

1 SENATE JOINT MEMORIAL 14

2 47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

3 INTRODUCED BY

4 Lidio G. Rainaldi

5  
6  
7  
8 FOR THE INDIAN AFFAIRS COMMITTEE

9  
10 A JOINT MEMORIAL

11 REQUESTING THAT THE FEDERAL DEPARTMENT OF JUSTICE ENFORCE THE  
12 PROVISIONS OF THE FEDERAL INDIAN ARTS AND CRAFTS ACT OF 1990.

13  
14 WHEREAS, the federal Indian Arts and Crafts Act of 1990 is  
15 a truth-in-advertising law that prohibits misrepresentation in  
16 marketing Indian arts and crafts products within the United  
17 States; and

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

23 WHEREAS, for a first-time violation of the act, an  
24 individual may face a civil penalty or a criminal penalty with  
25 a fine of up to two hundred fifty thousand dollars (\$250,000)

.153822.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 or a five-year prison term, or both; and

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

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

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

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

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

19 WHEREAS, the United States attorney for the district of  
20 New Mexico has the necessary legal authority to prosecute a  
21 violation of the act as with any consumer fraud complaint; and

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

.153822.1

underscoring material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the United States attorney for the district of New Mexico and the federal department of justice be requested to enforce the provisions of the federal Indian Arts and Crafts Act of 1990; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the United States attorney for the district of New Mexico, the United States attorney general, the New Mexico attorney general, the New Mexico congressional delegation and New Mexico Indian tribal leaders.