

115TH CONGRESS
2D SESSION

H. R. 7075

To enhance protections of Native American cultural heritage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2018

Mr. PEARCE introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance protections of Native American 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 “Native American and
5 Native Hawaiian Cultural Heritage Protection Act of
6 2018”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

- Sec. 3. Findings and purpose.
- Sec. 4. Definitions.
- Sec. 5. Removal for the benefit of and return to Indian Tribes.
- Sec. 6. Export restrictions and authorities.
- Sec. 7. Voluntary return of Native American and Native Hawaiian items.
- Sec. 8. Halting international sales.
- Sec. 9. Working groups.
- Sec. 10. U.S. Customs and Border Protection training.
- Sec. 11. Interagency working group.

1 **SEC. 3. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress reaffirms House Con-
3 gressional Resolution 122 of the 114th Congress, in which
4 Congress stated its support for efforts to stop the theft,
5 illegal possession or sale, transfer, and export of Tribal
6 cultural items of American Indians, Alaska Natives, and
7 Native Hawaiians in the United States and internation-
8 ally.

9 (b) PURPOSES.—The purposes of this Act are to—

10 (1) authorize permits that include removal for
11 the benefit of and subsequent return to Indian
12 Tribes of archaeological resources pursuant to the
13 Archaeological Resources Protection Act and objects
14 of antiquity pursuant to the Antiquities Act;

15 (2) explicitly prohibit the exportation of Native
16 American cultural items obtained in violation of the
17 Native American Graves Protection and Repatriation
18 Act (25 U.S.C. 3001 et seq. or 18 U.S.C. 1170),
19 Native American archaeological resources obtained
20 in violation of the Archaeological Resources Protec-
21 tion Act of 1979 (16 U.S.C. 470aa et seq.), and Na-

1 tive American objects of antiquity obtained in viola-
2 tion of the Antiquities Act under section 1866(b) of
3 title 18, United States Code;

4 (3) confirm the authority of the President to re-
5 quest from foreign nations agreements or provisional
6 measures under Article 9 of the Convention on the
7 Means of Prohibiting and Preventing the Illicit Im-
8 port, Export, and Transfer of Ownership of Cultural
9 Property, 823 U.N.T.S. 231 (1972), to facilitate the
10 return of Native American cultural items obtained in
11 violation of the Native American Graves Protection
12 and Repatriation Act (25 U.S.C. 3001 et seq. or 18
13 U.S.C. 1170), Native American archaeological re-
14 sources obtained in violation of the Archaeological
15 Resources Protection Act of 1979 (16 U.S.C. 470aa
16 et seq.), and Native American objects of antiquity
17 obtained in violation of the Antiquities Act under
18 section 1866(b) of title 18, United States Code;

19 (4) create an export certification system to fa-
20 cilitate the export of lawfully possessed Native
21 American and Native Hawaiian items and the inter-
22 national repatriation of unlawfully exported covered
23 items;

24 (5) establish a Federal framework to facilitate
25 individuals' and organizations' voluntary return of

1 Native American items, without regard for whether
2 such items were obtained in violation of the Native
3 American Graves Protection and Repatriation Act
4 (25 U.S.C. 3001 et seq. or 18 U.S.C. 1170), the Ar-
5 chaeological Resources Protection Act of 1979 (16
6 U.S.C. 470aa et seq.), or the Antiquities Act under
7 section 1866(b) of title 18, United States Code;

8 (6) establish a Federal framework in order to
9 halt international sale of Native American cultural
10 items obtained in violation of the Native American
11 Graves Protection and Repatriation Act (25 U.S.C.
12 3001 et seq. or 18 U.S.C. 1170), Native American
13 archaeological resources obtained in violation of the
14 Archaeological Resources Protection Act of 1979 (16
15 U.S.C. 470aa et seq.), and Native American objects
16 of antiquity obtained in violation of the Antiquities
17 Act under section 1866(b) of title 18, United States
18 Code;

19 (7) establish working groups to provide rec-
20 ommendations to identify and facilitate the vol-
21 untary return of Native American items and to iden-
22 tify Native American cultural items obtained in vio-
23 lation of the Native American Graves Protection and
24 Repatriation Act (25 U.S.C. 3001 et seq. or 18
25 U.S.C. 1170), Native American archaeological re-

1 sources obtained in violation of the Archaeological
2 Resources Protection Act of 1979 (16 U.S.C. 470aa
3 et seq.), and Native American objects of antiquity
4 obtained in violation of the Antiquities Act under
5 section 1866(b) of title 18, United States Code;

6 (8) require U.S. Customs and Border Protec-
7 tion to provide training to identify covered items;
8 and

9 (9) establish an interagency working group to
10 ensure communication between all Federal agencies
11 to successfully implement the Native American
12 Graves Protection and Repatriation Act (25 U.S.C.
13 3001 et seq.), the Archaeological Resources Protec-
14 tion Act of 1979 (16 U.S.C. 470aa et seq.), and the
15 Antiquities Act under section 1866(b) of title 18,
16 United States Code.

17 **SEC. 4. DEFINITIONS.**

18 In this Act, the following definitions apply:

19 (1) **ARCHAEOLOGICAL RESOURCE.**—The term
20 “archaeological resource” has the meaning given the
21 term in section 3 of the Archaeological Resources
22 Protection Act of 1979 (16 U.S.C. 470bb).

23 (2) **COVERED ITEM.**—The term “covered item”
24 means Native American cultural items as defined in
25 section 2 of the Native American Graves Protection

1 and Repatriation Act (25 U.S.C. 3001), Native
2 American archaeological resources as defined in sec-
3 tion 3 of the Archaeological Resources Protection
4 Act of 1979 (16 U.S.C. 470bb), or Native American
5 objects of antiquity within the meaning of the Antiq-
6 uities Act under section 1866(b) of title 18, United
7 States Code.

8 (3) CULTURAL AFFILIATION.—The term “cul-
9 tural affiliation” has the meaning given the term in
10 section 2 of the Native American Graves Protection
11 and Repatriation Act (25 U.S.C. 3001).

12 (4) CULTURAL ITEMS.—The term “cultural
13 items” has the meaning given the term in section 2
14 of the Native American Graves Protection and Repa-
15 triation Act (25 U.S.C. 3001).

16 (5) INDIAN TRIBE.—The term “Indian Tribe”
17 has the meaning given the term in section 2 of the
18 Native American Graves Protection and Repatriation
19 Act (25 U.S.C. 3001).

20 (6) NATIVE AMERICAN.—The term “Native
21 American” has the meaning given the term in sec-
22 tion 2 of the Native American Graves Protection and
23 Repatriation Act (25 U.S.C. 3001).

24 (7) NATIVE HAWAIIAN ORGANIZATION.—The
25 term “Native Hawaiian organization” has the mean-

1 ing given the term in section 2 of the Native Amer-
2 ican Graves Protection and Repatriation Act (25
3 U.S.C. 3001).

4 (8) OBJECT OF ANTIQUITY.—The term “object
5 of antiquity” means an item within the meaning of
6 the Antiquities Act under section 1866(b) of title 18,
7 United States Code.

8 **SEC. 5. REMOVAL FOR THE BENEFIT OF AND RETURN TO**
9 **INDIAN TRIBES.**

10 (a) ARCHAEOLOGICAL RESOURCES PROTECTION
11 ACT.—The Archaeological Resources Protection Act of
12 1979 is amended—

13 (1) in section 4(b) (16 U.S.C. 470cc(b))—

14 (A) in paragraph (2), by inserting “or for
15 the benefit of an Indian Tribe” after “public in-
16 terest”; and

17 (B) in paragraph (3) by inserting “an In-
18 dian Tribe or” before “a suitable university”;
19 and

20 (2) in section 5 (16 U.S.C. 470dd) by inserting
21 “and such Indian or Indian Tribe shall have the
22 right of first refusal” after “jurisdiction over such
23 lands”.

24 (b) ANTIQUITIES ACT.—Section 320302(b) of title
25 54, United States Code is amended—

1 (1) in paragraph (1), by inserting “a federally
2 recognized Indian Tribe,” before “a reputable mu-
3 seum”; and

4 (2) in paragraph (2), by inserting “by a feder-
5 ally recognized Indian Tribe or” before “in a public
6 museum” and adding at the end “, provided that the
7 federally recognized Indian Tribe with the closest
8 cultural affiliation shall have the right of first re-
9 fusal”.

10 **SEC. 6. EXPORT RESTRICTIONS AND AUTHORITIES.**

11 (a) VOLUNTARY RETURN OF COVERED ITEMS.—

12 Whoever seeks to export a covered item without a required
13 export certification but voluntarily returns the covered
14 item to the Indian Tribe with a likely cultural affiliation
15 prior to active investigation shall not be prosecuted for
16 such violation with respect to the covered item. The proc-
17 ess of obtaining an export certification does not qualify
18 as active investigation.

19 (b) EXPORT RESTRICTION.—

20 (1) IN GENERAL.—It shall be unlawful for any
21 person to export or otherwise transport from the
22 United States Native American cultural items ob-
23 tained in violation of the Native American Graves
24 Protection and Repatriation Act (25 U.S.C. 3001 et
25 seq. or 18 U.S.C. 1170), Native American archae-

1 ological resources obtained in violation of the Ar-
2 chaeological Resources Protection Act of 1979 (16
3 U.S.C. 470aa et seq.), and Native American objects
4 of antiquity obtained in violation of the Antiquities
5 Act under section 1866(b) of title 18, United States
6 Code, and covered items under active Federal inves-
7 tigation.

8 (2) PENALTIES.—Any person who violates
9 paragraph (1) knowing that the covered items were
10 obtained in violation of the Native American Graves
11 Protection and Repatriation Act (25 U.S.C. 3002 et
12 seq. or 18 U.S.C. 1170), the Archaeological Re-
13 sources Protection Act of 1979 (16 U.S.C. 470aa et
14 seq.), or the Antiquities Act under section 1866(b)
15 of title 18, United States Code, shall be fined in ac-
16 cordance with section 3571 of title 18, United States
17 Code, and shall be imprisoned for not more than 1
18 year for a first violation and not more than 10 years
19 for a second or subsequent violation.

20 (c) EXPORT CERTIFICATION.—

21 (1) WHEN EXPORT CERTIFICATION RE-
22 QUIRED.—

23 (A) PROHIBITION ON EXPORT WITHOUT
24 CERTIFICATION.—No covered item may be ex-
25 ported from the United States without first

1 having obtained an export certification in ac-
2 cordance with this subsection.

3 (B) PUBLICATION.—The Secretary shall,
4 in consultation with Indian Tribes, publish in
5 the Federal Register a notice that includes—

6 (i) a description of characteristics typ-
7 ical of covered items which shall be suffi-
8 ciently specific and precise to ensure ex-
9 port certification is required only of such
10 covered items and that fair notice is given
11 to exporters and other persons as to which
12 items require an export certification; and

13 (ii) a description of items that do not
14 qualify as covered items and therefore do
15 not require an export certification under
16 this paragraph, which shall—

17 (I) clarify that objects made for
18 commercial purposes generally do not
19 qualify as a covered item; and

20 (II) clarify that in some cir-
21 cumstances receipts or certifications
22 issued by Indian Tribes or Tribal arti-
23 sans may be used as evidence to dem-
24 onstrate a particular item does not
25 qualify as a covered item.

1 (2) ELIGIBILITY FOR EXPORT CERTIFI-
2 CATION.—A covered item, absent an ongoing Fed-
3 eral investigation, shall be deemed eligible for export
4 certification if it—

5 (A) was not obtained in violation of the
6 Native American Graves Protection and Repa-
7 triation Act (25 U.S.C. 3002 et seq. or 18
8 U.S.C. 1170), the Archaeological Resources
9 Protection Act of 1979 (16 U.S.C. 470aa et
10 seq.), or the Antiquities Act under section
11 1866(b) of title 18, United States Code, and
12 the export of the covered item would not other-
13 wise violate any other provision of Federal law;

14 (B) was excavated or removed pursuant to
15 a permit issued under section 4 of the Archae-
16 ological Resources Protection Act of 1979 (16
17 U.S.C. 470cc) or section 320302 of title 54,
18 United States Code, or in compliance with sec-
19 tion 3(c) of the Native American Graves Pro-
20 tection and Repatriation Act (25 U.S.C.
21 3002(c)), if the permit for excavation or re-
22 moval authorizes export, and the export of the
23 covered item would not otherwise violate any
24 other provision of Federal law; or

1 (C) is accompanied with a confirmation
2 from an Indian Tribe confirming the person's
3 right of possession, as defined in section 2 of
4 the Native American Graves Protection and Re-
5 patriation Act (25 U.S.C. 3001), to the covered
6 item, or confirming that the Indian Tribe has
7 relinquished title or control, as provided for in
8 section 3 of the Native American Graves Pro-
9 tection and Repatriation Act (25 U.S.C. 3002),
10 of the covered item, and the export of the cov-
11 ered item would not otherwise violate any other
12 provision of Federal law.

13 (3) EXPORT CERTIFICATION PROCEDURES.—

14 (A) EXPORT CERTIFICATION PROCESS.—

15 (i) ATTESTATION.—An attestation
16 shall be made by the exporter through one
17 of the procedures set forth below stating
18 that to the best of the applicant's knowl-
19 edge and belief, the applicant is not ex-
20 porting a Native American cultural item
21 obtained in violation of the Native Amer-
22 ican Graves Protection and Repatriation
23 Act (25 U.S.C. 3001 et seq. or 18 U.S.C.
24 1170), a Native American archaeological
25 resource obtained in violation of the Ar-

1 chaeological Resources Protection Act of
2 1979 (16 U.S.C. 470aa et seq.), or a Na-
3 tive American object of antiquity obtained
4 in violation of the Antiquities Act under
5 section 1866(b) of title 18, United States
6 Code.

7 (ii) ATTESTATION FORM.—An attesta-
8 tion form, which shall describe and provide
9 a picture of the covered items, shall be
10 submitted by an exporter as an electronic
11 filing through the Automated Export Sys-
12 tem (AES) for all commercial shipments
13 including covered items. An exporter’s at-
14 testation shall be required for covered
15 items prior to the issuance of an export
16 certification under the AES system.

17 (iii) INFORMATION PROVIDED BY
18 CBP.—U.S. Customs and Border Protec-
19 tion shall provide to the Secretary the in-
20 formation in electronic declarations that
21 include covered items.

22 (iv) EXPORT CERTIFICATION RE-
23 QUIRED.—All covered items must receive
24 an export certification through the AES
25 system regardless of monetary value.

1 (v) FALSE STATEMENTS.—Any willful
2 or knowing false statement made on an at-
3 testation document described in clauses (i)
4 through (iv) shall—

5 (I) subject the applicant to crimi-
6 nal penalties pursuant to section 1001
7 of title 18, United States Code; and

8 (II) prohibit the applicant from
9 receiving an export certification for
10 covered items through attestation in
11 the future.

12 These penalties do not attach to the cov-
13 ered item for future exports but rather to
14 the applicant.

15 (B) ISSUANCE OF EXPORT CERTIFI-
16 CATION.—

17 (i) For commercial shipments valued
18 at less than \$2,500.00 that include covered
19 items, the exporter shall complete the at-
20 testation process and will immediately re-
21 ceive an export certification from U.S.
22 Customs and Border Protection through
23 the AES system. The exporter is not re-
24 quired to obtain an Internal Transaction
25 Number (ITN).

1 (ii) For commercial shipments valued
2 at \$2,500 or more that include covered
3 items—

4 (I) the exporter must complete
5 the attestation process;

6 (II) U.S. Customs and Border
7 Protection must consult with the Sec-
8 retary and with Native American
9 tribes and Native Hawaiian organiza-
10 tions regarding issuing an export cer-
11 tification;

12 (III) U.S. Customs and Border
13 Protection will issue an export certifi-
14 cation through the AES system—

15 (aa) within 6 days of com-
16 pletion of the attestation process
17 unless credible evidence is pro-
18 vided that indicates the covered
19 item was obtained in violation of
20 the Native American Graves Pro-
21 tection and Repatriation Act (25
22 U.S.C. 3002 et seq. or 18 U.S.C.
23 1170), the Archaeological Re-
24 sources Protection Act of 1979
25 (16 U.S.C. 470aa et seq.), or the

1 Antiquities Act under section
2 1866(b) of title 18, United
3 States Code, or of other United
4 States law or the covered item is
5 under active Federal investiga-
6 tion; or

7 (bb) with notice to the ex-
8 porter, U.S. Customs and Border
9 Protection can extend the review
10 of an application for certification
11 for up to 30 days if credible evi-
12 dence is provided which requires
13 investigation, after which certifi-
14 cation shall be approved or de-
15 nied, consistent with clause (iii);
16 and

17 (IV) once U.S. Customs and Bor-
18 der Protection issues the export cer-
19 tification and upon completion of the
20 AES application, the exporter will re-
21 ceive an Internal Transaction Number
22 (ITN) through AES.

23 (iii) RULE OF CONSTRUCTION.—De-
24 nial of export certification shall not in
25 itself enable seizure or in any way affect

1 the legal status of an item under existing
2 United States law.

3 (iv) ADDITIONAL EVIDENCE.—If an
4 export certification is delayed or denied,
5 notice shall be given to the exporter, who
6 may provide U.S. Customs and Border
7 Protection with evidence to establish that
8 the covered item is not prohibited from ex-
9 port.

10 (C) REVOCATION OF EXPORT CERTIFI-
11 CATION.—If credible new evidence is provided
12 that indicates a covered item that received an
13 export certification was obtained in violation of
14 the Native American Graves Protection and Re-
15 patriation Act (25 U.S.C. 3001 et seq. or 18
16 U.S.C. 1170), Archaeological Resources Protec-
17 tion Act of 1979 (16 U.S.C. 470aa et seq.), or
18 Antiquities Act under section 1866(b) of title
19 18, United States Code, or other Federal law,
20 or is under active Federal investigation, U.S.
21 Customs and Border Protection may imme-
22 diately revoke export certification if prior to ex-
23 port, and shall obtain approval of a United
24 States court to revoke the export certification,
25 after export has taken place. In making a deter-

1 mination about whether revocation is war-
2 ranted, Indian Tribes and Native Hawaiian or-
3 ganizations shall be consulted.

4 (D) SEIZURE AND FORFEITURE.—

5 (i) SEIZURE.—Any covered item that
6 a person is attempting to export without
7 an export certification described in this
8 subsection shall be subject to seizure by
9 United States customs officers and a No-
10 tice of Detention shall be issued to the ex-
11 porter.

12 (ii) FORFEITURE.—A covered item
13 seized under clause (i) that is found to be
14 obtained in violation of the Native Amer-
15 ican Graves Protection and Repatriation
16 Act (25 U.S.C. 3002 et seq. or 18 U.S.C.
17 1170), the Archaeological Resources Pro-
18 tection Act of 1979 (16 U.S.C. 470aa et
19 seq.), or the Antiquities Act under section
20 1866(b) of title 18, United States Code,
21 shall be forfeited, consistent with chapter
22 46 of title 18, United States Code, to the
23 Federal Government or repatriated to the
24 Indian Tribe pursuant to the process pro-
25 vided for under the law under which it is

1 found to be obtained in violation. The pro-
2 visions of section 983(c) of title 18, United
3 States Code, shall apply to any forfeiture
4 under this Act.

5 (iii) RETURN TO EXPORTER.—A cov-
6 ered item seized under clause (i) for which
7 credible evidence does not establish within
8 60 days that it was obtained in violation of
9 the Native American Graves Protection
10 and Repatriation Act (25 U.S.C. 3002(c)
11 et seq. or 18 U.S.C. 1170), the Archae-
12 ological Resources Protection Act of 1979
13 (16 U.S.C. 470aa et seq.), or the Antiq-
14 uities Act under section 1866(b) of title
15 18, United States Code, shall be returned
16 to the exporter but shall not receive an ex-
17 port certification at that time.

18 (E) APPEAL.—If the U.S. Customs and
19 Border Protection denies an export certifi-
20 cation, issues a Detention Notice, or seizes a
21 covered item under this subsection, the appli-
22 cant shall, upon request, be given a hearing on
23 the record.

24 (F) INFORMATION IN FILINGS.—The Sec-
25 retary shall make information on the covered

1 items included in the filings available to Native
2 American tribes and Native Hawaiian organiza-
3 tions via a secure website or other method in
4 compliance with AES procedures.

5 (d) AGREEMENTS TO REQUEST RETURN FROM FOR-
6 EIGN COUNTRIES.—The President is authorized to re-
7 quest from a State Party agreements or provisional meas-
8 ures subject to the limitations of Article 9 of the Conven-
9 tion on the Means of Prohibiting and Preventing the Illicit
10 Import, Export and Transfer of Ownership of Cultural
11 Property, 823 U.N.T.S. 231 (1972), to request the return
12 from the State Party cultural items that were obtained
13 in violation of the Native American Graves Protection and
14 Repatriation Act (25 U.S.C. 3001 et seq. or 18 U.S.C.
15 1170), Native American archaeological resources obtained
16 in violation of the Archaeological Resources Protection Act
17 of 1979 (16 U.S.C. 470aa et seq.), and Native American
18 objects of antiquity obtained in violation of the Antiquities
19 Act under section 1866(b) of title 18, United States Code.

20 **SEC. 7. VOLUNTARY RETURN OF NATIVE AMERICAN AND**
21 **NATIVE HAWAIIAN ITEMS.**

22 (a) LIAISON.—The Secretary and the Secretary of
23 State shall each designate a liaison to facilitate the vol-
24 untary return of Native American items.

1 (b) TRAININGS AND WORKSHOPS.—The individuals
2 listed in subsection (a) shall hold trainings and workshops
3 for representatives of Indian Tribes and Native Hawaiian
4 organizations and collectors, dealers, other individuals and
5 organizations regarding the voluntary return of Native
6 American items.

7 (c) REFERRALS.—

8 (1) IN GENERAL.—The Secretary shall refer in-
9 dividuals and organizations to one or more Indian
10 Tribes or Native Hawaiian organizations with a like-
11 ly cultural affiliation to Native American items for
12 the purpose of facilitating the voluntary return of
13 Native American items.

14 (2) REFERRAL REPRESENTATIVES.—The Sec-
15 retary shall compile a list of representatives from
16 each Indian Tribe and Native Hawaiian organization
17 for purposes of referral under paragraph (1).

18 (3) CONSULTATION.—The Secretary shall con-
19 sult with Indian Tribes and Native Hawaiian organi-
20 zations before making a referral under paragraph
21 (1).

22 (4) THIRD-PARTY EXPERTS.—The Secretary
23 may utilize third parties with relevant expertise, in-
24 cluding universities, museums, dealers, collector or-
25 ganizations, and others, in making determinations

1 regarding to which Indian Tribe or Native Hawaiian
2 organization an individual or organization should be
3 referred under paragraph (1).

4 (d) **LEGAL LIABILITY.**—This section shall not impose
5 additional penalties or legal liability.

6 (e) **IMMUNITY.**—Any person who voluntarily returns
7 covered items prior to active investigation shall have im-
8 munity from criminal prosecution for taking or holding
9 such items.

10 (f) **REPATRIATION UNDER NATIVE AMERICAN**
11 **GRAVES PROTECTION AND REPATRIATION ACT.**—The vol-
12 untary return provisions of this section shall apply to a
13 specific Native American item only to the extent that the
14 repatriation provisions under section 7 of the Native
15 American Graves Protection and Repatriation Act (25
16 U.S.C. 3005) do not apply.

17 (g) **TAX DOCUMENTATION.**—Voluntary return facili-
18 tation shall include provision for tax documentation of de-
19 ductible gifts of Native American items to Native Amer-
20 ican tribes and Native Hawaiian organizations.

21 **SEC. 8. HALTING INTERNATIONAL SALES.**

22 (a) **REQUEST INDIAN TRIBE OR NATIVE HAWAIIAN**
23 **ORGANIZATION.**—An Indian Tribe or Native Hawaiian or-
24 ganization may submit to the liaison designated by the
25 Secretary of State a request that the United States be-

1 come involved in halting the international sale of Native
2 American cultural items obtained in violation of the Native
3 American Graves Protection and Repatriation Act (25
4 U.S.C. 3001 et seq. or 18 U.S.C. 1170), Native American
5 archaeological resources obtained in violation of the Ar-
6 chaeological Resources Protection Act of 1979 (16 U.S.C.
7 470aa et seq.), and Native American objects of antiquity
8 obtained in violation of the Antiquities Act under section
9 1866(b) of title 18, United States Code. Such a request
10 shall include—

11 (1) a certification that the Indian Tribe or Na-
12 tive Hawaiian organization submits evidence the
13 item was illegally removed or trafficked in violation
14 of Federal law; and

15 (2) any other relevant information establishing
16 that the item is protected under Federal law.

17 (b) DEPARTMENT OF STATE ACTION.—Not later
18 than 15 days after receipt of a request under subsection
19 (a) or before the sale is finalized, whichever is sooner, the
20 Secretary of State shall contact—

21 (1) the foreign government and person intend-
22 ing to sell the item to request that—

23 (A) the sale not take place; and

1 (B) the item be returned to the relevant
2 Indian Tribe or Native Hawaiian organization;
3 and

4 (2) the Department of Justice to transmit the
5 request and any other relevant information.

6 (c) DEPARTMENT OF JUSTICE ACTION.—

7 (1) IN GENERAL.—Upon receipt of a request
8 from the Secretary of State under subsection (b),
9 the Attorney General shall contact the appropriate
10 Indian Tribe or Native Hawaiian organization to
11 consult the Tribe or organization regarding legal op-
12 tions with regard to the sale or intended sale of the
13 item, which may include filing criminal charges do-
14 mesticallly or abroad against the seller or the foreign
15 government or person intending to sell the item.

16 (2) CONSULTATION WITH INDIAN TRIBE AND
17 NATIVE HAWAIIAN ORGANIZATION.—The Attorney
18 General shall consult the appropriate Indian Tribe
19 or Native Hawaiian organization regarding whether
20 to initiate legal action and whether any legal action
21 that the Attorney General commenced should be dis-
22 missed, in order to facilitate voluntary return of the
23 item.

24 (3) REQUESTS FROM TRIBE.—In the case that
25 an Indian Tribe or Native Hawaiian organization

1 submits to the Attorney General a request that the
2 Attorney General cease pursuing legal action with
3 regard to the sale of the Indian Tribe's or Native
4 Hawaiian organization's item, the Attorney General
5 shall promptly cease pursuing such legal action.

6 **SEC. 9. WORKING GROUPS.**

7 (a) IN GENERAL.—The Secretary shall convene a
8 working group consisting of representatives of Indian
9 Tribes and Native Hawaiian organizations, and a working
10 group consisting of Native American and Native Hawaiian
11 art dealers, collectors, and museums to advise the Federal
12 Government. The Secretary's liaison designated to facili-
13 tate voluntary return under section 7 shall be the main
14 point of contact.

15 (b) RECOMMENDATIONS.—The working group con-
16 vened under subsection (a) may provide recommendations
17 regarding—

18 (1) identification of which Indian Tribe or Na-
19 tive Hawaiian organization may be associated with
20 an item for purposes of taking action under this Act;

21 (2) the voluntary return of items by collectors,
22 dealers, and other individuals and organizations that
23 hold such items;

24 (3) the elimination of illegal commerce in items
25 in the United States and foreign markets; and

1 (4) the repatriation to Indian Tribes and Native
2 Hawaiian organizations of items that have been ille-
3 gally removed or trafficked in violation of Federal
4 law.

5 (c) AGENCY AND COMMITTEE ASSISTANCE.—

6 (1) IN GENERAL.—The agencies and commit-
7 tees described in paragraph (2) shall provide infor-
8 mation and assistance to the working groups con-
9 vened under subsection (a) upon request by the
10 working groups.

11 (2) AGENCIES AND COMMITTEES.—The agen-
12 cies and committees described in this subsection are
13 the following:

14 (A) The Department of the Interior.

15 (B) The Department of Justice.

16 (C) The Department of Homeland Secu-
17 rity.

18 (D) The Department of State.

19 (E) The Native American Graves Protec-
20 tion and Repatriation Review Committee estab-
21 lished under section 8 of the Native American
22 Graves Protection and Repatriation Act (25
23 U.S.C. 3006).

24 (F) Any other relevant Federal agency.

1 **SEC. 10. U.S. CUSTOMS AND BORDER PROTECTION TRAIN-**
2 **ING.**

3 The Secretary of Homeland Security, acting through
4 the Commissioner of Customs and Border Protection,
5 shall require all appropriate personnel of U.S. Customs
6 and Border Protection to participate in training to identify
7 covered items for purposes of this Act and the amend-
8 ments made by this Act.

9 **SEC. 11. INTERAGENCY WORKING GROUP.**

10 (a) **IN GENERAL.**—The Secretary shall convene an
11 interagency working group consisting of representatives
12 from the Departments of Interior, Justice, State, and
13 Homeland Security.

14 (b) **GOALS.**—The goals of the working group are to
15 facilitate repatriation to Indian Tribes and Native Hawai-
16 ian organizations of items that have been illegally removed
17 or trafficked in violation of Federal law; to protect such
18 items still in Indian Tribes' and Native Hawaiian organi-
19 zations' possession; and to improve Federal agencies' im-
20 plementation of the Native American Graves Protection
21 and Repatriation Act (25 U.S.C. 3001 et seq.), the Ar-
22 chaeological Resources Protection Act of 1979 (16 U.S.C.
23 470aa et seq.), and other relevant laws.

24 (c) **RESPONSIBILITIES.**—The interagency working
25 group shall aid in implementation of other provisions of
26 this Act, including regarding voluntary return of Native

1 American items and halting international sales, and shall
2 collaborate with the working groups created pursuant to
3 this Act.

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