park rangers are not California peace  
4 officers but may exercise the powers of arrest of a peace  
5 officer as specified in Section 836 and the powers of a  
6 peace officer specified in Section 5150 of the Welfare and  
7 Institutions Code for violations of state or local laws  
8 provided these rangers are exercising the arrest powers  
9 incidental to the performance of their federal duties or  
10 providing or attempting to provide law enforcement  
11 services in response to a request initiated by California  
12 state park rangers to assist in preserving the peace and  
13 protecting state parks and other property for which  
14 California state park rangers are responsible. National  
15 park rangers, prior to the exercise of these arrest powers,  
16 shall have been certified by their agency heads as having  
17 satisfactorily completed the training requirements of  
18 Section 832.3, or the equivalent thereof.

19 (d) Notwithstanding any other provision of law,  
20 during a state of war emergency or a state of emergency,  
21 as defined in Section 8558 of the Government Code,  
22 federal criminal investigators and law enforcement  
23 officers who are assisting California law enforcement  
24 officers in carrying out emergency operations are not  
25 deemed California peace officers, but may exercise the  
26 powers of arrest of a peace officer as specified in Section  
27 836 and the powers of a peace officer specified in Section  
28 5150 of the Welfare and Institutions Code for violations of  
29 state or local laws. In these instances, the provisions of  
30 Section 847 and of Section 8655 of the Government Code  
31 shall apply.

32 (e) (1) *Any qualified person who is appointed as a*  
33 *Washoe tribal law enforcement officer is not a California*  
34 *peace officer, but may exercise the powers of a Washoe*  
35 *tribal peace officer when engaged in the enforcement of*  
36 *Washoe tribal criminal laws against any person who is an*  
37 *Indian, as defined in subsection (a) of Section 450b of*  
38 *Title 25 of the United States Code, on Washoe tribal land.*  
39 *The respective prosecuting authorities, in consultation*  
40 *with law enforcement agencies, may agree on who shall*



1 *have initial responsibility for prosecution of specified*  
2 *infractions. This subdivision is not meant to confer*  
3 *cross-deputized status as California peace officers, nor to*  
4 *confer California peace officer status upon Washoe tribal*  
5 *law enforcement officers when enforcing state or local*  
6 *laws in the State of California. Nothing in this section shall*  
7 *be construed to impose liability upon or to require*  
8 *indemnification by the County of Alpine or the State of*  
9 *California for any act performed by an officer of the*  
10 *Washoe Tribe. Washoe tribal law enforcement officers*  
11 *shall have the right to travel to and from Washoe tribal*  
12 *lands within California in order to carry out tribal duties.*

13 (2) *Washoe tribal law enforcement officers are*  
14 *exempted from the provisions of subdivision (a) of*  
15 *Section 12025 and subdivision (a) of Section 12031 while*  
16 *performing their official duties on their tribal lands or*  
17 *while proceeding by a direct route to or from the tribal*  
18 *lands. Tribal law enforcement vehicles are deemed to be*  
19 *emergency vehicles within the meaning of Section 30 of*  
20 *the Vehicle Code while performing official police*  
21 *services.*

22 (3) *As used in this subdivision, the term “Washoe tribal*  
23 *lands” includes the following:*

24 (A) *All lands located in the County of Alpine within*  
25 *the limits of the reservation created for the Washoe Tribe*  
26 *of Nevada and California, notwithstanding the issuance of*  
27 *any patent and including rights-of-way running through*  
28 *the reservation and all tribal trust lands.*

29 (B) *All Indian allotments, the Indian titles to which*  
30 *have not been extinguished, including rights-of-way*  
31 *running through the same.*

32 (4) *As used in this subdivision, the term “Washoe tribal*  
33 *law” refers to the laws codified in the Law and Order*  
34 *Code of the Washoe Tribe of Nevada and California, as*  
35 *adopted by the Tribal Council of the Washoe Tribe of*  
36 *Nevada and California.*

