

INDIAN AFFAIRS RELATED AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

This act modifies the Wildlife Resources Code to address issues affecting Indians. This act modifies the process for review of certain agreements with Indian tribes. This act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

23-13-12.5, as enacted by Chapter 164, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **23-13-12.5** is amended to read:

23-13-12.5. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized:

- (a) Indian tribe; or
- (b) Indian band.

(2) (a) Subject to the requirements of this section, the governor may enter into an agreement with a tribe to settle a dispute between the state and the tribe concerning a hunting, fishing, or trapping right claim that is:

- (i) based on:
 - (A) a treaty;
 - (B) an aboriginal right; or
 - (C) other recognized federal right; and
- (ii) on lands located within the state.

(b) Except as provided in Subsection (2)(c), an agreement permitted under Subsection (2)(a) may not exempt any person from the requirements of this title.

(c) An agreement permitted under Subsection (2)(a) may exempt or partially exempt a tribe that is a party to the agreement or a member of that tribe from:

- (i) Section 23-16-5, placing a limit of one of any species of big game during a license year;

- (ii) Section 23-16-6, commencement date of the general deer season;
 - (iii) a hunter or furharvester education requirement under Chapter 19, Licenses, Permits, and Tags;
 - (iv) an age restriction under Chapter 19, Licenses, Permits, and Tags;
 - (v) paying a fee required under this title to obtain a hunting, fishing, or trapping license or permit;
 - (vi) obtaining a license or permit required under this title to hunt, trap, or fish; or
 - (vii) complying with a rule or proclamation of the Wildlife Board if the exemption is not inconsistent with this title.
- (d) An agreement permitted under Subsection (2)(a) shall:
- (i) be in writing;
 - (ii) be signed by:
 - (A) the governor; and
 - (B) the governing body of the tribe that:
 - (I) is designated by the tribe; and
 - (II) may bind the tribe to the terms of the agreement;
 - (iii) be conditioned on obtaining any approval required by federal law;
 - (iv) state the effective date of the agreement;
 - (v) provide that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute for which an exemption is not authorized under this section; and
 - (vi) include any accommodation made by the tribe that:
 - (A) is agreed to by the tribe;
 - (B) is reasonably related to the agreement; and
 - (C) concerns the management and use of wildlife resources or habitat.
- (e) Prior to executing an agreement under this Subsection (2), the governor shall consult with:
- (i) the division; and
 - (ii) the chair of the Wildlife Board created in Section 23-14-2.

(f) At least 30 days before the agreement under this Subsection (2) is executed, the governor or the governor's designee shall ~~[present the proposed agreement]~~ provide a copy of the agreement in the form that the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee ~~[at a meeting of the Native American Legislative Liaison Committee.]; and~~

(ii) the Office of Legislative Research and General Counsel.