

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 850  
Apr 14, 2015  
HOUSE PRINCIPAL CLERK

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HOUSE DRH20249-ML-206 (03/26)

Short Title: Eastern Band of Cherokees/Law Enforcement.

(Public)

Sponsors: Representative West.

Referred to:

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:



- 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."

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

46 **SECTION 3.** Sections 1 through 9 of S.L. 1987-427 are repealed.

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