

114TH CONGRESS
2D SESSION

H. R. 5854

To amend title 18, United States Code, to enhance protections of Native American cultural objects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. BEN RAY LUJÁN of New Mexico (for himself and Ms. MICHELLE LUJAN GRISHAM of New Mexico) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, to enhance protections of Native American cultural objects, 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 “Safeguard Tribal Ob-
5 jects of Patrimony Act of 2016”.

1 **SEC. 2. ENHANCED PROTECTIONS FOR NATIVE AMERICAN**
2 **CULTURAL OBJECTS.**

3 (a) ENHANCED PENALTIES.—Section 1170 of title
4 18, United States Code, is amended by striking “5 years”
5 each place it appears and inserting “10 years”.

6 (b) PROHIBITION OF EXPORTING NATIVE AMERICAN
7 CULTURAL OBJECTS.—Chapter 53 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 1171. Illegal exportation of Native American cul-**
11 **tural objects**

12 “(a) DEFINITION OF NATIVE AMERICAN CULTURAL
13 OBJECT.—In this section, the term ‘Native American cul-
14 tural object’ means any Native American (as defined in
15 section 2 of the Native American Graves Protection and
16 Repatriation Act (25 U.S.C. 3001))—

17 “(1) cultural items, as defined in that section;

18 “(2) archaeological resource, as defined in sec-
19 tion 3 of the Archaeological Resources Protection
20 Act of 1979 (16 U.S.C. 470bb); or

21 “(3) object of antiquity protected under section
22 1866(b).

23 “(b) PROHIBITION.—It shall be unlawful for any per-
24 son to knowingly export or otherwise transport from the
25 United States any Native American cultural object ob-
26 tained in violation of—

1 “(1) the Native American Graves Protection
2 and Repatriation Act (25 U.S.C. 3001 et seq.);

3 “(2) section 1170;

4 “(3) the Archaeological Resources Protection
5 Act of 1979 (16 U.S.C. 470aa et seq.); or

6 “(4) section 1866(b).

7 “(c) PENALTY.—Any person who violates subsection
8 (b) shall—

9 “(1) in the case of a first violation under this
10 section, be fined under this title, imprisoned for not
11 more than 1 year, or both; and

12 “(2) in the case of a second or subsequent vio-
13 lation under this section, be fined under this title,
14 imprisoned for not more than 10 years, or both.”.

15 (c) PRIVATE REPATRIATION OF NATIVE AMERICAN
16 CULTURAL OBJECTS.—Chapter 53 of title 18, United
17 States Code (as amended by subsection (b)), is amended
18 by adding at the end the following:

19 **“§ 1172. Private repatriation of Native American cul-**
20 **tural objects**

21 “(a) IN GENERAL.—Except as provided in subsection
22 (b), if a person voluntarily repatriates to the appropriate
23 Indian tribe or Native Hawaiian organization by not later
24 than 2 years after the date of enactment of this section,
25 all of the Native American cultural objects (as defined in

1 section 1171(a)) in the possession of the person, that per-
 2 son shall be immune from criminal prosecution under this
 3 title, the Archaeological Resources Protection Act of 1979
 4 (16 U.S.C. 470aa et seq.), or any other related law with
 5 respect to the returned Native American cultural objects.

6 “(b) EXCEPTION.—Subsection (a) shall not apply if
 7 the person repatriates the Native American cultural ob-
 8 jects on a date that is after the date on which an active
 9 investigation or prosecution of the person relating to the
 10 Native American cultural objects is initiated.”.

11 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 12 The table of sections for chapter 53 of title 18, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing:

“1171. Illegal exportation of Native American cultural objects.
 “1172. Private repatriation of Native American cultural objects.”.

15 **SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**

16 (a) DEFINITIONS.—In this section:

17 (1) INDIAN TRIBE.—The term “Indian tribe”
 18 has the meaning given the term in section 2 of the
 19 Native American Graves Protection and Repatriation
 20 Act (25 U.S.C. 3001).

21 (2) NATIVE AMERICAN CULTURAL OBJECT.—
 22 The term “Native American cultural object” has the
 23 meaning given the term in section 1171(a) of title
 24 18, United States Code.

1 (3) NATIVE HAWAIIAN ORGANIZATION.—The
2 term “Native Hawaiian organization” has the mean-
3 ing given the term in section 2 of the Native Amer-
4 ican Graves Protection and Repatriation Act (25
5 U.S.C. 3001).

6 (b) SUBMISSION.—Not later than 2 years after the
7 date of enactment of this Act, the Comptroller General
8 of the United States, after collecting information from the
9 Attorney General, the Secretary of the Interior, and the
10 Secretary of State, and meeting, as appropriate, with In-
11 dian tribes and Native Hawaiian organizations, shall sub-
12 mit the report described in subsection (c) to—

13 (1) the Committee on Indian Affairs of the Sen-
14 ate; and

15 (2) the Committee on Natural Resources of the
16 House of Representatives.

17 (c) REPORT DESCRIBED.—The report submitted
18 under subsection (b) shall include a description of—

19 (1) an estimate of the number of Native Amer-
20 ican cultural objects illegally trafficked in the United
21 States and foreign markets;

22 (2) the extent to which the Attorney General
23 has prosecuted, under section 1170 of title 18,
24 United States Code, the Archaeological Resources
25 Protection Act of 1979 (16 U.S.C. 470aa et seq.),

1 section 1866(b) of title 18, United States Code, or
2 any other related law, cases of trafficking in—

3 (A) the human remains of a Native Amer-
4 ican (as defined in section 2 of the Native
5 American Graves Protection and Repatriation
6 Act (25 U.S.C. 3001)); or

7 (B) other Native American cultural ob-
8 jects; and

9 (3) recommendations for actions the Attorney
10 General, the Secretary of State, and the Secretary of
11 the Interior can take—

12 (A) to eliminate illegal commerce in Native
13 American cultural objects in the United States
14 and foreign markets; and

15 (B) to secure the repatriation to Indian
16 tribes and Native Hawaiian organizations of
17 Native American cultural objects that have been
18 illegally removed or trafficked in violation of—

19 (i) section 1170(b) of title 18, United
20 States Code;

21 (ii) the Archaeological Resources Pro-
22 tection Act of 1979 (16 U.S.C. 470aa et
23 seq.); or

24 (iii) section 1866(b) of title 18,
25 United States Code.

1 (d) TRIBAL WORKING GROUP.—The Secretary of the
2 Interior shall facilitate the convention of a tribal working
3 group composed of representatives of Indian tribes and
4 Native Hawaiian organizations, the Department of Jus-
5 tice, the Department of the Interior, the Department of
6 Homeland Security, and the Department of State—

7 (1) to provide an opportunity for Indian tribes
8 and Native Hawaiian organizations to contribute in-
9 formation to the Attorney General, the Secretary of
10 the Interior, and the Secretary of State during the
11 preparation of the report described in subsection (c);
12 and

13 (2) to advise the Attorney General, the Sec-
14 retary of the Interior, and the Secretary of State on
15 methods for implementing recommendations included
16 in the report described in subsection (c).

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