

HOUSE JOINT MEMORIAL 12

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

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A JOINT MEMORIAL

REQUESTING THAT NEW MEXICO'S DISTRICT ATTORNEYS AND THE FEDERAL DEPARTMENT OF JUSTICE ENFORCE THE PROVISIONS OF THE FEDERAL INDIAN ARTS AND CRAFTS ACT OF 1990.

WHEREAS, the federal Indian Arts and Crafts Act of 1990 is a truth-in-advertising law that prohibits misrepresentation in marketing Indian arts and crafts products within the United States; and

WHEREAS, it is illegal to offer or display for sale or sell any art or craft product in a manner that falsely suggests that it is Indian produced, an Indian product or the product of a particular Indian, an Indian tribe or an Indian arts and crafts organization; and

WHEREAS, for a first-time violation of the act, an individual may face a civil penalty or a criminal penalty with

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1 a fine up to two hundred fifty thousand dollars (\$250,000) or a
2 five-year prison term, or both; and

3 WHEREAS, for a first-time violation of the act, a business
4 may face a civil penalty or be prosecuted and fined up to one
5 million dollars (\$1,000,000), or both; and

6 WHEREAS, under the act an Indian is defined as a member of
7 any federally or state recognized Indian tribe or an individual
8 certified as an Indian artisan by an Indian tribe; and

9 WHEREAS, the act covers all Indian and Indian-style
10 traditional and contemporary arts and crafts produced after
11 1935; and

12 WHEREAS, the act requires that all products be marked
13 truthfully regarding the Indian heritage and the tribal
14 affiliation of the producers, so as not to mislead a consumer;
15 and

16 WHEREAS, under the act it is illegal to market an art or
17 craft item using the name of a tribe if a member or certified
18 Indian artisan of that tribe did not actually create the art or
19 craft item; and

20 WHEREAS, New Mexico's district attorneys have the
21 necessary legal authority to prosecute a violation of the act
22 as they would any consumer fraud complaint; and

23 WHEREAS, the federal Indian arts and crafts board receives
24 and refers valid complaints about violations of the act to the
25 federal bureau of investigation for inquiry and to the federal

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1 department of justice for legal action;

2 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
3 STATE OF NEW MEXICO that New Mexico's district attorneys and
4 the federal department of justice be requested to enforce the
5 provisions of the federal Indian Arts and Crafts Act of 1990;
6 and

7 BE IT FURTHER RESOLVED that copies of this memorial be
8 transmitted to New Mexico's district attorneys and attorney
9 general and the federal department of justice.