

§ 305b. Rules and regulations; submission to Secretary of the Interior

The Board shall prescribe from time to time rules and regulations governing the conduct of its business and containing such provisions as it may deem appropriate for the effective execution and administration of the powers conferred upon it by this Act: *Provided*, That before prescribing any procedure for the disbursement of money the Board shall advise and consult with the Government Accountability Office: *Provided further*, That all rules and regulations proposed by the Board shall be submitted to the Secretary of the Interior and shall become effective upon his approval.

(Aug. 27, 1935, ch. 748, §3, 49 Stat. 892; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 27, 1935, ch. 748, 49 Stat. 891, as amended, which is classified generally to section 305 et seq. of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Disbursement functions of all Government agencies, except Departments of the Army, Navy, and Air Force and Panama Canal, transferred to Division of Disbursements, Department of the Treasury, by Ex. Ord. No. 6166, §4, June 10, 1933, and Ex. Ord. No. 6728, May 29, 1934. Division subsequently consolidated with other agencies into the Fiscal Service in Department of the Treasury by Reorg. Plan No. III of 1940, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231. See section 306 of Title 31, Money and Finance.

§ 305c. Appropriation

There is authorized to be appropriated out of any sums in the Treasury not otherwise appropriated such sums as may be necessary to defray the expenses of the Board and carry out the purposes and provisions of this Act. All income derived by the Board from any source shall be covered into the Treasury of the United States and shall constitute a special fund which is appropriated and made available until expended for carrying out the purposes and provisions of this Act. Out of the funds available to it at any time the Board may authorize such expenditures, consistent with the provisions of this Act, as it may determine to be necessary for the accomplishment of the purposes and objectives of this Act.

(Aug. 27, 1935, ch. 748, §4, 49 Stat. 892.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 27, 1935, ch. 748, 49 Stat. 891, which is classified generally to section 305 et seq. of this title. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-

tain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 305c-1. Repealed. Pub. L. 87-23, §2, Apr. 24, 1961, 75 Stat. 45

Section, act May 10, 1939, ch. 119, §1, 53 Stat. 699, provided for a limitation of \$10 per diem in lieu of subsistence on amount that may be paid to members of the Indian Arts and Crafts Board. See section 305 of this title.

§ 305d. Criminal proceedings; civil actions

(a) Definition of Federal law enforcement officer

In this section, the term “Federal law enforcement officer” includes a Federal law enforcement officer (as defined in section 115(c) of title 18).

(b) Authority to conduct investigations

Any Federal law enforcement officer shall have the authority to conduct an investigation relating to an alleged violation of this Act occurring within the jurisdiction of the United States.

(c) Criminal proceedings

(1) Investigation

(A) In general

The Board may refer an alleged violation of section 1159 of title 18 to any Federal law enforcement officer for appropriate investigation.

(B) Referral not required

A Federal law enforcement officer may investigate an alleged violation of section 1159 of that title regardless of whether the Federal law enforcement officer receives a referral under subparagraph (A).

(2) Findings

The findings of an investigation of an alleged violation of section 1159 of title 18 by any Federal department or agency under paragraph (1)(A) shall be submitted, as appropriate, to—

- (A) a Federal or State prosecuting authority; or
- (B) the Board.

(3) Recommendations

On receiving the findings of an investigation under paragraph (2), the Board may—

(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of title 18; and

(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines to be appropriate.

(d) Civil actions

In lieu of, or in addition to, any criminal proceeding under subsection (c), the Board may recommend that the Attorney General initiate a civil action under section 305e of this title.

(Aug. 27, 1935, ch. 748, §5, as added Pub. L. 101-644, title I, §103, Nov. 29, 1990, 104 Stat. 4662; amended Pub. L. 111-211, title I, §102(a), July 29, 2010, 124 Stat. 2258.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Aug. 27, 1935, ch. 748, 49 Stat. 891, which is classified generally to section 305 et seq. of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section, act Aug. 27, 1935, ch. 748, § 5, 49 Stat. 892, related to counterfeiting of a trade mark and penalty, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, effective Sept. 1, 1948. See section 1158 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2010—Pub. L. 111–211 amended section generally. Prior to amendment, text read as follows:

“(a) The Board may receive complaints of violations of section 1159 of title 18 and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

“(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 305e of this title.”

§ 305e. Cause of action for misrepresentation of Indian produced goods

(a) Definitions

In this section:

(1) Indian

The term “Indian” means an individual that—

- (A) is a member of an Indian tribe; or
- (B) is certified as an Indian artisan by an Indian tribe.

(2) Indian product

The term “Indian product” has the meaning given the term in any regulation promulgated by the Secretary.

(3) Indian tribe

(A) In general

The term “Indian tribe” has the meaning given the term in section 5304 of this title.

(B) Inclusion

The term “Indian tribe” includes, for purposes of this section only, an Indian group that has been formally recognized as an Indian tribe by—

- (i) a State legislature;
- (ii) a State commission; or
- (iii) another similar organization vested with State legislative tribal recognition authority.

(4) Secretary

The term “Secretary” means the Secretary of the Interior.

(b) Injunctive or equitable relief; damages

A person specified in subsection (d) may, in a civil action in a court of competent jurisdiction, bring an action against a person who, directly or indirectly, offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States, to—

(1) obtain injunctive or other equitable relief; and

(2) recover the greater of—

- (A) treble damages; or
- (B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than \$1,000 for each day on which the offer or display for sale or sale continues.

For purposes of paragraph (2)(A), damages shall include any and all gross profits accrued by the defendant as a result of the activities found to violate this subsection.

(c) Punitive damages; attorney’s fee

In addition to the relief specified in subsection (b), the court may award punitive damages and the costs of the civil action and a reasonable attorney’s fee.

(d) Persons that may initiate civil actions

(1) In general

A civil action under subsection (b) may be initiated by—

- (A) the Attorney General, at the request of the Secretary acting on behalf of—
 - (i) an Indian tribe;
 - (ii) an Indian; or
 - (iii) an Indian arts and crafts organization;

(B) an Indian tribe, acting on behalf of—

- (i) the Indian tribe;
- (ii) a member of that Indian tribe; or
- (iii) an Indian arts and crafts organization;

(C) an Indian; or

(D) an Indian arts and crafts organization.

(2) Disposition of amounts recovered

(A) In general

Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

(B) Exceptions

(i) Attorney General

In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

(I) the amount of the cost of the civil action and reasonable attorney’s fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

(ii) Indian tribe

In the case of a civil action initiated under paragraph (1)(B), the Indian tribe may deduct from the amount—

(I) the amount of the cost of the civil action; and