

(ii) the amount for the costs of investigation awarded pursuant to subsection (b) of this section and reimburse the Board the amount of such costs incurred as a direct result of Board activities in the suit; and

(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) of this section may be deducted from the total amount awarded under subsection (a)(2) of this section.

(d) Definitions

As used in this section—

(1) the term “Indian” means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

(2) subject to subsection (f) of this section, the terms “Indian product” and “product of a particular Indian tribe or Indian arts and crafts organization” has the meaning given such term¹ in regulations which may be promulgated by the Secretary of the Interior;

(3) the term “Indian tribe” means—

(A) any 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

(B) 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; and

(4) the term “Indian arts and crafts organization” means any legally established arts and crafts marketing organization composed of members of Indian tribes.

(e) Severability

In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.

(f) Regulations

Not later than 180 days after November 9, 2000, the Board shall promulgate regulations to include in the definition of the term “Indian product” specific examples of such product to provide guidance to Indian artisans as well as to purveyors and consumers of Indian arts and crafts, as defined under this Act.

(Aug. 27, 1935, ch. 748, § 6, as added Pub. L. 101-644, title I, § 105, Nov. 29, 1990, 104 Stat. 4664; amended Pub. L. 106-497, § 2, Nov. 9, 2000, 114 Stat. 2219.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f), 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.

PRIOR PROVISIONS

A prior section, act Aug. 27, 1935, ch. 748, § 6, 49 Stat. 893, related to offering for sale without trade mark

goods as Indian goods, prior to repeal by acts June 25, 1948, ch. 645, § 21, 62 Stat. 862; June 25, 1948, ch. 646, § 39, 62 Stat. 992, effective Sept. 1, 1948. See section 1159 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-497, § 2(1), inserted “, directly or indirectly,” after “against a person who” in introductory provisions and inserted at end “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.”

Subsec. (c)(1)(C). Pub. L. 106-497, § 2(2)(A), added subpar. (C).

Subsec. (c)(2)(A). Pub. L. 106-497, § 2(2)(B), designated existing text as cl. (i) and added cl. (ii).

Subsec. (d)(2). Pub. L. 106-497, § 2(3), inserted “subject to subsection (f) of this section,” before “the terms”.

Subsec. (f). Pub. L. 106-497, § 2(4), added subsec. (f).

CERTIFICATION OF INDIAN ARTISANS

Section 107 of Pub. L. 101-644 provided that: “For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled ‘An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes’ (25 U.S.C. 305 et seq.) [25 U.S.C. 305e] an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term ‘Indian tribe’ has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305d of this title.

§ 305f. Indian Arts and Crafts Board art collection

(a) Transfer of art collection and costs

Notwithstanding any other provision of law, the Secretary of the Interior is directed to transfer all right, title and interest in that portion of the Indian Arts and Crafts Board art collection maintained permanently by the Indian Arts and Crafts Board in Washington, District of Columbia, to the Secretary of the Smithsonian Institution to be a part of the collection of the National Museum of the American Indian, subject to subsection (b) of this section. Transfer of the collection and costs thereof shall be carried out in accordance with terms, conditions, and standards mutually agreed upon by the Secretary of the Interior and the Secretary of the Smithsonian Institution.

(b) Retention of permanent license to use of images

The Indian Arts and Crafts Board shall retain a permanent license to the use of images of the collection for promotional, economic development, educational and related nonprofit purposes. The Indian Arts and Crafts Board shall not be required to pay any royalty or fee for such license.

(Aug. 27, 1935, ch. 748, § 7, as added Pub. L. 105-277, div. A, § 101(e) [title III, § 356(a)], Oct. 21, 1998, 112 Stat. 2681-231, 2681-304.)

§ 306. Expenditures for encouragement of industry and self-support; repayment

On and after May 9, 1938, the expenditures for the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops

¹ So in original. Probably should be “terms”.