



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
TRIBAL ORDINANCE 19 — 25
AMENDMENT IN PART TO THE CODE OF MENOMINEE
INDIAN TRIBE OF WISCONSIN
CHAPTER 550 — "Vehicles and Traffic"**

FINAL APPROVAL:

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

Tribal Ordinance 19-26 is hereby enacted. Tribal Ordinance 19-26 hereby amends in part Chapter 550, "Vehicles and Traffic" of the Code of the Menominee Indian Tribe of Wisconsin, to add authorizing law enforcement language by adding the following language:

Add to § 550-1 "This Article shall be enforced by any duly authorized Menominee Tribal Police Officers and Menominee Tribal Conservation Officers. Such officers are law enforcement officers for the authorizations pursuant to §132-3 and that authority applies to the other designations of enforcement authority in the remaining articles of Chapter 550."

Add to § 550-4 "This Article shall be enforced by any duly authorized Menominee Tribal Police Officers and Menominee Tribal Conservation Officers."

Add to § 550-12 "and any duly authorized Tribal Conservation Officers"

Add to § 550-26 "and any duly authorized Tribal Conservation Officers" Add

to § 550-33 "and any duly authorized Tribal Conservation Officers"

Add "§ 550-34. This Article shall be enforced by any duly authorized Menominee Tribal Police Officers and Menominee Tribal Conservation Officers."

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to Menominee Indian Tribe of Wisconsin General Code, "Chapter 550, "Vehicles" was approved at a regular meeting of the Tribal Legislature held December 19, 2019, at which a quorum was present, by a vote of 6 for, 0 opposed, 0 abstentions and 2 absent.

The undersigned also certify that the foregoing amended chapter to the Code of the Menominee Indian Tribe of Wisconsin has been posted in accordance with the Menominee Constitution and Bylaws.



MEMORANDUM

To: Menominee Tribal Legislature
From: Danica J. Zawieja, Assistant Tribal Attorney
Date: December 11, 2019
Re: Amendments Chapter 550 Motor Vehicle — Enforcing Authority

An issue was brought to our office from Conservation Warden Maniyan Pyawasay on November 22, 2019 regarding the law enforcement authority of certified Conservation Wardens. Ordinance 19-28 was approved for first consideration and sent for public hearing on December 19, 2019. No motions were made to change the language presented at public hearing.

The most recent pressing issue was a valid traffic stop for an OVVI from a certified Conservation warden that was dismissed because there is no designated law enforcement officer or definition (PD or otherwise) in Article 1. Motor Vehicle Code. See the table below showing the designated authority.

Chapter 550	Enforcing Authority
Article I. Motor Vehicle Code <i>§ 550-1 and 2.</i>	No Law Enforcement Authority Listed
Article H. Winter Parking <i>§ 550-3 through 7.</i>	No Law Enforcement Authority Listed
Article EII. Traveling n Dam No. 3 <i>§ 550-8 through 13.</i>	Tribal Policy Only
Article IV. All-Terrain Vehicles <i>§ 550-14 through 21.2</i>	Tribal Police and Conservation
Article V. Seat Belt Requirements <i>§ 550-22 through 26</i>	Tribal Police Only
Article VI. Parking Regulations. <i>§ 550-27 through 33.</i>	No Law Enforcement Authority Listed. Tribal Police have authority to tow.

Tribal police have the general authority to enforce tribal laws regardless of whether they are listed as an enforcing authority in the specific chapter, but Conservation has only designated authority outside of the Conservation Code requiring Conservation to be listed as the enforcing agent. See except below from Chapter 132, Article VII. Empowerment of Conservation Wardens to Enforce Tribal Laws.

132-44 General authority granted.

The Menominee Conservation Department and its wardens may execute and serve warrants and processes issued under Menominee tribal law in the same manner as any Menominee Tribal Law Enforcement Officer may serve and execute the process; and may arrest, with or without a

warrant, any person detected in the actual violation, or whom the officer has probable cause to believe is guilty of a violation of any of the laws cited by tribal law where conservation is listed as the enforcing agents, whether the violation is punishable by criminal penalties or by forfeiture, and may take the person before Menominee Tribal Court, where the offense was committed and make a proper complaint. For the purpose of enforcing any of the laws cited by tribal law where Conservation is listed as the enforcing agent, any conservation officer may stop and board any boat and stop any vehicle if the officer reasonably suspects there is a violation of those laws, codes or ordinances.

The broader issue is being address with Toni as it relates to Chapter 132 and junk vehicles. Most new laws, ex: Firearms, Seasonal Permits, define and designate Law Enforcement Officer to include Conservation, but other Chapters, especially with older codes, either do not list Conservation as an enforcing officer or have no definition or section specifically listing the enforcing authorities.

Due to the scheduling of ERP, going through the normal committee process would stop Conservation from enforcing any traffic violations solely under Chapter 550 until at earliest the end of January. Motor Vehicles. The normal process would put an amendment to Conservation authority and the ability to enforce traffic violations past the busy hunting and holiday season. While the number of "Ch. 550 only" stops are likely very small, it is a limitation that does affect the safety of the roads within the reservation.

Rather than pursue an Emergency Ordinance route for 60 days, the simple amendments are before you tonight without having gone through ERP due scheduling issues.

The amendments either add the definition of law enforcement authority (including Police and Conservation) or add certified Conservation Wardens to the enforcing authority. Most, if not all certified law enforcement officers have the authority to conduct stops and detain individuals. This is generally a tool you want certified law enforcement officers to have. Conservation will be present to answer your questions.

If you have any questions or concerns, please do not hesitate to contact me at (715) 799-5194 or at dzawieja@mitw.org.



**DOUGLAS COX SR., TRIBAL CHAIRMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN**



**PERSHING FRECHETTE, TRIBAL SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN**