

the Indian Arts and Crafts Board in the Department of the Interior as provided in section 305a of Title 25, or, except as authorized by the Board, affixes any such Government trade mark, or knowingly, willfully, and corruptly affixes any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products; or

Whoever knowingly makes any false statement for the purpose of obtaining the use of any such Government trade mark—

Shall (1) in the case of a first violation, if an individual, be fined under this title or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than \$5,000,000; and (3) shall be enjoined from further carrying on the act or acts complained of.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101-644, title I, §106, Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103-322, title XXXIII, §330016(1)(U), Sept. 13, 1994, 108 Stat. 2148.)

#### HISTORICAL AND REVISION NOTES

Based on section 305d of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, §5, 49 Stat. 892).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title.

The words “upon conviction thereof” were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Maximum fine was changed from \$2,000 to \$500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser’s note under section 1157 of this title.)

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$250,000” in third par.

1990—Pub. L. 101-644, in third par., added cls. (1) and (2), struck out “be fined not more than \$500 or imprisoned not more than six months, or both; and” after “Shall”, and designated remaining provision at end as cl. (3).

#### TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by 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.

### § 1159. Misrepresentation of Indian produced goods and products

(a) It is unlawful to offer or display for sale or sell any 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.

(b) PENALTY.—Any person that knowingly violates subsection (a) shall—

(1) in the case of a first violation by that person—

(A) if the applicable goods are offered or displayed for sale at a total price of \$1,000 or more, or if the applicable goods are sold for a total price of \$1,000 or more—

(i) in the case of an individual, be fined not more than \$250,000, imprisoned for not more than 5 years, or both; and

(ii) in the case of a person other than an individual, be fined not more than \$1,000,000; and

(B) if the applicable goods are offered or displayed for sale at a total price of less than \$1,000, or if the applicable goods are sold for a total price of less than \$1,000—

(i) in the case of an individual, be fined not more than \$25,000, imprisoned for not more than 1 year, or both; and

(ii) in the case of a person other than an individual, be fined not more than \$100,000; and

(2) in the case of a subsequent violation by that person, regardless of the amount for which any good is offered or displayed for sale or sold—

(A) in the case of an individual, be fined under this title, imprisoned for not more than 15 years, or both; and

(B) in the case of a person other than an individual, be fined not more than \$5,000,000.

(c) As used in this section—

(1) the term “Indian” means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

(2) the terms “Indian product” and “product of a particular Indian tribe or Indian arts and crafts organization” has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

(3) the term “Indian tribe”—

(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);<sup>1</sup> and

(B) 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; and

(4) the term “Indian arts and crafts organization” means any legally established arts and crafts marketing organization composed of members of Indian tribes.

(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 101-644, title I, §104(a), Nov. 29, 1990, 104 Stat.

<sup>1</sup> See References in Text note below.

4663; Pub. L. 111-211, title I, §103, July 29, 2010, 124 Stat. 2260.)

#### HISTORICAL AND REVISION NOTES

Based on section 305e of title 25, U.S.C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, §6, 49 Stat. 893).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title.

The last paragraph of section 305e of title 25, U.S.C., 1940 ed., relating to duty of district attorney to prosecute violations of such section, will be incorporated in title 28, U.S. Code.

Maximum fine of \$2,000 was changed to \$500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

#### REFERENCES IN TEXT

Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), referred to in subsec. (c)(3)(A), was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5304 of Title 25.

#### AMENDMENTS

2010—Subsec. (b). Pub. L. 111-211, §103(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than \$250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than \$5,000,000."

Subsec. (c)(3). Pub. L. 111-211, §103(2), added par. (3) and struck out former par. (3) which read as follows: "the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and"

1990—Pub. L. 101-644 substituted "Misrepresentation of Indian produced goods and products" for "Misrepresentation in sale of products" in section catchline and amended text generally. Prior to amendment, text read as follows: "Whoever willfully offers or displays for sale any goods, with or without any Government trade mark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United States or the Territory of Alaska, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, shall be fined not more than \$500 or imprisoned not more than six months, or both."

#### CERTIFICATION OF INDIAN ARTISANS

For purposes of this section, an Indian tribe may not impose fee to certify individual as Indian artisan, with "Indian tribe" having same meaning as in subsec. (c)(3) of this section, see section 107 of Pub. L. 101-644, set out as a note under section 305e of Title 25, Indians.

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan.

3, 1959 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### § 1160. Property damaged in committing offense

Whenever a non-Indian, in the commission of an offense within the Indian country takes, injures or destroys the property of any friendly Indian the judgment of conviction shall include a sentence that the defendant pay to the Indian owner a sum equal to twice the just value of the property so taken, injured, or destroyed.

If such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States. If such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury. But no Indian shall be entitled to any payment out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, have sought private revenge, or have attempted to obtain satisfaction by any force or violence.

(June 25, 1948, ch. 645, 62 Stat. 759; Pub. L. 103-322, title XXXIII, §330004(9), Sept. 13, 1994, 108 Stat. 2141.)

#### HISTORICAL AND REVISION NOTES

Based on sections 227, 228 of title 25, U.S.C., 1940 ed., Indians (R.S. 2154, 2155).

Section consolidates said sections 227 and 228 of title 25, U.S.C., 1940 ed., Indians, with such changes in phraseology as were necessary to effect consolidation.

The phrase "or whose person was injured," which followed the words "friendly Indian to whom the property may belong," was deleted as meaningless.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted "non-Indian" for "white person" in first par.

#### § 1161. Application of Indian liquor laws

The provisions of sections 1154, 1156, 3113, 3488, and 3669, of this title, shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the Federal Register.

(Added Aug. 15, 1953, ch. 502, §2, 67 Stat. 586; amended Pub. L. 98-473, title II, §223(b), Oct. 12, 1984, 98 Stat. 2028.)

#### AMENDMENTS

1984—Pub. L. 98-473 substituted "3669" for "3618".

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

#### § 1162. State jurisdiction over offenses committed by or against Indians in the Indian country

(a) Each of the States or Territories listed in the following table shall have jurisdiction over