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SENATE BILL 107

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Lynda M. Lovejoy and James Roger Madalena

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE AND
THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO CRIMINAL LAW; AMENDING THE INDIAN ARTS AND CRAFTS
SALES ACT TO PROVIDE FOR PENALTIES CONSISTENT WITH PENALTIES
FOR OTHER PROPERTY CRIMES; INCREASING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-33-9 NMSA 1978 (being Laws 1977,
Chapter 334, Section 6, as amended) is amended to read:

"30-33-9. VIOLATION OF ACT--PENALTIES.--

A. In an action brought by the attorney general or
a district attorney for a violation under the provisions of the
Indian Arts and Crafts Sales Act, the district court may order
temporary or permanent injunctive relief. The district court
shall order restitution and such other relief as may be
necessary to redress injury to any person resulting from the
violation.

.180103.1SA

underscored material = new
[bracketed material] = delete

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1 B. In any action brought under this section, if the
2 court finds that a person is willfully using or has willfully
3 used a method, act or practice declared unlawful by the Indian
4 Arts and Crafts Sales Act, the attorney general or district
5 attorney, upon petition to the court, may recover, on behalf of
6 the state of New Mexico, a civil penalty not to exceed [~~five~~
7 ~~hundred dollars (\$500)] five thousand dollars (\$5,000) per
8 violation.~~

9 C. Any person willfully and knowingly violating the
10 provisions of the Indian Arts and Crafts Sales Act [~~is guilty~~
11 ~~of a petty misdemeanor when]~~ where the violation involves
12 property valued at [~~less than two thousand five hundred dollars~~
13 ~~(\$2,500) and shall be punished by a fine of not less than one~~
14 ~~hundred dollars (\$100) per violation per day, up to a maximum~~
15 ~~fine of five hundred dollars (\$500), or imprisonment in the~~
16 ~~county jail for a definite term not to exceed six months, or~~
17 ~~both]~~ two hundred fifty dollars (\$250) or less is guilty of a
18 petty misdemeanor.

19 D. Any person willfully and knowingly violating the
20 provisions of the Indian Arts and Crafts Sales Act [~~is guilty~~
21 ~~of a misdemeanor when]~~ where the violation involves property
22 valued [~~at or]~~ in excess of [~~two thousand five hundred dollars~~
23 ~~(\$2,500) and less than twenty thousand (\$20,000) and shall be~~
24 ~~punished by a fine of not less than one hundred dollars (\$100)~~
25 ~~per violation per day, up to a maximum fine of one thousand~~

underscored material = new
[bracketed material] = delete

1 ~~dollars (\$1,000), or by imprisonment in the county jail for not~~
2 ~~more than one year, or both]~~ two hundred fifty dollars (\$250)
3 but not more than five hundred dollars (\$500) is guilty of a
4 misdemeanor.

5 E. Any person willfully and knowingly violating the
6 provisions of the Indian Arts and Crafts Sales Act [~~is guilty~~
7 ~~of a fourth degree felony when]~~ where the violation involves
8 property valued [~~at or]~~ in excess of [~~twenty thousand dollars~~
9 ~~(\$20,000) and shall be punished by a fine of not less than one~~
10 ~~hundred dollars (\$100) per violation per day, up to a maximum~~
11 ~~fine of five thousand dollars (\$5,000), or up to eighteen~~
12 ~~months imprisonment in the county jail, or both]~~ five hundred
13 dollars (\$500) but not more than two thousand five hundred
14 dollars (\$2,500) is guilty of a fourth degree felony.

15 F. Any person willfully and knowingly violating the
16 provisions of the Indian Arts and Crafts Sales Act where the
17 violation involves property valued in excess of two thousand
18 five hundred dollars (\$2,500) but not more than twenty thousand
19 dollars (\$20,000) is guilty of a third degree felony.

20 G. Any person willfully and knowingly violating the
21 provisions of the Indian Arts and Crafts Sales Act where the
22 violation involves property valued in excess of twenty thousand
23 dollars (\$20,000) is guilty of a second degree felony."

24 Section 2. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2010.

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