

118TH CONGRESS
1ST SESSION

S. _____

To amend the Act of August 27, 1935, with respect to Indian, Native American, and Alaska Native products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend the Act of August 27, 1935, with respect to Indian, Native American, and Alaska Native products, 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 “Amendments to Re-
5 spect Traditional Indigenous Skill and Talent Act of
6 2023” or the “ARTIST Act of 2023”.

1 **SEC. 2. CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MIS-**
2 **REPRESENTATIONS.**

3 Section 5 of the Act of August 27, 1935 (49 Stat.
4 892, chapter 748; 25 U.S.C. 305d) (commonly known as
5 the “Indian Arts and Crafts Act”), is amended—

6 (1) in subsection (b)—

7 (A) in the subsection heading, by striking
8 “AUTHORITY TO CONDUCT INVESTIGATIONS”
9 and inserting “ENFORCEMENT”;

10 (B) by striking “Any Federal law enforce-
11 ment officer” and inserting the following:

12 “(1) IN GENERAL.—Any Federal law enforce-
13 ment officer”; and

14 (C) by adding at the end the following:

15 “(2) POWERS.—

16 “(A) IN GENERAL.—Any Federal law en-
17 forcement officer authorized under paragraph
18 (1) to enforce this Act may—

19 “(i) execute and serve any subpoena,
20 arrest warrant, or search warrant issued in
21 accordance with rule 41 of the Federal
22 Rules of Criminal Procedure, or other war-
23 rant or civil or criminal process issued by
24 any officer or court of competent jurisdic-
25 tion for enforcement of this Act;

1 “(ii) in accordance with any guidelines
2 issued by the Attorney General under sub-
3 paragraph (D), search and seize, with or
4 without a warrant, if the officer has prob-
5 able cause to believe that a person is com-
6 mitting a violation of this Act;

7 “(iii) in accordance with any guide-
8 lines issued by the Attorney General under
9 subparagraph (D), make arrests—

10 “(I) for any violation of this Act,
11 if the officer has probable cause to be-
12 lieve that the person to be arrested is
13 committing a violation of this Act;
14 and

15 “(II) for a misdemeanor violation
16 of this Act, if the violation is com-
17 mitted in the presence or view of the
18 officer;

19 “(iv) require by subpoena the produc-
20 tion of all information, documents, reports,
21 answers records, accounts, papers, other
22 data in any medium (including electroni-
23 cally stored information and any tangible
24 item), and documentary evidence necessary
25 in the performance of the functions as-

1 signed by this Act, which subpoena, in the
2 case of contumacy or refusal to obey, shall
3 be enforceable by order of any appropriate
4 district court of the United States; and

5 “(v) administer to, or take from, any
6 person an oath, affirmation, or affidavit,
7 whenever necessary in the performance of
8 the functions assigned by this Act.

9 “(B) ADDITIONAL POWERS.—Any Federal
10 law enforcement officer authorized under para-
11 graph (1) or any other person otherwise author-
12 ized by the Department of the Interior or the
13 Department of Homeland Security to enforce
14 this Act may—

15 “(i) detain for inspection and inspect
16 any vessel, vehicle, aircraft, or other con-
17 veyance or any package, crate, or other
18 container, including its contents, on the ar-
19 rival of such conveyance or container in
20 the United States or the customs waters of
21 the United States from any point outside
22 the United States or such customs waters,
23 or, if such conveyance or container is being
24 used for exportation purposes, prior to de-

1 parture from the United States or the cus-
2 toms waters of the United States; and

3 “(ii) inspect and demand the produc-
4 tion of any documents, permits, and mark-
5 ings for Native American-style jewelry or
6 Native American-style arts and crafts (as
7 those terms are defined in subsections
8 (c)(1) and (d)(1), respectively, of section
9 134.43 of title 19, Code of Federal Regula-
10 tions (or a successor regulation)), required
11 by the country of origin or reexport of the
12 arts and crafts products.

13 “(C) SEIZURE.—Any arts, crafts, property,
14 or other item seized pursuant to this section
15 shall be held by any person authorized by the
16 Secretary of Homeland Security pending dis-
17 position of civil or criminal proceedings.

18 “(D) GUIDELINES.—Not later than 1 year
19 after the date of enactment of the ARTIST Act
20 of 2023, the Attorney General shall issue guide-
21 lines with respect to the powers of Federal law
22 enforcement officers described in clauses (ii)
23 and (iii) of subparagraph (A).”; and

24 (2) by adding at the end the following:

25 “(e) FORFEITURE.—

1 “(1) ARTS AND CRAFTS PRODUCTS.—

2 “(A) IN GENERAL.—All arts and crafts
3 products imported, exported, transported, sold,
4 received, acquired, or purchased in violation of
5 this Act, or any regulation promulgated by the
6 Secretary of the Interior in carrying out this
7 Act, shall be subject to forfeiture to the United
8 States notwithstanding any culpability require-
9 ments for a criminal prosecution included in
10 this Act.

11 “(B) AUTHORITY.—Any arts and crafts
12 products forfeited under subparagraph (A) shall
13 be disposed of and accounted for by, and under
14 the authority of, the Secretary of the Interior.

15 “(2) ADDITIONAL SUBJECTS OF FOR-
16 FEITURE.—All vessels, vehicles, aircraft, materials,
17 goods, and other equipment used to aid in the im-
18 porting, exporting, transporting, selling, receiving,
19 acquiring, or purchasing of arts and crafts products
20 in a criminal felony violation of this Act for which
21 a felony conviction is obtained shall be subject to
22 forfeiture to the United States if the owner of the
23 vessel, vehicle, aircraft, material, good, or other
24 equipment was, at the time of the alleged violation,
25 a consenting party or privy to the violation.

1 “(f) APPLICATION OF CUSTOMS LAWS.—

2 “(1) IN GENERAL.—For purposes of this Act,
3 all provisions of law relating to the violation of cus-
4 toms laws may also be exercised or performed by the
5 Secretary of the Interior or by such persons as the
6 Secretary of the Interior may designate, except for
7 all powers, rights, and duties conferred or imposed
8 by the customs laws on any officer or employee of
9 the Department of Homeland Security or the De-
10 partment of the Treasury.

11 “(2) WARRANTS.—Each warrant for a search
12 or seizure pursuant to the authority under para-
13 graph (1) shall be issued in accordance with rule 41
14 of the Federal Rules of Criminal Procedure.

15 “(g) STORAGE COST AND DISPOSITION.—Any person
16 convicted of an offense or assessed a fine or penalty from
17 a civil action under this Act shall be liable for the costs
18 incurred in the storage, care, and maintenance of any arts
19 and crafts, materials, goods, or other equipment in con-
20 nection with the violation.

21 “(h) REWARDS AND EXPENSES.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (3), any amounts collected by the Secretary of
24 the Interior from sums received as fines or forfeit-
25 ures of property for any violation of this Act or any

1 regulation promulgated pursuant to this Act may be
2 used for—

3 “(A) a reward to any person who furnishes
4 information that leads to an arrest, criminal
5 conviction, or forfeiture of property for any vio-
6 lation of this Act or any regulation promulgated
7 to carry out this Act; and

8 “(B) the reasonable and necessary costs
9 incurred by any person or entity in providing
10 temporary care for any art or craft pending the
11 disposition of any criminal proceeding alleging a
12 violation of this Act or any regulation promul-
13 gated to carry out this Act.

14 “(2) AMOUNT OF REWARDS.—

15 “(A) IN GENERAL.—Any reward paid
16 under paragraph (1)(A) shall be paid in an
17 amount determined by the Secretary of the In-
18 terior (or a designee) in accordance with guide-
19 lines for the payment of such rewards issued by
20 the Indian Arts and Crafts Board established
21 by the first section of the Act of August 27,
22 1935 (49 Stat. 891, chapter 748; 25 U.S.C.
23 305) (commonly known as the ‘Indian Arts and
24 Crafts Act’) (referred to in this paragraph as
25 the ‘Board’) under subparagraph (C).

1 “(B) GUIDELINES.—Not later than 1 year
2 after the date of enactment of the ARTIST Act
3 of 2023, the Board shall issue guidelines with
4 respect to the payment of rewards under sub-
5 paragraph (A).

6 “(3) EXCEPTION.—Any officer or employee of
7 the United States or any State, local, or Tribal gov-
8 ernment who furnishes information or renders serv-
9 ice in the performance of the official duties of such
10 officer or employee is ineligible to receive a reward
11 under paragraph (1).”.

12 **SEC. 3. CAUSE OF ACTION FOR MISREPRESENTATION.**

13 (a) DEFINITIONS.—

14 (1) IN GENERAL.—Section 6(a) of the Act of
15 August 27, 1935 (49 Stat. 893, chapter 748; 25
16 U.S.C. 305e(a)) (commonly known as the “Indian
17 Arts and Crafts Act”), is amended—

18 (A) by striking paragraph (2);

19 (B) by redesignating paragraphs (3) and
20 (4) as paragraphs (2) and (5), respectively; and

21 (C) by inserting after paragraph (2) (as so
22 redesignated) the following:

23 “(3) NATIVE AMERICAN CREATIVE ECONOMY.—

24 The term ‘Native American creative economy’ means
25 an economy composed of Native American busi-

1 nesses or Native American nonprofit organizations
2 that—

3 “(A) are majority owned or controlled by
4 Native Americans (as defined in section 103 of
5 the Native American Languages Act (25 U.S.C.
6 2902));

7 “(B) have their origin in individual cre-
8 ativity, skill, and talent focused on expressions
9 of Native cultures or heritage; or

10 “(C) are composed of Native Americans
11 (as so defined) who are self-employed or sole
12 proprietors whose work has origins in individual
13 creativity, skill, or talent focused on expressions
14 of Native cultures or heritage.

15 “(4) NATIVE AMERICAN PRODUCT.—The term
16 ‘Native American product’ means—

17 “(A) any Indian-made, Alaska Native-
18 made, or Native Hawaiian-made product, as de-
19 fined in any regulation promulgated by the Sec-
20 retary;

21 “(B) any Indian-made, Alaska Native-
22 made, or Native Hawaiian-made creative ex-
23 pression in tangible, digital, or other form; and

24 “(C) any product that contributes to a Na-
25 tive American creative economy.”.

1 (2) CONFORMING AMENDMENTS.—Section 6 of
2 the Act of August 27, 1935 (49 Stat. 893, chapter
3 748; 25 U.S.C. 305e) (commonly known as the “In-
4 dian Arts and Crafts Act”), is amended by striking
5 “Indian tribe” each place it appears and inserting
6 “Indian Tribe”.

7 (b) MISREPRESENTATION.—Section 1159(a) of title
8 18, United States Code, is amended by striking “Indian
9 produced, an Indian product,” and inserting “Native
10 American produced, a Native American product”.

11 (c) CAUSE OF ACTION FOR MISREPRESENTATION.—
12 Section 6(b) of the Act of August 27, 1935 (49 Stat. 893,
13 chapter 748; 25 U.S.C. 305e(b)) (commonly known as the
14 “Indian Arts and Crafts Act”), is amended, in the matter
15 preceding paragraph (1), by striking “Indian produced, an
16 Indian product” and inserting “Native American pro-
17 duced, a Native American product,”.

18 (d) REGULATIONS.—Section 6(f) of the Act of Au-
19 gust 27, 1935 (49 Stat. 893, chapter 748; 25 U.S.C.
20 305e(f)) (commonly known as the “Indian Arts and Crafts
21 Act”), is amended—

22 (1) by striking “the Indian Arts and Crafts En-
23 forcement Act of 2000” and inserting “the ARTIST
24 Act of 2023”; and

1 (2) by striking “Indian product” and inserting
2 “Native American product”.

3 **SEC. 4. MISREPRESENTATION OF INDIAN PRODUCED**
4 **GOODS AND PRODUCTS.**

5 (a) IN GENERAL.—Section 1159 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 “(e) For purposes of subsection (b)(1), the total price
9 of the applicable goods offered or displayed for sale or sold
10 shall be determined by aggregating the sales price
11 amounts from all of the counts for which the defendant
12 is convicted in a single case.”.

13 (b) LAUNDERING OF MONETARY INSTRUMENTS.—
14 Section 1956(c)(7)(D) of title 18, United States Code, is
15 amended by inserting “section 1159 (relating to misrepre-
16 sentation of Indian produced goods and products),” after
17 “section 1116 (relating to murder of foreign officials, offi-
18 cial guests, or internationally protected persons),”.

19 (c) AUTHORIZATION FOR INTERCEPTION OF WIRE,
20 ORAL, OR ELECTRONIC COMMUNICATIONS.—Section
21 2516(1)(c) of title 18, United States Code, is amended
22 by inserting “section 1159 (relating to misrepresentation
23 of Indian produced goods and products),” after “section
24 1116 (relating to protection of foreign officials),”.

1 (d) CONFORMING AMENDMENTS.—Section 1159 of
2 title 18, United States Code, is amended by striking “In-
3 dian tribe” each place it appears and inserting “Indian
4 Tribe”.

5 **SEC. 5. INDIAN ARTS AND CRAFTS FORFEITURE FUND; NA-**
6 **TIVE AMERICAN-STYLE JEWELRY, ARTS, AND**
7 **CRAFTS NOT MADE BY NATIVE AMERICANS.**

8 The Act of August 27, 1935 (49 Stat. 891, chapter
9 748; 112 Stat. 2681–304; 25 U.S.C. 305 et seq.) (com-
10 monly known as the “Indian Arts and Crafts Act”), is
11 amended by adding at the end the following:

12 **“SEC. 8. INDIAN ARTS AND CRAFTS FORFEITURE FUND.**

13 “(a) ESTABLISHMENT OF FUND.—There is estab-
14 lished in the Treasury of the United States a fund, to be
15 known as the ‘Indian Arts and Crafts Forfeiture Fund’
16 (referred to in this section as the ‘Fund’).

17 “(b) USES.—

18 “(1) IN GENERAL.—The Fund shall be avail-
19 able to the Secretary of the Interior, without appro-
20 priation and without fiscal year limitation, with re-
21 spect to seizures and forfeitures made pursuant to
22 this Act for—

23 “(A) payment of all proper expenses of sei-
24 zure, including investigative costs incurred by
25 the Department of the Interior leading to sei-

1 zure and the proceedings of forfeiture and sale,
2 including the expenses of detention, inventory,
3 security, maintenance, advertisement, or dis-
4 posal of the property, and if condemned by a
5 court and a bond for such costs was not given,
6 the costs as taxed by the court; and

7 “(B) payment of rewards and expenses
8 under section 5(h).

9 “(2) REMAINING AMOUNTS.—Any amounts re-
10 maining in the Fund after the fulfillment of the re-
11 quirements of subparagraphs (A) and (B) of para-
12 graph (1) may be used by the Secretary of the Inte-
13 rior to establish grant programs to create or improve
14 arts programs at schools operated by the Bureau of
15 Indian Education.

16 “(c) DEPOSITS AND CREDITS.—With respect to fiscal
17 year 2023 and each subsequent fiscal year, there shall be
18 deposited into or credited to the Fund—

19 “(1) all fines collected for violations and monies
20 acquired from forfeitures or the disposition of for-
21 feitures under this Act; and

22 “(2) all income from investments made under
23 subsection (e).

1 “(d) PROHIBITION.—Amounts in the Fund may not
2 be used for any administrative costs of carrying out any
3 use described in subsection (b).

4 “(e) INVESTMENTS.—Amounts in the Fund, and in
5 any holding accounts associated with the Fund, which are
6 not currently needed for the purposes of this section, may
7 be kept on deposit or invested in obligations of, or guaran-
8 teed by, the United States and all earnings on such invest-
9 ments shall be deposited in the Fund.

10 “(f) REGULATIONS.—The Secretary of the Interior
11 may promulgate regulations to carry out this section.

12 “(g) LIMITATION OF LIABILITY.—The United States
13 shall not be liable in any action relating to property trans-
14 ferred under this section or under section 616 of the Tariff
15 Act of 1930 (19 U.S.C. 1616a) if such action is based
16 on an act or omission occurring after the transfer.

17 **“SEC. 9. NATIVE AMERICAN-STYLE JEWELRY, ARTS, AND**
18 **CRAFTS NOT MADE BY NATIVE AMERICANS.**

19 “(a) DEFINITION OF USMCA COUNTRY.—In this
20 section, the term ‘USMCA country’ means the United
21 States, Mexico, or Canada for such time as the USMCA
22 (as defined in section 3 of the United States-Mexico-Can-
23 ada Agreement Implementation Act (19 U.S.C. 4502)) is
24 in force with respect to that country.

25 “(b) NATIVE AMERICAN-STYLE JEWELRY.—

1 “(1) DEFINITION OF NATIVE AMERICAN-STYLE
2 JEWELRY.—In this subsection, the term ‘Native
3 American-style jewelry’ means jewelry, not made by
4 Native Americans, that incorporates Native Amer-
5 ican design motifs, materials, or construction and
6 therefore looks like, and could possibly be mistaken
7 for, jewelry made by Native Americans (as defined
8 in section 103 of the Native American Languages
9 Act (25 U.S.C. 2902)).

10 “(2) METHOD OF MARKING.—Native American-
11 style jewelry shall be indelibly marked with the coun-
12 try of origin by cutting, die-sinking, engraving,
13 stamping, or some other permanent method, which
14 shall appear legibly on the clasp or in some other
15 conspicuous location, or alternatively, on a metal or
16 plastic tag indelibly marked with the country of ori-
17 gin and permanently attached to the article.

18 “(c) NATIVE AMERICAN-STYLE ARTS AND CRAFTS.—

19 “(1) DEFINITION OF NATIVE AMERICAN-STYLE
20 ARTS AND CRAFTS.—In this section, the term ‘Na-
21 tive American-style arts and crafts’ means arts and
22 crafts, such as pottery, rugs, kachina dolls, baskets
23 and beadwork, not made by Native Americans, that
24 incorporate Native American design motifs, mate-
25 rials, or construction and therefore look like, and

1 could possibly be mistaken for, arts and crafts made
2 by Native Americans.

3 “(2) METHOD OF MARKING.—

4 “(A) IN GENERAL.—Native American-style
5 arts and crafts shall be indelibly marked with
6 the country of origin by means of cutting, die-
7 sinking, engraving, stamping, or some other
8 equally permanent method.

9 “(B) TEXTILE ARTICLES.—In the case of
10 a textile article, such as a rug, a sewn-in label
11 shall be considered to be an equally permanent
12 method for purposes of subparagraph (A).”.

13 **SEC. 6. PROTECTION OF INDIAN ARTS AND CRAFTS PROD-**
14 **UCTS.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Secretary of the Interior shall revise sec-
17 tion 309.24(a) of title 25, Code of Federal Regulations
18 (or a successor regulation), to include “Native” among the
19 terms interpreted in that section.

20 **SEC. 7. TRAINING FOR DEPARTMENT OF THE INTERIOR**
21 **AND U.S. CUSTOMS AND BORDER PROTEC-**
22 **TION LAW ENFORCEMENT OFFICERS.**

23 (a) DEPARTMENT OF THE INTERIOR.—The Secretary
24 of the Interior shall provide training to Federal law en-
25 forcement officers (as defined in section 115(c) of title 18,

1 United States Code) of the Department of the Interior on
2 enforcement of—

3 (1) the Act of August 27, 1935 (49 Stat. 891,
4 chapter 748; 25 U.S.C. 305 et seq.) (commonly
5 known as the “Indian Arts and Crafts Act”); and

6 (2) the Safeguard Tribal Objects of Patrimony
7 Act of 2021 (25 U.S.C. 3071 et seq.).

8 (b) U.S. CUSTOMS AND BORDER PROTECTION.—The
9 Secretary of Homeland Security, acting through the Com-
10 missioner of U.S. Customs and Border Protection, shall
11 require all appropriate personnel of U.S. Customs and
12 Border Protection to participate in training provided by
13 the Secretary of the Interior on the enforcement of—

14 (1) the Act of August 27, 1935 (49 Stat. 891,
15 chapter 748; 25 U.S.C. 305 et seq.) (commonly
16 known as the “Indian Arts and Crafts Act”); and

17 (2) the Safeguard Tribal Objects of Patrimony
18 Act of 2021 (25 U.S.C. 3071 et seq.).

19 (c) RULES AND REGULATIONS.—The Secretary of
20 the Interior may promulgate regulations to carry out this
21 section.

22 **SEC. 8. INDIAN ARTS AND CRAFTS BOARD ANNUAL RE-**
23 **PORTS AND FEASIBILITY STUDY.**

24 (a) ANNUAL REPORTS.—Not later than 1 year after
25 the date of enactment of this Act, and annually thereafter,

1 the Indian Arts and Crafts Board established by the first
2 section of the Act of August 27, 1935 (49 Stat. 891, chap-
3 ter 748; 25 U.S.C. 305) (commonly known as the “Indian
4 Arts and Crafts Act”) (referred to in this section as the
5 “Board”), shall submit to the Committee on Indian Af-
6 fairs of the Senate and the Committee on Natural Re-
7 sources of the House of Representatives a comprehensive
8 report that includes, with respect to the year covered by
9 the report—

10 (1) a summary table of all complaints received
11 by the Board and the Office of the Inspector Gen-
12 eral of the Department of the Interior stating—

13 (A) whether each complaint was reported,
14 pursued, declined, or prosecuted;

15 (B) whether each complaint is open or
16 closed;

17 (C) why each declined complaint was de-
18 clined; and

19 (D) the status of prosecuted complaints;

20 (2) the number of exceptions in the Customs
21 Rulings Online Search System (CROSS) of U.S.
22 Customs and Border Protection relating to violations
23 of the Act of August 27, 1935 (49 Stat. 891, chap-
24 ter 748; 25 U.S.C. 305 et seq.) (commonly known
25 as the “Indian Arts and Crafts Act”);

1 (3) the lost revenue and monetary impact on
2 the Indian arts and crafts industry due to counter-
3 feit items and violations of the Act of August 27,
4 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305 et
5 seq.) (commonly known as the “Indian Arts and
6 Crafts Act”); and

7 (4) any other information determined to be nec-
8 essary by the Board.

9 (b) FEASIBILITY STUDY.—Not later than 1 year
10 after the date of enactment of this Act, the Board shall
11 submit to the Committee on Indian Affairs of the Senate
12 and the Committee on Natural Resources of the House
13 of Representatives a report on—

14 (1) the feasibility of using an online registration
15 system for the Source Directory of American Indian
16 and Alaska Native Owned and Operated Arts and
17 Crafts Businesses maintained by the Board; and

18 (2) a plan to include Native Hawaiians in the
19 Source Directory described in paragraph (1).