

# STATE OF NEW YORK

S. 7770

A. 9898

## SENATE - ASSEMBLY

February 21, 2018

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Judiciary

AN ACT to amend the Indian law, in relation to the state recognition and acknowledgement of the Montaukett Indians

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2 of the Indian law, as added by chapter 174 of the  
2 laws of 2013, is amended to read as follows:

3 § 2. New York state Indian nations and tribes. The term "Indian nation  
4 or tribe" means one of the following New York state Indian nations or  
5 tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poos-  
6 patuck or Unkechaugue Nation, Saint Regis Mohawk Tribe, Seneca Nation of  
7 Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca, the  
8 Montaukett Indians, and Tuscarora Nation.

9 § 2. The Indian law is amended by adding a new article 11 to read as  
10 follows:

### ARTICLE 11

#### THE MONTAUKETT INDIANS

13 Section 170. State recognition and acknowledgment.

14 171. Leadership of Montaukett Indians; elections; terms of  
15 office.

16 172. Qualifications of voters.

17 173. Qualifications for office.

18 Section 170. State recognition and acknowledgment. The Montaukett  
19 Indians seek to restore their acknowledgment and recognition by the  
20 state of New York. Such recognition and acknowledgment was improperly  
21 removed from the Montaukett Indians in 1910 in the case of PHAROAH V.  
22 BENSON, 69 Misc. Rep. 241(Supreme, Suffolk Co., 1910) affirmed 164 App.  
23 Div. 51, affirmed 222 N.Y. 665 when the Montaukett Indians were declared  
24 to be extinct. In 1994, the State Supreme Court, in the case of BREAKERS

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 MOTEL, INC. V. SUNBEACH MONTAUK TWO, INC., subsequently described the  
2 PHAROAH case as being of "questionable propriety". It is the purpose of  
3 this act to correct this impropriety by granting state recognition and  
4 acknowledgment to the Montaukett Indians.

5 § 171. Leadership of Montaukett Indians; elections; terms of office.  
6 The Montaukett Indians shall have a chief or sachem, three tribal trus-  
7 tees, and a tribal secretary. They shall be elected by a majority vote  
8 by ballot of the blood right members of the tribe eligible to vote at  
9 the annual tribal meeting which shall be held annually on the first  
10 Tuesday in April. All officers shall hold office for a period of one  
11 year.

12 § 172. Qualifications of voters. No person shall vote at the election  
13 provided for in section one hundred seventy-one of this article unless  
14 such person is at least eighteen years of age and is certified as a  
15 blood right member of the Montaukett Indians nation in accordance with  
16 the tribal rules, customs and regulations of the Montaukett Indians.

17 § 173. Qualifications for office. All officers shall qualify for  
18 office and perform their respective duties in accordance with the tribal  
19 rules, customs and regulations of the Montaukett Indians.

20 § 3. This act shall take effect after (a) completion of a review by  
21 the Secretary of State, as directed by the Governor, pursuant to Veto  
22 210 of 2013 and Veto 174 of 2017, and (b) submission of an affirmative  
23 written determination from the Secretary of State to the Assembly,  
24 Senate and Governor that state recognition and acknowledgement is  
25 warranted; provided however, that if the Secretary of State submits a  
26 negative determination on or before January 1, 2019, this act shall be  
27 deemed repealed upon January 1, 2019; and further provided that if the  
28 Secretary of State fails to submit any determination on or before Janu-  
29 ary 1, 2019, this act shall take effect upon January 1, 2019; provided,  
30 further, that the Secretary of State shall notify the legislative bill  
31 drafting commission upon the occurrence of the enactment of the legis-  
32 lation provided for in sections one and two of this act in order that  
33 the commission may maintain an accurate and timely effective data base  
34 of the official text of the laws of the state of New York in furtherance  
35 of effectuating the provisions of section 44 of the legislative law and  
36 section 70-b of the public officers law.