

gally established arts and crafts marketing organization composed of members of Indian tribes.

(Aug. 27, 1935, ch. 748, § 2, 49 Stat. 891; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 101-644, title I, § 102, Nov. 29, 1990, 104 Stat. 4662.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

The proviso in clause (h) originally provided that the Classification Act of 1923, as amended, shall be applicable to all permanent employees except executive officers, and that all employees other than executive officers shall be appointed in accordance with the civil-service laws from lists of eligibles to be supplied by the Civil Service Commission. The exception of "executive officers" has been omitted as obsolete and superseded.

Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exception in clause (h) because of section 1106(b) which provided that the application of the 1949 Act to any position, officers, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

Such appointments are subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5.

"Chapter 51 and subchapter III of chapter 53 of title 5" substituted in text for "the Classification Act of 1949, as amended" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1990—Pub. L. 101-644, § 102(1), in first sentence, substituted "the Secretary of the Interior through the Board" for "the Board" and "Indian individuals" for "the Indian wards of the Government".

Pub. L. 101-644, § 102(2), in second sentence, amended cl. (g) generally. Prior to amendment, cl. (g) read as follows: "to create Government trade marks of genuineness and quality for Indian products and the products of particular Indian tribes or groups; to establish standards and regulations for the use of such trade marks; to license corporations, associations, or individuals to use them; and to charge a fee for their use; to register them in the United States Patent Office without charge;".

Pub. L. 101-644, § 102(3), inserted sentence at end defining "Indian arts and crafts organization".

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in cl. (h), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4302 of this title; title 18 section 1158.

§ 305a-1. Additional powers of Board; admission fees, rent, franchise fees and other fund-raising activities; volunteers; transfer of revenues into special fund

In fiscal year 1997 and thereafter, the Indian Arts and Crafts Board may charge admission fees at its museums; charge rent and/or franchise fees for shops located in its museums; publish and sell publications; sell or rent or license use of photographs or other images in hard copy or other forms; license the use of designs, in whole or in part, by others; charge for consulting services provided to others; and may accept the services of volunteers to carry out its mission: *Provided*, That all revenue derived from such activities is covered into the special fund established by section 305c of this title.

(Pub. L. 104-208, div. A, title I, § 101(d) [title I, § 118], Sept. 30, 1996, 110 Stat. 3009-181, 3009-202.)

§ 305b. Rules and regulations; submission to Secretary of the Interior

The Board shall prescribe from time to time rules and regulations governing the conduct of its business and containing such provisions as it may deem appropriate for the effective execution and administration of the powers conferred upon it by this Act: *Provided*, That before prescribing any procedure for the disbursement of money the Board shall advise and consult with the General Accounting Office: *Provided further*, That all rules and regulations proposed by the Board shall be submitted to the Secretary of the Interior and shall become effective upon his approval.

(Aug. 27, 1935, ch. 748, § 3, 49 Stat. 892.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 27, 1935, ch. 748, 49 Stat. 891, as amended, which is classified generally to section 305 et seq. of this title. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see 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.

Disbursement functions of all Government agencies, except Departments of the Army, Navy, and Air Force and Panama Canal, transferred to Division of Disbursements, Department of the Treasury, by Ex. Ord. No. 6166, §4, June 10, 1933, and Ex. Ord. No. 6728, May 29, 1934. Division subsequently consolidated with other agencies into the Fiscal Service in Department of the Treasury by Reorg. Plan No. III of 1940, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231. See section 306 of Title 31, Money and Finance.

§ 305c. Appropriation

There is authorized to be appropriated out of any sums in the Treasury not otherwise appropriated such sums as may be necessary to defray the expenses of the Board and carry out the purposes and provisions of this Act. All income derived by the Board from any source shall be covered into the Treasury of the United States and shall constitute a special fund which is appropriated and made available until expended for carrying out the purposes and provisions of this Act. Out of the funds available to it at any time the Board may authorize such expenditures, consistent with the provisions of this Act, as it may determine to be necessary for the accomplishment of the purposes and objectives of this Act.

(Aug. 27, 1935, ch. 748, §4, 49 Stat. 892.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 27, 1935, ch. 748, 49 Stat. 891, as amended, which is classified generally to section 305 et seq. of this title. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305a-1 of this title.

§ 305c-1. Repealed. Pub. L. 87-23, §2, Apr. 24, 1961, 75 Stat. 45

Section, act May 10, 1939, ch. 119, §1, 53 Stat. 699, provided for a limitation of \$10 per diem in lieu of subsistence on amount that may be paid to members of the Indian Arts and Crafts Board. See section 305 of this title.

§ 305d. Referral for criminal and civil violations; complaints; recommendations

(a) The Board may receive complaints of violations of section 1159 of title 18 and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 305e of this title.

(Aug. 27, 1935, ch. 748, §5, as added Pub. L. 101-644, title I, §103, Nov. 29, 1990, 104 Stat. 4662.)

PRIOR PROVISIONS

A prior section, act Aug. 27, 1935, ch. 748, §5, 49 Stat. 892, related to counterfeiting of a trade mark and penalty, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, effective Sept. 1, 1948. See section 1158 of Title 18, Crimes and Criminal Procedure.

§ 305e. Cause of action for misrepresentation of Indian produced goods

(a) Injunctive or equitable relief; damages

A person specified in subsection (c) of this section may, in a civil action in a court of competent jurisdiction, bring an action against a person who, directly or indirectly, offers or displays for sale or sells a 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, to—

(1) obtain injunctive or other equitable relief; and

(2) recover the greater of—

(A) treble damages; or

(B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than \$1,000 for each day on which the offer or display for sale or sale continues.

For purposes of paragraph (2)(A), damages shall include any and all gross profits accrued by the defendant as a result of the activities found to violate this subsection.

(b) Punitive damages; attorney's fee

In addition to the relief specified in subsection (a) of this section, the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

(c) Persons who may initiate civil actions

(1) A civil action under subsection (a) of this section may be commenced—

(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or Indian arts and crafts organization;

(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of an Indian arts and crafts organization; or

(C) by an Indian arts and crafts organization on behalf of itself, or by an Indian on behalf of himself or herself.

(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe, or Indian arts and crafts organization, except that—

(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered—

(i) the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) of this section and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and