

The Indian Arts and Craft Act

What is the Indian Arts and Craft Act (IACA)?

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 gives the impression that they were made by Indians.

What does the IACA cover?

It covers all Indian and Indian-style traditional and contemporary arts and crafts produced after 1935 marketed and sold by any person in the U.S.

What does the IACA require?

It requires truthful labeling as to the Indian heritage and tribal affiliation of the producers of Indian arts and crafts.

How does the IACA define Indian?

The IACA defines an Indian 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?

The IACA defines an Indian tribe 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. An Indian must have provided either the artistic work or the labor needed to make the product. The labor component must be entirely Indian. **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 designed by an Indian, but produced by a non-Indian, is not an Indian product under the law.

The craftwork 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:

- made by non-Indian labor
- assembled from a kit
- produced in an assembly line or related production line process where not all of the production workers are Indian
- industrial products

You can sell arts and crafts that do not qualify as Indian products without violating the IACA. It is only a violation of the IACA if you advertise such products 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.** A non-Indian vendor would not violate the IACA for selling Indian artwork, as long as advertising of the Indian product met the IACA’s guidelines.

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 greeting card by hand. He advertises the cards as being “Indian Art Cards.” This does NOT violate 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. He goes out to sell them. On his table at the local Art Show, he markets the cards as “Greeting Cards.” He also has information about himself as the original artist (tribal affiliations, and so on). He also states that a printing press mass-produced the cards. This does NOT violate 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 that a printing press mass-produced them. This violates the IACA. It is false advertising. Mass production by a source that is non-Indian does not meet the requirements for an Indian product. He cannot advertise it 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. Instead, 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.” The artwork is an authentic Indian product, so 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?

Where the goods are offered for sale, displayed for sale, or sold at a total price of \$1,000 or more:

- An individual who violates the IACA for the first time faces a fine of up to \$250,000 or up to five years’ imprisonment, or both. For subsequent violations, an individual faces a fine or a prison sentence of up to 15 years, or both.
- A business faces a fine of up to \$1,000,000. For subsequent violations, a business faces fines of up to \$5,000,000.

Where the goods are offered for sale, displayed for sale, or sold at a total price of less than \$1,000:

- An individual who violates the IACA for the first time faces a fine of up to \$25,000 or up to one year in prison, or both. For subsequent violations, an individual faces a fine or a prison sentence of up to 15 years, or both.
- A business faces a fine of up to \$100,000. For subsequent violations, a business faces a fine of 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 sale, 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 can include an injunction to stop the sales and the recovery of damages, including any profits received by the person because of the alleged violations of the IACA.

Who can file an action for violations of the IACA?

Any of the following can file a civil action in Federal Court:

- the U.S. Attorney General upon

the request of the Secretary of the Interior on behalf of an Indian, Indian tribe, or Indian arts and crafts organization

- by an Indian tribe on its own behalf or on behalf of a tribal member or Indian arts and crafts organization
- an Indian
- by an Indian arts and crafts organization

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

What is the Indian Arts and Crafts Board?

The Indian Arts and Crafts Board (IAC Board) is part of the U.S. 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. The IAC Board may also investigate complaints of alleged violation of the IACA and recommend prosecution of the violators.

The IAC Board also maintains the ["Source Directory of American Indian and Alaska Native Owned and Operated Arts and Crafts Businesses."](http://www.iacb.doi.gov/order/source_i) Directory listings are free. The application information is available here: http://www.iacb.doi.gov/order/source_i

[nfo.html](#).

How do I file a complaint or get more information?

If you become aware of any market activity that you believe may violate the IACA, contact the IAC Board by filing a complaint anonymously online, through letter, or by phone. You must provide all relevant information to the IAC Board, including copies of advertisements, photos, business cards, or other information.

Website: <http://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

The IACA also authorizes any Federal law enforcement officer to investigate an alleged violation of the IACA independent of the IAC Board. "Federal law enforcement officer" includes any officer, agent, employee of the United States authorized to engage or supervise the prevention, investigation, or persecution of any violation of Federal criminal law. The officer will submit all findings of an investigation of an alleged violation to either a Federal or State prosecuting authority, or to the IAC Board.

What if I need legal help?

- **The Northwest Justice Project's**

Native American Unit (NAU)

provides free civil (non-criminal) legal services for Native Americans who cannot afford a lawyer in Washington. To reach us, call the toll-free hotline at **(888) 201-1014, then press 5** to leave a message for the NAU. **You can leave a message 24 hours a day, seven days a week.** We will call you back within two business days.

- **CLEAR:** CLEAR is Washington’s toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal

problems. Call 1-888-201-1014 weekdays from 9:10 a.m. until 12:25 p.m. CLEAR works with a language line to provide free interpreters as needed to callers. If you are deaf or hard of hearing, call 1-888-201-1014 using your preferred TTY or Video relay service. **You can also apply online with [CLEAR*Online](http://nwjustice.org/get-legal-help) - <http://nwjustice.org/get-legal-help>.**

- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of October 2013.

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