



# House of Representatives

General Assembly

**File No. 124**

January Session, 2013

House Bill No. 6373

*House of Representatives, March 25, 2013*

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (8) of section 7-294a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (8) "Law enforcement unit" means any agency, organ or department  
5 of this state or a subdivision or municipality thereof, or, if created and  
6 governed by a memorandum of agreement under section 2 of this act,  
7 of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of  
8 Connecticut, whose primary functions include the enforcement of  
9 criminal or traffic laws, the preservation of public order, the protection  
10 of life and property, or the prevention, detection or investigation of  
11 crime.

12 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding the  
13 requirements of section 3-6c of the general statutes, the Commissioner  
14 of Emergency Services and Public Protection, upon the approval of the

15 Chief State's Attorney, shall have the authority to enter into separate  
16 memoranda of agreement with the Mashantucket Pequot Tribe and the  
17 Mohegan Tribe of Indians of Connecticut for the purpose of  
18 establishing the authority of each tribe's police department and police  
19 officers to exercise law enforcement powers pursuant to sections 7-  
20 294a to 7-294e, inclusive, of the general statutes, as amended by this  
21 act.

22 (b) Notwithstanding the requirements of section 3-6c of the general  
23 statutes, the Commissioner of Emergency Services and Public  
24 Protection and the Chief State's Attorney shall jointly have the  
25 authority to revoke any memorandum of agreement with the  
26 Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of  
27 Connecticut entered into pursuant to subsection (a) of this section.

28 Sec. 3. Subdivision (9) of section 53a-3 of the general statutes is  
29 repealed and the following is substituted in lieu thereof (*Effective from*  
30 *passage*):

31 (9) "Peace officer" means a member of the Division of State Police  
32 within the Department of Emergency Services and Public Protection or  
33 an organized local police department, a chief inspector or inspector in  
34 the Division of Criminal Justice, a state marshal while exercising  
35 authority granted under any provision of the general statutes, a  
36 judicial marshal in the performance of the duties of a judicial marshal,  
37 a conservation officer or special conservation officer, as defined in  
38 section 26-5, a constable who performs criminal law enforcement  
39 duties, a special policeman appointed under section 29-18, 29-18a or  
40 29-19, an adult probation officer, an official of the Department of  
41 Correction authorized by the Commissioner of Correction to make  
42 arrests in a correctional institution or facility, any investigator in the  
43 investigations unit of the office of the State Treasurer, [or] any special  
44 agent of the federal government authorized to enforce the provisions  
45 of Title 21 of the United States Code, or a member of a law  
46 enforcement unit of the Mashantucket Pequot Tribe or the Mohegan  
47 Tribe of Indians of Connecticut created and governed by a

48 memorandum of agreement under section 2 of this act who is certified  
49 as a police officer by the Police Officer Standards and Training Council  
50 pursuant to sections 7-294a to 7-294e, inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-294a(8)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	53a-3(9)

**PS**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

---

### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

### ***Explanation***

The bill, which modifies statutory definitions and also allows the Commissioner of the Department of Emergency Services and Public Protection (DESPP) to enter into or revoke memoranda of agreement (MOA) with the Mashantucket Pequot Tribe and Mohegan Tribe of Indians of Connecticut regarding law enforcement powers, has no fiscal impact. The fiscal impact of the MOA depends on the outcome of negotiations between DESPP and the two tribes.

### ***Background***

The Department of Emergency Services and Public Protection is currently responsible for certain law enforcement activities at the two tribal casinos. Over each of the last four fiscal years, DESPP has incurred more costs related to law enforcement at the casinos than it has been reimbursed for. Total costs incurred exceeded tribal reimbursement by \$1,215,607 in FY 11 and \$2,286,999 in FY 12

### ***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****HB 6373*****AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND.*****SUMMARY:**

This bill authorizes the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the chief state's attorney's approval, to enter into separate memoranda of agreement with the Mohegans and Mashantucket Pequots to establish the authority of each tribe's police department and police officers to exercise law enforcement powers, subject to training and certification by the Police Officer Standards and Training (POST) Council. It gives the commissioner and chief state's attorney joint authority to revoke the memorandum. They can enter into and revoke the agreements notwithstanding an existing law that requires the legislature to execute and approve compacts between the tribes and state.

The bill broadens the definition of "law enforcement unit" to include any agency, organ, or department "created" and governed under each memorandum and whose primary functions are to enforce criminal and traffic laws, prevent and investigate crime, and protect life and property. The bill also broadens the definition of "peace officer" to include members (1) of the law enforcement unit created and governed by the memorandum and (2) certified by the POST Council. By law, peace officers have certain powers regarding arrests and use of force, among others.

EFFECTIVE DATE: Upon passage

**LAW ENFORCEMENT UNIT**

The bill expands the definition of law enforcement unit to include a unit "created and governed" under the separate agreements between the state and the tribes. The POST Council has the power (1) at the

request and expense of any law enforcement unit, to conduct general specific management surveys; (2) to develop accreditation standards and accredit law enforcement units; and (3) inspect law enforcement units for compliance with council requirements. Because the bill applies to departments created under the memoranda and the tribal departments already exist, it is unclear what powers the council will have under the agreement.

## **BACKGROUND**

### ***Compact Approval***

The law requires the legislature to approve any compact or compact amendment executed between Connecticut and another state or an Indian tribe before it can be implemented. Approval must be by a majority vote of each house within specified deadlines; either house can reject.

### ***Peace Officers***

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, and federal narcotics agents.

***Use of Physical Force.*** Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized, or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

***Use of Deadly Physical Force.*** Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to

(1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone whom he or they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

**Duty to Retreat.** The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

**Resisting Arrest.** The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

**Arrest Powers.** Peace officers, when in their town, can arrest, without a warrant, any person for an offense when the person is taken or apprehended in the act or on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their town and they could legally arrest the person under their authority (CGS § 54-1f).

### ***Police Officer Standards and Training Council***

The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them.

### **COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable

Yea 23    Nay 0    (03/07/2013)