S. 2087

To amend certain laws relating to Native Americans to make technical corrections, and for other purposes.

IN THE SENATE OF THE UNITED STATES
SEPTEMBER 25, 2007
Mr. DORGAN (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL
To amend certain laws relating to Native Americans to make technical corrections, 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 Om-
5 nibus Technical Corrections Act of 2007”.

6 SEC. 2. DEFINITION OF NATIVE AMERICAN.
7 Section 2(9) of the Native American Graves Protec-
8 tion and Repatriation Act (25 U.S.C. 3001(9)) is amend-
9 ed—

10 (1) by inserting “or was” after “is”; and
(2) by inserting after “indigenous to” the follow-
ing: “any geographic area that is now located
within the boundaries of”.

SEC. 3. INDIAN TRIBAL JUSTICE.
(a) INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL
ASSISTANCE.—The Indian Tribal Justice Technical and
Legal Assistance Act of 2000 is amended—
(1) in section 106 (25 U.S.C. 3666), by striking
“for fiscal years 2000 through 2004” and inserting
“for fiscal years 2008 through 2012”; and
(2) in section 201(d) (25 U.S.C. 3681(d)), by
striking “for fiscal years 2000 through 2004” and
inserting “for fiscal years 2008 through 2012”.
(b) INDIAN TRIBAL JUSTICE SYSTEMS.—Section 201
of the Indian Tribal Justice Act (25 U.S.C. 3621) is
amended by striking “2007” each place it appears and
inserting “2012”.

SEC. 4. NATIVE AMERICAN PARTICIPATION IN METH-
AMPHETAMINE GRANTS.
(a) IN GENERAL.—Section 2996(a) of the Omnibus
3797ee(a)) is amended—
(1) in paragraph (1)—
(A) in the matter preceding subparagraph
(A), by inserting “, territories, and Indian
tribes (as defined in section 2704)” after “to assist States”; and

(B) in subparagraph (B), by striking “and local” and inserting “territorial, Tribal, and local”;

(2) in paragraph (2), by inserting “, territories, and Indian tribes” after “make grants to States”;

(3) in paragraph (3)(C), by inserting “, Tribal,” after “support State”; and

(4) by adding at the end the following:

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection, or in the award or denial of any grant pursuant to this subsection—

“(A) allows grants authorized under paragraph (3)(A) to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or

“(B) has any effect other than to authorize, award, or deny a grant of funds to a State, territory, or Indian tribe for the purposes described in this subsection.”.

(b) GRANT PROGRAMS FOR DRUG ENDANGERED CHILDREN.—Section 755(a) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (42 U.S.C. 3797cc–2(a)) is amended by inserting “, territories, and
Indian tribes (as defined in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d))” after “make grants to States”.

(c) GRANT PROGRAMS TO ADDRESS M ETHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.—Section 756 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (42 U.S.C. 3797ee–3) is amended—

(1) in subsection (a)(2), by inserting “, territorial, or Tribal” after “State”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “, territorial, or Tribal” after “State”; and

(ii) by striking “and/or” and inserting “or”;

(B) in paragraph (2)—

(i) by inserting “, territory, or Indian tribe” after “agency of the State”; and

(ii) by inserting “, territory, or Indian tribe” after “criminal laws of that State”; and

(C) by adding at the end the following:

“(3) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 2704 of
the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d).”; and

(3) in subsection (c)—

(A) in paragraph (3), by striking “Indian Tribes” and inserting “Indian tribes”; and

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “State’s services” and inserting “services of the State, territory, or Indian tribe”; and

(II) by striking “and/or” and inserting “or”;

(ii) in subparagraph (A), by striking “State”;

(iii) in subparagraph (C), by inserting “, Indian tribes,” after “involved counties”; and

(iv) in subparagraph (D), by inserting “, tribal” after “Federal, State”.

SEC. 5. INDIAN LAND CONSOLIDATION ACT.

(a) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) in paragraph (4)—

(A) by inserting “(i)” after “(4)”;

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(B) by striking “‘trust or restricted interest in land’ or’’ and inserting the following:
“(ii) ‘trust or restricted interest in land’ or’’;

and

(C) in clause (ii) (as designated by subparagraph (B)), by striking “an interest in land, title to which” and inserting “an interest in land, the title to which interest”; and

(2) by striking paragraph (7) and inserting the following:
“(7) the term ‘land’—
“(A) means any real property; and
“(B) only for purposes of intestate succession under section 207(a), includes the interest, if any, owned by the decedent in improvements permanently affixed to a parcel of trust or restricted lands (subject to any valid mortgage or other interest in such an improvement) if the parcel was owned, in whole or in part, by the decedent immediately prior to the death of the decedent.”.

(b) DESCENT AND DISTRIBUTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) in subsection (a)(2)(D)—
(A) in clause (i), by striking “clauses (ii) through (iv)” and inserting “clauses (ii) through (v)”; and

(B) by striking clause (v) and inserting the following:

“(v) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph limits the right of any person to devise any trust or restricted interest pursuant to a valid will in accordance with subsection (b).”;

(2) in subsection (b)(2)(B)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting the subclauses appropriately;

(B) by striking “Any interest” and inserting the following:

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), any interest”;

(C) in subclause (III) of clause (i) (as designated by subparagraphs (A) and (B)), by striking the semicolon and inserting a period;

(D) by striking “provided that nothing” and inserting the following:
“(iii) EFFECT.—Except as provided in clause (ii), nothing”; and

(E) by inserting after clause (i) (as designated by subparagraph (B)) the following:

“(ii) EXCEPTION.—

“(I) IN GENERAL.—Notwithstanding clause (i), in any case in which a resolution, law, or other enactment of the Indian tribe with jurisdiction over the land of which an interest described in clause (i) is a part requests the Secretary to apply subparagraph (A)(ii) to devises of trust or restricted land under the jurisdiction of the Indian tribe, the interest may be devised in fee in accordance with subparagraph (A)(ii).

“(II) EFFECT.—Subclause (I) shall apply with respect to a devise of a trust or restricted interest in land by any decedent who dies on or after the date on which the applicable Indian tribe adopts the resolution, law, or other enactment described in sub-
clause (I), regardless of the date on which the devise is made.”;

(3) in subsection (c)(2), by striking “the date that is” and all that follows through the period at the end and inserting the following: “September 1, 2008.”; and

(4) in subsection (o)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting the clauses appropriately;

(ii) by striking “(3)” and all that follows through “No sale” and inserting the following:

“(3) REQUEST TO PURCHASE; CONSENT REQUIREMENTS; MULTIPLE REQUESTS TO PURCHASE.—

“(A) IN GENERAL.—No sale”; and

(iii) by striking the last sentence and inserting the following:

“(B) MULTIPLE REQUESTS TO PURCHASE.—Except for interests purchased pursuant to paragraph (5), if the Secretary receives a request with respect to an interest from more than 1 eligible purchaser under paragraph (2),
the Secretary shall sell the interest to the eligible purchaser that is selected by the applicable heir, devisee, or surviving spouse.”;

(B) in paragraph (4)—

(i) in subparagraph (A), by adding “and” at the end;

(ii) in subparagraph (B), by striking “; and” and inserting a period; and

(iii) by striking subparagraph (C);

and

(C) in paragraph (5)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking “subparagraph (B), the consent of a person who is an heir” and inserting “subparagraph (C), the consent of a person who is an heir or surviving spouse”; and

(bb) by striking “auction and”;

(II) in clause (i), by striking “and” at the end;

(III) in clause (ii)—
(aa) by striking “auction” and inserting “sale”;

(bb) by striking “the interest passing to such heir represents” and inserting “, at the time of death of the applicable decedent, the interest of the decedent in the land represented”;

and

(cc) by striking the period at the end and inserting a semicolon; and

(IV) by adding at the end the following:

“(iii) the decedent died on or after September 1, 2008; and

“(iv)(I) the Secretary is purchasing the interest under the program authorized under section 213(a)(1); or

“(II) after receiving a notice under paragraph (4)(B), the Indian tribe with jurisdiction over the interest is proposing to purchase the interest from an heir or surviving spouse who is not residing on the property in accordance with clause (i), and
who is not a member, and is not eligible to
become a member, of that Indian tribe.”;

(ii) by redesignating subparagraph
(B) as subparagraph (C);

(iii) by inserting after subparagraph
(A) the following:

“(B) AUTHORITY TO EXTEND DATE.—The
Secretary may extend the date referred to in
subparagraph (A)(iii) by not more than 1 year
if, by not later than August 1, 2008, the Sec-
retary publishes in the Federal Register a no-
tice of the extension.”; and

(iv) in subparagraph (C) (as redesig-
nated by clause (ii))—

(I) by inserting “or surviving
spouse” after “heir” each place it ap-
ppears; and

(II) by striking “heir’s interest”
and inserting “interest of the heir or
surviving spouse”.

(c) CONFORMING AMENDMENT.—Section 213(a)(1)
2212(a)(1)) is amended by striking “section 207(p)” and
inserting “section 207(o)”.

SEC. 6. INDIAN GOODS AND PRODUCTS.

(a) INDIAN ARTS AND CRAFTS.—

(1) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MISREPRESENTATIONS.—Section 5 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. 305d) is amended to read as follows:

“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.

“(a) DEFINITION OF FEDERAL LAW ENFORCEMENT OFFICER.—In this section, the term ‘Federal law enforcement officer’ includes a Federal law enforcement officer (as defined in section 115(c) of title 18, United States Code).

“(b) CONDUCT OF INVESTIGATIONS.—Any Federal law enforcement officer may conduct an investigation relating to a violation of this Act that occurs on land under the jurisdiction of the Federal Government.

“(c) CRIMINAL PROCEEDINGS.—

“(1) INVESTIGATION.—

“(A) IN GENERAL.—The Board may refer an alleged violation of section 1159 of title 18, United States Code, to any Federal law enforcement officer for appropriate investigation.

“(B) REFERRAL NOT REQUIRED.—A Federal law enforcement officer may investigate an
alleged violation of section 1159 of that title regardless of whether the Federal law enforcement officer receives a referral under subparagraph (A).

“(2) FINDINGS.—The findings of an investigation of an alleged violation of section 1159 of title 18, United States Code, by any Federal department or agency under paragraph (1)(A) shall be submitted to—

“(A) the Attorney General; or

“(B) the Board.

“(3) RECOMMENDATIONS.—On receiving the findings of an investigation under paragraph (2), the Board may—

“(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of title 18, United States Code; and

“(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines to be appropriate.

“(d) CIVIL ACTIONS.—In lieu of, or in addition to, any criminal proceeding under subsection (c), the Board
may recommend that the Attorney General initiate a civil
action under section 6.”.

(2) CAUSE OF ACTION FOR MISREPRESENTATION.—Section 6 of the Act entitled “An Act to pro-
mote the development of Indian arts and crafts and
to create a board to assist therein, and for other
purposes” (25 U.S.C. 305e) is amended—

(A) by striking subsection (d);

(B) by redesignating subsections (a)
through (c) as subsections (b) through (d), re-
spectively;

(C) by inserting before subsection (b) (as
redesignated by subparagraph (B)) the fol-
lowing:

“(a) DEFINITIONS.—In this section:

“(1) INDIAN.—The term ‘Indian’ means an in-
dividual that—

“(A) is a member of an Indian tribe; or

“(B) is certified as an Indian artisan by an
Indian tribe.

“(2) INDIAN PRODUCT.—The term ‘Indian
product’ has the meaning given the term in any reg-
ulation promulgated by the Secretary.

“(3) INDIAN TRIBE.—
“(A) IN GENERAL.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) INCLUSION.—The term ‘Indian tribe’ includes, for purposes of this section only, an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.”;

(D) in subsection (b) (as redesignated by subparagraph (B)), by striking “subsection (c)” and inserting “subsection (d)”;

(E) in subsection (c) (as redesignated by subparagraph (B))—

(i) by striking “subsection (a)” and inserting “subsection (b)”; and

(ii) by striking “suit” and inserting “the civil action”;}
(F) by striking subsection (d) (as redesignated by subparagraph (B)) and inserting the following:

“(d) PERSONS THAT MAY INITIATE CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action under subsection (b) may be initiated by—

“(A) the Attorney General, at the request of the Secretary acting on behalf of—

“(i) an Indian tribe;

“(ii) an Indian; or

“(iii) an Indian arts and crafts organization;

“(B) an Indian tribe, acting on behalf of—

“(i) the Indian tribe;

“(ii) a member of that Indian tribe; or

“(iii) an Indian arts and crafts organization;

“(C) an Indian; or

“(D) an Indian arts and crafts organization.

“(2) DISPOSITION OF AMOUNTS RECOVERED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to
the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

“(B) EXCEPTIONS.—

“(i) ATTORNEY GENERAL.—In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

“(I) the amount of the cost of the civil action and reasonable attorney’s fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

“(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

“(ii) INDIAN TRIBE.—In the case of a civil action initiated under paragraph (1)(B), the Indian tribe may deduct from the amount—
“(I) the amount of the cost of
the civil action; and
“(II) reasonable attorney’s fees.”;
and
(G) in subsection (e), by striking “(e) In
the event that” and inserting the following:
“(e) SAVINGS PROVISION.—If”.
(b) MISREPRESENTATION OF INDIAN PRODUCED
GOODS AND PRODUCTS.—Section 1159 of title 18, United
States Code, is amended—

(1) by striking subsection (b) and inserting the
following:
“(b) PENALTY.—Any person that knowingly violates
subsection (a) shall—
“(1) in the case of a first violation by that per-
son—
“(A) if the applicable goods are offered or
displayed for sale at a total price of $1,000 or
more, or if the applicable goods are sold for a
total price of $1,000 or more—
“(i) in the case of an individual, be
fined not more than $250,000, imprisoned
for not more than 5 years, or both; and
“(ii) in the case of a person other than an individual, be fined not more than $1,000,000; and

“(B) if the applicable goods are offered or displayed for sale at a total price of less than $1,000, or if the applicable goods are sold for a total price of less than $1,000—

“(i) in the case of an individual, be fined not more than $25,000, imprisoned for not more than 1 year, or both; and

“(ii) in the case of a person other than an individual, be fined not more than $100,000; and

“(2) in the case of a subsequent violation by that person, regardless of the amount for which any good is offered or displayed for sale or sold—

“(A) in the case of an individual, be fined under this title, imprisoned for not more than 15 years, or both; and

“(B) in the case of a person other than an individual, be fined not more than $5,000,000.”; and

(2) in subsection (c), by striking paragraph (3) and inserting the following:

“(3) the term ‘Indian tribe’—
“(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

“(B) includes, for purposes of this section only, an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority; and”.

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