

## Calendar No. 339

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 725**

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IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2010

Received

MARCH 26 (legislative day, MARCH 25), 2010

Read twice and placed on the calendar

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**AN ACT**

To protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Arts and Crafts  
5 Amendments Act of 2010”.

6 **SEC. 2. INDIAN ARTS AND CRAFTS.**

7 (a) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MIS-  
8 REPRESENTATIONS.—Section 5 of the Act entitled “An  
9 Act to promote the development of Indian arts and crafts

1 and to create a board to assist therein, and for other pur-  
2 poses” (25 U.S.C. 305d) is amended to read as follows:

3 **“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.**

4       “(a) DEFINITION OF FEDERAL LAW ENFORCEMENT  
5 OFFICER.—In this section, the term ‘Federal law enforce-  
6 ment officer’ includes a Federal law enforcement officer  
7 (as defined in section 115(c) of title 18, United States  
8 Code).

9       “(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—  
10 Any Federal law enforcement officer shall have the author-  
11 ity to conduct an investigation relating to an alleged viola-  
12 tion of this Act occurring within the jurisdiction of the  
13 United States.

14       “(c) CRIMINAL PROCEEDINGS.—

15               “(1) INVESTIGATION.—

16                       “(A) IN GENERAL.—The Board may refer  
17 an alleged violation of section 1159 of title 18,  
18 United States Code, to any Federal law enforce-  
19 ment officer for appropriate investigation.

20                       “(B) REFERRAL NOT REQUIRED.—A Fed-  
21 eral law enforcement officer may investigate an  
22 alleged violation of section 1159 of that title re-  
23 gardless of whether the Federal law enforce-  
24 ment officer receives a referral under subpara-  
25 graph (A).

1           “(2) FINDINGS.—The findings of an investiga-  
2           tion of an alleged violation of section 1159 of title  
3           18, United States Code, by any Federal department  
4           or agency under paragraph (1)(A) shall be sub-  
5           mitted, as appropriate, to—

6                     “(A) a Federal or State prosecuting au-  
7                     thority; or

8                     “(B) the Board.

9           “(3) RECOMMENDATIONS.—On receiving the  
10           findings of an investigation under paragraph (2), the  
11           Board may—

12                    “(A) recommend to the Attorney General  
13                    that criminal proceedings be initiated under  
14                    section 1159 of title 18, United States Code;  
15                    and

16                    “(B) provide such support to the Attorney  
17                    General relating to the criminal proceedings as  
18                    the Attorney General determines to be appro-  
19                    priate.

20           “(d) CIVIL ACTIONS.—In lieu of, or in addition to,  
21           any criminal proceeding under subsection (c), the Board  
22           may recommend that the Attorney General initiate a civil  
23           action under section 6.”.

24           (b) CAUSE OF ACTION FOR MISREPRESENTATION.—  
25           Section 6 of the Act entitled “An Act to promote the devel-

1 opment of Indian arts and crafts and to create a board  
2 to assist therein, and for other purposes” (25 U.S.C.  
3 305e) is amended—

4 (1) by striking subsection (d);

5 (2) by redesignating subsections (a) through (c)  
6 as subsections (b) through (d), respectively;

7 (3) by inserting before subsection (b) (as redesi-  
8 gnated by paragraph (2)) the following:

9 “(a) DEFINITIONS.—In this section:

10 “(1) INDIAN.—The term ‘Indian’ means an in-  
11 dividual that—

12 “(A) is a member of an Indian tribe; or

13 “(B) is certified as an Indian artisan by an  
14 Indian tribe.

15 “(2) INDIAN PRODUCT.—The term ‘Indian  
16 product’ has the meaning given the term in any reg-  
17 ulation promulgated by the Secretary.

18 “(3) INDIAN TRIBE.—

19 “(A) IN GENERAL.—The term ‘Indian  
20 tribe’ has the meaning given the term in section  
21 4 of the Indian Self-Determination and Edu-  
22 cation Assistance Act (25 U.S.C. 450b).

23 “(B) INCLUSION.—The term ‘Indian tribe’  
24 includes, for purposes of this section only, an

1 Indian group that has been formally recognized  
2 as an Indian tribe by—

3 “(i) a State legislature;

4 “(ii) a State commission; or

5 “(iii) another similar organization  
6 vested with State legislative tribal recogni-  
7 tion authority.

8 “(4) SECRETARY.—The term ‘Secretary’ means  
9 the Secretary of the Interior.”;

10 (4) in subsection (b) (as redesignated by para-  
11 graph (2)), by striking “subsection (c)” and insert-  
12 ing “subsection (d)”;

13 (5) in subsection (c) (as redesignated by para-  
14 graph (2))—

15 (A) by striking “subsection (a)” and in-  
16 serting “subsection (b)”;

17 (B) by striking “suit” and inserting “the  
18 civil action”;

19 (6) by striking subsection (d) (as redesignated  
20 by paragraph (2)) and inserting the following:

21 “(d) PERSONS THAT MAY INITIATE CIVIL AC-  
22 TIONS.—

23 “(1) IN GENERAL.—A civil action under sub-  
24 section (b) may be initiated by—

1           “(A) the Attorney General, at the request  
2 of the Secretary acting on behalf of—

3                   “(i) an Indian tribe;

4                   “(ii) an Indian; or

5                   “(iii) an Indian arts and crafts orga-  
6 nization;

7           “(B) an Indian tribe, acting on behalf of—

8                   “(i) the Indian tribe;

9                   “(ii) a member of that Indian tribe; or

10                   “(iii) an Indian arts and crafts orga-  
11 nization;

12           “(C) an Indian; or

13           “(D) an Indian arts and crafts organiza-  
14 tion.

15           “(2) DISPOSITION OF AMOUNTS RECOVERED.—

16                   “(A) IN GENERAL.—Except as provided in  
17 subparagraph (B), an amount recovered in a  
18 civil action under this section shall be paid to  
19 the Indian tribe, the Indian, or the Indian arts  
20 and crafts organization on the behalf of which  
21 the civil action was initiated.

22                   “(B) EXCEPTIONS.—

23                   “(i) ATTORNEY GENERAL.—In the  
24 case of a civil action initiated under para-

1 graph (1)(A), the Attorney General may  
2 deduct from the amount—

3 “(I) the amount of the cost of  
4 the civil action and reasonable attor-  
5 ney’s fees awarded under subsection  
6 (c), to be deposited in the Treasury  
7 and credited to appropriations avail-  
8 able to the Attorney General on the  
9 date on which the amount is recov-  
10 ered; and

11 “(II) the amount of the costs of  
12 investigation awarded under sub-  
13 section (c), to reimburse the Board  
14 for the activities of the Board relating  
15 to the civil action.

16 “(ii) INDIAN TRIBE.—In the case of a  
17 civil action initiated under paragraph  
18 (1)(B), the Indian tribe may deduct from  
19 the amount—

20 “(I) the amount of the cost of  
21 the civil action; and

22 “(II) reasonable attorney’s fees.”;

23 and

24 (7) in subsection (e), by striking “(e) In the  
25 event that” and inserting the following:

1 “(e) SAVINGS PROVISION.—If”.

2 **SEC. 3. MISREPRESENTATION OF INDIAN PRODUCED**  
3 **GOODS AND PRODUCTS.**

4 Section 1159 of title 18, United States Code, is  
5 amended—

6 (1) by striking subsection (b) and inserting the  
7 following:

8 “(b) PENALTY.—Any person that knowingly violates  
9 subsection (a) shall—

10 “(1) in the case of a first violation by that per-  
11 son—

12 “(A) if the applicable goods are offered or  
13 displayed for sale at a total price of \$1,000 or  
14 more, or if the applicable goods are sold for a  
15 total price of \$1,000 or more—

16 “(i) in the case of an individual, be  
17 fined not more than \$250,000, imprisoned  
18 for not more than 5 years, or both; and

19 “(ii) in the case of a person other  
20 than an individual, be fined not more than  
21 \$1,000,000; and

22 “(B) if the applicable goods are offered or  
23 displayed for sale at a total price of less than  
24 \$1,000, or if the applicable goods are sold for  
25 a total price of less than \$1,000—



1                   “(i) in the case of an individual, be  
2                   fined not more than \$25,000, imprisoned  
3                   for not more than 1 year, or both; and

4                   “(ii) in the case of a person other  
5                   than an individual, be fined not more than  
6                   \$100,000; and

7                   “(2) in the case of a subsequent violation by  
8                   that person, regardless of the amount for which any  
9                   good is offered or displayed for sale or sold—

10                   “(A) in the case of an individual, be fined  
11                   under this title, imprisoned for not more than  
12                   15 years, or both; and

13                   “(B) in the case of a person other than an  
14                   individual, be fined not more than  
15                   \$5,000,000.”; and

16                   (2) in subsection (c), by striking paragraph (3)  
17                   and inserting the following:

18                   “(3) the term ‘Indian tribe’—

19                   “(A) has the meaning given the term in  
20                   section 4 of the Indian Self-Determination and  
21                   Education Assistance Act (25 U.S.C. 450b);  
22                   and

23                   “(B) includes, for purposes of this section  
24                   only, an Indian group that has been formally  
25                   recognized as an Indian tribe by—

- 1 “(i) a State legislature;  
2 “(ii) a State commission; or  
3 “(iii) another similar organization  
4 vested with State legislative tribal recogni-  
5 tion authority; and”.

Passed the House of Representatives January 19,  
2010.

Attest: LORRAINE C. MILLER,  
*Clerk.*



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