



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 232
[2009 Senate Bill 148]

Tribal Law Enforcement Officers

A tribal law enforcement officer may enforce state law on the reservation and trust lands of the tribe that employs the officer if the officer meets state training standards and has accepted the duties of a law enforcement officer specified in state law. [s. 165.92, Stats.] The tribe that employs the officer is liable for the actions of the officer taken under this authority, and an officer may not act under this authority unless the employing tribe has adopted a resolution waiving its sovereign immunity to the extent necessary to enforce this liability in state courts, or has adopted another resolution that the Department of Justice (DOJ) determines has the same effect.

2009 Wisconsin Act 232 allows a tribe, as an alternative to waiving its sovereign immunity to allow enforcement of liability, to maintain liability insurance that does all of the following:

1. Covers the tribe and tribal law enforcement officers for liability due to the acts or omissions of the tribe and officers.
2. Has a limit of coverage not less than \$2,000,000 for any occurrence.
3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

As an additional condition of exercising law enforcement powers under s. 165.92, the Act specifies that the tribe must provide to the DOJ either a copy of its resolution waiving sovereign immunity or evidence of the liability insurance, depending on the option taken by the tribe, and the DOJ has posted either a copy or notice of the document on the Internet site it maintains for exchanging information with law enforcement agencies.

Effective date: The Act takes effect on May 20, 2010.

Prepared by: David L. Lovell, Senior Analyst

May 11, 2010

DLL:jal

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.