

115TH CONGRESS  
1ST SESSION

# S. 1400

To amend title 18, United States Code, to enhance protections of Native American tangible cultural heritage, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 21, 2017

Mr. HEINRICH (for himself, Mr. FLAKE, Mr. UDALL, Mr. MCCAIN, Mr. SCHATZ, Mr. DAINES, Mr. TESTER, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To amend title 18, United States Code, to enhance protections of Native American tangible cultural heritage, 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 “Safeguard Tribal Ob-  
5 jects of Patrimony Act of 2017”.

1 **SEC. 2. ENHANCED PROTECTIONS FOR NATIVE AMERICAN**  
2 **CULTURAL HERITAGE.**

3 (a) ENHANCED PENALTIES.—Section 1170 of title  
4 18, United States Code, is amended by striking “5 years”  
5 each place it appears and inserting “10 years”.

6 (b) PROHIBITION OF EXPORTING NATIVE AMERICAN  
7 CULTURAL HERITAGE.—Chapter 53 of title 18, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“§ 1171. Illegal exportation of Native American cul-**  
11 **tural heritage**

12 “(a) DEFINITIONS.—In this section:

13 “(1) ARCHAEOLOGICAL RESOURCE.—The term  
14 ‘archaeological resource’ has the meaning given the  
15 term in section 3 of the Archaeological Resources  
16 Protection Act of 1979 (16 U.S.C. 470bb).

17 “(2) CULTURAL ITEM.—The term ‘cultural  
18 item’ has the meaning given the term in section 2  
19 of the Native American Graves Protection and Re-  
20 patriation Act (25 U.S.C. 3001).

21 “(3) NATIVE AMERICAN.—The term ‘Native  
22 American’ has the meaning given the term in section  
23 2 of the Native American Graves Protection and Re-  
24 patriation Act (25 U.S.C. 3001).

1       “(b) PROHIBITION.—It shall be unlawful for any per-  
2 son to knowingly export or otherwise transport from the  
3 United States any—

4           “(1) Native American cultural item that was  
5 obtained in violation of section 1170 of this title or  
6 section 3(c) of the Native American Graves Protec-  
7 tion and Repatriation Act (25 U.S.C. 3002(c));

8           “(2) Native American archaeological resource  
9 that was obtained in violation of the Archaeological  
10 Resources Protection Act of 1979 (16 U.S.C. 470aa  
11 et seq.); or

12           “(3) Native American object of antiquity that  
13 was obtained in violation of section 1866(b) of this  
14 title.

15       “(c) PENALTY.—Any person who violates subsection  
16 (b) shall—

17           “(1) in the case of a first violation under this  
18 section, be fined under this title, imprisoned for not  
19 more than 1 year, or both; and

20           “(2) in the case of a second or subsequent vio-  
21 lation under this section, be fined under this title,  
22 imprisoned for not more than 10 years, or both.”.

23       “(c) REGULATIONS.—The Attorney General and Sec-  
24 retary of Homeland Security, in consultation with the Sec-  
25 retary of the Interior, shall prescribe such rules and regu-

1 lations as are necessary and appropriate to carry out the  
2 amendments made by this section.

3 (d) TECHNICAL AND CONFORMING AMENDMENT.—  
4 The table of sections for chapter 53 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

“1171. Illegal exportation of Native American cultural heritage.”.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) INDIAN TRIBE.—The term “Indian tribe”  
10 has the meaning given the term in section 2 of the  
11 Native American Graves Protection and Repatriation  
12 Act (25 U.S.C. 3001).

13 (2) NATIVE AMERICAN.—The term “Native  
14 American” has the meaning given the term in sec-  
15 tion 2 of the Native American Graves Protection and  
16 Repatriation Act (25 U.S.C. 3001).

17 (3) NATIVE HAWAIIAN ORGANIZATION.—The  
18 term “Native Hawaiian organization” has the mean-  
19 ing given the term in section 2 of the Native Amer-  
20 ican Graves Protection and Repatriation Act (25  
21 U.S.C. 3001).

22 (4) SECRETARY.—The term “Secretary” means  
23 the Secretary of the Interior.

24 (5) TANGIBLE CULTURAL HERITAGE.—The  
25 term “tangible cultural heritage” means—

- 1 (A) Native American human remains; or  
2 (B) culturally, historically, or archaeologi-  
3 cally significant objects, resources, patrimony,  
4 or other items that are affiliated with a Native  
5 American culture.

6 **SEC. 4. VOLUNTARY RETURN OF TANGIBLE CULTURAL**  
7 **HERITAGE.**

8 (a) **POLICY.**—It shall be the policy of the United  
9 States to encourage the voluntary return of tangible cul-  
10 tural heritage to Indian tribes and Native Hawaiian orga-  
11 nizations by collectors, dealers, and other individuals and  
12 non-Federal organizations that hold such heritage.

13 (b) **LIAISON.**—The Secretary and the Secretary of  
14 State shall each designate a liaison to facilitate the vol-  
15 untary return of tangible cultural heritage.

16 (c) **TRAININGS AND WORKSHOPS.**—The individuals  
17 listed in subsection (b) shall hold trainings and workshops  
18 for representatives of Indian tribes and Native Hawaiian  
19 organizations and collectors, dealers, and other individuals  
20 and non-Federal organizations regarding the voluntary re-  
21 turn of tangible cultural heritage.

22 (d) **REFERRALS.**—

23 (1) **IN GENERAL.**—The Secretary shall refer in-  
24 dividuals and organizations to one or more Indian  
25 tribes or Native Hawaiian organizations with a likely

1 cultural affiliation to tangible cultural heritage for  
2 the purpose of facilitating the voluntary return of  
3 tangible cultural heritage.

4 (2) REFERRAL REPRESENTATIVES.—The Sec-  
5 retary shall compile a list of representatives from  
6 each Indian tribe and Native Hawaiian organization  
7 for purposes of referral under paragraph (1).

8 (3) CONSULTATION.—The Secretary shall con-  
9 sult with Indian tribes and Native Hawaiian organi-  
10 zations that possess unique expertise in their cul-  
11 tural heritage before making a referral under para-  
12 graph (1).

13 (4) THIRD-PARTY EXPERTS.—The Secretary  
14 may utilize knowledgeable experts from regional aca-  
15 demic institutions and museums to aid in making  
16 determinations regarding to which Indian tribe or  
17 Native Hawaiian organization an individual or orga-  
18 nization should be referred under paragraph (1).

19 **SEC. 5. TRIBAL WORKING GROUP.**

20 (a) IN GENERAL.—The Secretary shall convene a  
21 tribal working group consisting of representatives of In-  
22 dian tribes and Native Hawaiian organizations to advise  
23 the Federal Government.

1 (b) RECOMMENDATIONS.—The tribal working group  
2 convened under subsection (a) may provide recommenda-  
3 tions regarding—

4 (1) the return of tangible cultural heritage by  
5 collectors, dealers, and other individuals and non-  
6 Federal organizations that hold such tangible cul-  
7 tural heritage;

8 (2) the elimination of illegal commerce in tan-  
9 gible cultural heritage in the United States and for-  
10 eign markets; and

11 (3) the repatriation to Indian tribes and Native  
12 Hawaiian organizations of tangible cultural heritage  
13 that have been illegally removed or trafficked in vio-  
14 lation of Federal law.

15 (c) AGENCY AND COMMITTEE ASSISTANCE.—

16 (1) IN GENERAL.—The agencies and commit-  
17 tees described in paragraph (2) shall provide infor-  
18 mation and assistance to the tribal working group  
19 convened under subsection (a) upon request by the  
20 tribal working group.

21 (2) AGENCIES AND COMMITTEES.—The agen-  
22 cies and committees described in this paragraph are  
23 the following:

24 (A) The Department of the Interior.

25 (B) The Department of Justice.

1           (C) The Department of Homeland Secu-  
2           rity.

3           (D) The Department of State.

4           (E) The Native American Graves Protec-  
5           tion and Repatriation Review Committee estab-  
6           lished under section 8 of the Native American  
7           Graves Protection and Repatriation Act (25  
8           U.S.C. 3006).

9           (F) The Cultural Property Advisory Com-  
10          mittee established under section 306 of the  
11          Convention on Cultural Property Implementa-  
12          tion Act (19 U.S.C. 2605).

13          (G) Any other relevant Federal agency.

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