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”.
SEC. 2. CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MIS-

REPRESENTATIONS.

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

(1) in subsection (b)—

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

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

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

(C) by adding at the end the following:

“(2) POWERS.—

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

“(i) execute and serve any subpoena,
arrest warrant, or search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other war-
rant or civil or criminal process issued by any officer or court of competent jurisdi-

“(ii) in accordance with any guidelines issued by the Attorney General under subparagraph (D), search and seize, with or without a warrant, if the officer has probable cause to believe that a person is committing a violation of this Act;

“(iii) in accordance with any guidelines issued by the Attorney General under subparagraph (D), make arrests—

“(I) for any violation of this Act, if the officer has probable cause to believe that the person to be arrested is committing a violation of this Act;

and

“(II) for a misdemeanor violation of this Act, if the violation is committed in the presence or view of the officer;

“(iv) require by subpoena the production of all information, documents, reports, answers records, accounts, papers, other data in any medium (including electronically stored information and any tangible item), and documentary evidence necessary in the performance of the functions as-
signed by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate district court of the United States; and

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

“(B) ADDITIONAL POWERS.—Any Federal law enforcement officer authorized under paragraph (1) or any other person otherwise authorized by the Department of the Interior or the Department of Homeland Security to enforce this Act may—

“(i) detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, on the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to de-
parture from the United States or the customs waters of the United States; and

“(ii) inspect and demand the production of any documents, permits, and markings for Native American-style jewelry or Native American-style arts and crafts (as those terms are defined in subsections (c)(1) and (d)(1), respectively, of section 134.43 of title 19, Code of Federal Regulations (or a successor regulation)), required by the country of origin or reexport of the arts and crafts products.

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

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

(2) by adding at the end the following:

“(e) FORFEITURE.—
“(1) ARTS AND CRAFTS PRODUCTS.—

“(A) IN GENERAL.—All arts and crafts products imported, exported, transported, sold, received, acquired, or purchased in violation of this Act, or any regulation promulgated by the Secretary of the Interior in carrying out this Act, shall be subject to forfeiture to the United States notwithstanding any culpability requirements for a criminal prosecution included in this Act.

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

“(2) ADDITIONAL SUBJECTS OF FORFEITURE.—All vessels, vehicles, aircraft, materials, goods, and other equipment used to aid in the importing, exporting, transporting, selling, receiving, acquiring, or purchasing of arts and crafts products in a criminal felony violation of this Act for which a felony conviction is obtained shall be subject to forfeiture to the United States if the owner of the vessel, vehicle, aircraft, material, good, or other equipment was, at the time of the alleged violation, a consenting party or privy to the violation.
“(f) Application of Customs Laws.—

“(1) In general.—For purposes of this Act, all provisions of law relating to the violation of customs laws may also be exercised or performed by the Secretary of the Interior or by such persons as the Secretary of the Interior may designate, except for all powers, rights, and duties conferred or imposed by the customs laws on any officer or employee of the Department of Homeland Security or the Department of the Treasury.

“(2) Warrants.—Each warrant for a search or seizure pursuant to the authority under paragraph (1) shall be issued in accordance with rule 41 of the Federal Rules of Criminal Procedure.

“(g) Storage Cost and Disposition.—Any person convicted of an offense or assessed a fine or penalty from a civil action under this Act shall be liable for the costs incurred in the storage, care, and maintenance of any arts and crafts, materials, goods, or other equipment in connection with the violation.

“(h) Rewards and Expenses.—

“(1) In general.—Except as provided in paragraph (3), any amounts collected by the Secretary of the Interior from sums received as fines or forfeitures of property for any violation of this Act or any
regulation promulgated pursuant to this Act may be used for—

“(A) a reward to any person who furnishes information that leads to an arrest, criminal conviction, or forfeiture of property for any violation of this Act or any regulation promulgated to carry out this Act; and

“(B) the reasonable and necessary costs incurred by any person or entity in providing temporary care for any art or craft pending the disposition of any criminal proceeding alleging a violation of this Act or any regulation promulgated to carry out this Act.

“(2) AMOUNT OF REWARDS.—

“(A) IN GENERAL.—Any reward paid under paragraph (1)(A) shall be paid in an amount determined by the Secretary of the Interior (or a designee) in accordance with guidelines for the payment of such rewards issued by the Indian Arts and Crafts Board established by the first section of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305) (commonly known as the ‘Indian Arts and Crafts Act’) (referred to in this paragraph as the ‘Board’) under subparagraph (C).
“(B) GUIDELINES.—Not later than 1 year after the date of enactment of the ARTIST Act of 2023, the Board shall issue guidelines with respect to the payment of rewards under sub-paragraph (A).

“(3) EXCEPTION.—Any officer or employee of the United States or any State, local, or Tribal government who furnishes information or renders service in the performance of the official duties of such officer or employee is ineligible to receive a reward under paragraph (1).”.

SEC. 3. CAUSE OF ACTION FOR MISREPRESENTATION.

(a) DEFINITIONS.—

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

(A) by striking paragraph (2);

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

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

“(3) NATIVE AMERICAN CREATIVE ECONOMY.—The term ‘Native American creative economy’ means an economy composed of Native American busi-
nesses or Native American nonprofit organizations that—

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

“(B) have their origin in individual creativity, skill, and talent focused on expressions of Native cultures or heritage; or

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

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

“(A) any Indian-made, Alaska Native-made, or Native Hawaiian-made product, as defined in any regulation promulgated by the Secretary;

“(B) any Indian-made, Alaska Native-made, or Native Hawaiian-made creative expression in tangible, digital, or other form; and

“(C) any product that contributes to a Native American creative economy.”.
(2) Conforming amendments.—Section 6 of the Act of August 27, 1935 (49 Stat. 893, chapter 748; 25 U.S.C. 305e) (commonly known as the “Indian Arts and Crafts Act”), is amended by striking “Indian tribe” each place it appears and inserting “Indian Tribe”.

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

(c) Cause of Action for Misrepresentation.—Section 6(b) of the Act of August 27, 1935 (49 Stat. 893, chapter 748; 25 U.S.C. 305e(b)) (commonly known as the “Indian Arts and Crafts Act”), is amended, in the matter preceding paragraph (1), by striking “Indian produced, an Indian product,” and inserting “Native American produced, a Native American product,”.

(d) Regulations.—Section 6(f) of the Act of August 27, 1935 (49 Stat. 893, chapter 748; 25 U.S.C. 305e(f)) (commonly known as the “Indian Arts and Crafts Act”), is amended—

(1) by striking “the Indian Arts and Crafts Enforcement Act of 2000” and inserting “the ARTIST Act of 2023”; and
(2) by striking “Indian product” and inserting “Native American product”.

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

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended by adding at the end the following:

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

(b) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 1159 (relating to misrepresentation of Indian produced goods and products),” after “section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),”.

(c) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting “section 1159 (relating to misrepresentation of Indian produced goods and products),” after “section 1116 (relating to protection of foreign officials),”.
(d) CONFORMING AMENDMENTS.—Section 1159 of title 18, United States Code, is amended by striking “Indian tribe” each place it appears and inserting “Indian Tribe”.

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

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

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

“(a) Establishment of Fund.—There is established in the Treasury of the United States a fund, to be known as the ‘Indian Arts and Crafts Forfeiture Fund’ (referred to in this section as the ‘Fund’).

“(b) Uses.—

“(1) In general.—The Fund shall be available to the Secretary of the Interior, without appropriation and without fiscal year limitation, with respect to seizures and forfeitures made pursuant to this Act for—

“(A) payment of all proper expenses of seizure, including investigative costs incurred by the Department of the Interior leading to sei-
zur and the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court; and

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

“(2) REMAINING AMOUNTS.—Any amounts remaining in the Fund after the fulfillment of the requirements of subparagraphs (A) and (B) of paragraph (1) may be used by the Secretary of the Interior to establish grant programs to create or improve arts programs at schools operated by the Bureau of Indian Education.

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

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

“(2) all income from investments made under subsection (e).
“(d) Prohibition.—Amounts in the Fund may not be used for any administrative costs of carrying out any use described in subsection (b).

“(e) Investments.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section, may be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

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

“(g) Limitation of Liability.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

“Sec. 9. Native American-style Jewelry, Arts, and Crafts Not Made by Native Americans.

“(a) Definition of USMCA Country.—In this section, the term ‘USMCA country’ means the United States, Mexico, or Canada for such time as the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502)) is in force with respect to that country.

“(b) Native American-style Jewelry.—
“(1) **Definition of Native American-Style Jewelry.**—In this subsection, the term ‘Native American-style jewelry’ means jewelry, not made by Native Americans, that incorporates Native American design motifs, materials, or construction and therefore looks like, and could possibly be mistaken for, jewelry made by Native Americans (as defined in section 103 of the Native American Languages Act (25 U.S.C. 2902)).

“(2) **Method of Marking.**—Native American-style jewelry shall be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other permanent method, which shall appear legibly on the clasp or in some other conspicuous location, or alternatively, on a metal or plastic tag indelibly marked with the country of origin and permanently attached to the article.

“(c) **Native American-Style Arts and Crafts.**—

“(1) **Definition of Native American-Style Arts and Crafts.**—In this section, the term ‘Native American-style arts and crafts’ means arts and crafts, such as pottery, rugs, kachina dolls, baskets and beadwork, not made by Native Americans, that incorporate Native American design motifs, materials, or construction and therefore look like, and
could possibly be mistaken for, arts and crafts made by Native Americans.

“(2) Method of marking.—

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

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

SEC. 6. PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS.

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

SEC. 7. TRAINING FOR DEPARTMENT OF THE INTERIOR AND U.S. CUSTOMS AND BORDER PROTECTION LAW ENFORCEMENT OFFICERS.

(a) Department of the Interior.—The Secretary of the Interior shall provide training to Federal law enforcement officers (as defined in section 115(c) of title 18,
United States Code) of the Department of the Interior on enforcement of—

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

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

(b) U.S. CUSTOMS AND BORDER PROTECTION.—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall require all appropriate personnel of U.S. Customs and Border Protection to participate in training provided by the Secretary of the Interior on the enforcement of—

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

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

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

SEC. 8. INDIAN ARTS AND CRAFTS BOARD ANNUAL REPORTS AND FEASIBILITY STUDY.

(a) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter,
the Indian Arts and Crafts Board established by the first section of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305) (commonly known as the “Indian Arts and Crafts Act”) (referred to in this section as the “Board”), shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a comprehensive report that includes, with respect to the year covered by the report—

(1) a summary table of all complaints received by the Board and the Office of the Inspector General of the Department of the Interior stating—

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

(B) whether each complaint is open or closed;

(C) why each declined complaint was declined; and

(D) the status of prosecuted complaints;

(2) the number of exceptions in the Customs Rulings Online Search System (CROSS) of U.S. Customs and Border Protection relating to violations of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305 et seq.) (commonly known as the “Indian Arts and Crafts Act”);
(3) the lost revenue and monetary impact on the Indian arts and crafts industry due to counterfeit items and violations of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305 et seq.) (commonly known as the “Indian Arts and Crafts Act”); and

(4) any other information determined to be necessary by the Board.

(b) Feasibility Study.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report on—

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

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