

The Indian Arts and Crafts Act

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What is the Indian Arts and Crafts Act?

The Indian Arts and Craft Act (IACA), 25 U.S.C. § 305-305(e), is a truth-in advertising law designed to prevent the sale of goods that are falsely represented to have been made by Indians or sold in a way that conveys the impression that they were made by Indians.

What does the IACA cover?

All Indian and Indian-style traditional and contemporary arts and crafts produced after 1935 that are marketed and sold by any person in the United States.

What does the IACA require?

Truthful labeling as to the Indian heritage and tribal affiliation of the producers of Indian arts and crafts.

How does the IACA define Indian?

An Indian is defined as either a person who is member of a federally or officially state recognized Indian tribe or a person who has been certified as an Indian artisan by a federally or officially state recognized Indian tribe.

How does the IACA define Indian tribe?

An Indian tribe is defined as follows: (1) any federally-recognized 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 (2) 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.

How does the IACA define Indian product?

An Indian product means any art or craft product made by an Indian. This means that an Indian must have provided either the artistic work or the labor necessary to make the product. The labor component must be entirely Indian; for example, if twenty people make up the labor to create the product(s), and one person is not an Indian, the product is not an “Indian product.” Similarly, any product that is designed by an Indian, but is produced by a non-Indian, is not considered an Indian product. The craft work may be in either a traditional or non-traditional style.

What types of products do not qualify as an “Indian product” under the IACA?

Examples of products that would not qualify as an “Indian product” include those in the style of an Indian art or craft which are: (1) made by non-Indian labor; (2) assembled from a kit; (3) produced in an assembly line or related production line process where not all of the production workers are Indian; and (4) industrial products. However, arts and crafts that do not qualify as Indian products may be sold without violating the IACA. It is only a violation of the IACA if such products are *advertised* as “Indian product.”

Who can sell Indian products?

Anyone can sell Indian products. The IACA applies to the *producer* of the product, not the seller. Therefore, a non-Indian vendor would not be in violation of the IACA for selling Indian artwork, as long as advertising of the Indian product met the guidelines of the IACA.

What are some examples of how the IACA works?

Example 1: An Indian artist designs a greeting card with traditional Indian style artwork. He produces each individual greeting card by hand and advertises the cards as being “Indian Art Cards”. This is NOT a violation of the IACA.

Example 2: The same Indian artist designs a greeting card by hand with traditional Indian style artwork. Instead of producing each card by hand, he sends the card to a printing press to be mass produced. The printing press returns the cards to the Indian and he goes out to sell them. On his table at the local Art Show, he markets the cards as “Greeting Cards” and has information about himself as the original artist (tribal affiliations, etc.). He also states that the cards have been mass produced at a printing press. This is NOT a violation of the IACA.

Example 3: The same Indian artist designs a greeting card by hand with traditional Indian style artwork. He sends the cards out to be mass produced. However, this time, the Indian advertises his cards as “Indian Art Cards” with no mention of the fact they were mass produced at a printing press. This is a violation of the IACA because it is false advertising. Mass production by a source that is non-Indian does not meet the requirements for an Indian product and, therefore, cannot be advertised as an Indian product.

Example 4: An Indian artist designs greeting cards by hand and individually produces each card. This artist does not have time to travel to art shows to sell his artwork so he hires a non-Indian to take his cards to powwows and art shows for sale. The non-Indian attends the art shows and advertises the cards to be “Indian Art Cards”. Because the artwork is an authentic Indian product, neither the Indian artist nor the non-Indian vendor is in violation of the IACA.

What are the criminal penalties associated with violation of the IACA?

An individual who violates the IACA for the first time may be fined up to \$250,000 or imprisoned up to five years, or both. For subsequent violations, an individual may be fined up to \$1,000,000 or imprisoned up to fifteen years, or both.

A business may be fined up to \$1,000,000. For subsequent violations, a business may be fined up to \$5,000,000.

What are the civil penalties associated with violation of the IACA?

Civil penalties may also be imposed under the IACA against those who directly or indirectly offer or display for sell, any good in manner that falsely suggest it is Indian produced, an Indian product, or the product of a particular Indian tribe or Indian arts and craft organization resident within the United States. Civil penalties include an injunction to stop the sales and the recovery of damages, including any profits received by the person as a result of the alleged violations of the IACA.

Who can file an action for violations of the IACA?

A civil action may be filed in Federal Court by any of the following: (1) the United States Attorney General upon the request of the Secretary of the Interior on behalf of an Indian, Indian tribe, or Indian arts and crafts organization; (2) by an Indian tribe on its own behalf or on behalf of a tribal member or Indian arts and crafts organization; or (3) by an Indian arts and crafts organization.

Criminal cases in Federal Court are initiated by the United States Attorneys Office within the United States Department of Justice.

What is the Indian Arts and Crafts Board?

The Indian Arts and Crafts Board is part of the United States Department of the Interior. Its mission is to promote the economic welfare of Indian tribes and Indians through the promotion of Indian arts and crafts. Among other things, the Board may investigate complaints of alleged violation of the IACA and recommend prosecution of the violators.

How to file a complaint with the Indian Arts and Crafts Board?

If you become aware of any market activity that you believe may be in violation of the IACA, you may contact the Indian Arts and Crafts Board by filing a complaint anonymously online, through letter, or by telephone. All relevant information must be provided to the Indian Arts and Crafts Board, including copies of advertisements, photos, business cards, or other information.

Website: www.iacb.doi.gov

Address: Indian Arts and Crafts Board
U.S. Department of the Interior
1849 C Street, NW, MS 2058-MIB
Washington, DC 20240

Telephone: (888 ART-FAKE), or (888) 278-3253

Where can I get more information?

Website: www.iacb.doi.gov

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