

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0242.01 Christy Chase x2008

HOUSE BILL 17-1241

HOUSE SPONSORSHIP

Herod, Foote, Lee, Willett, Wist

SENATE SPONSORSHIP

Gardner, Cooke, Guzman, Holbert, Kagan

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED**
102 **TO INDIAN ARTS AND CRAFTS SALES FROM TITLE 12, COLORADO**
103 **REVISED STATUTES, AS PART OF THE ORGANIZATIONAL**
104 **RECODIFICATION OF TITLE 12.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Current law directs the office of legislative legal services to study the organizational recodification of title 12 of the Colorado Revised Statutes, which relates to professions and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 18, 2017

SENATE
2nd Reading Unamended
April 17, 2017

HOUSE
3rd Reading Unamended
April 4, 2017

HOUSE
2nd Reading Unamended
April 3, 2017

- occupations. To implement the initial recommendations of the study:
- ! **Section 1** of the bill relocates article 44.5 of title 12, which imposes requirements and penalties pertaining to the sale or offering for sale of authentic Indian and other arts and crafts, to a new part 2 in article 15 of title 6 of the Colorado Revised Statutes, governing consumer and commercial affairs;
 - ! **Section 6** of the bill repeals the article in its previous location in title 12; and
 - ! **Sections 2** through **5** make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** part 2 to article 15 of title 6 as follows:

4 PART 2

5 INDIAN ARTS AND CRAFT SALES

6 **6-15-201. [Formerly 12-44.5-101] Short title.** ~~This article shall~~
7 ~~be known and may be cited as~~ THE SHORT TITLE OF THIS PART 2 IS the
8 "Indian Arts and Crafts Sales Act".

9 **6-15-202. [Formerly 12-44.5-102] Legislative declaration.** The
10 purpose of this ~~article~~ PART 2 is to protect the public from false
11 representation in the sale or offering for sale of authentic Indian and other
12 arts and crafts.

13 **6-15-203. [Formerly 12-44.5-103] Definitions.** As used in this
14 ~~article~~ PART 2, unless the context otherwise requires:

15 (1) "Authentic Indian arts and crafts" means any product ~~which~~
16 THAT is handcrafted by Indian labor or workmanship and is not made
17 from synthetic or artificial materials.

18 (2) "Findings" means the smaller component parts of a
19 handcrafted item, such as clasps, glass, silver, or synthetic beads, stamped
20 parts not used as a major part of a handcrafted item, leather backings,

1 binding materials, and other ingredient parts not a major part of a
2 handcrafted item.

3 (3) "Handcrafted" means the production of a product wholly by
4 hand tools, with the exception of buffing or polishing and the findings
5 used upon ~~such~~ THE products.

6 (4) "Other arts and crafts" means any product ~~which~~ THAT is
7 represented as an Indian design or product but is not handcrafted by
8 Indian labor or workmanship or ~~which~~ THAT is made by machine or from
9 synthetic or artificial materials.

10 (5) "Imitation turquoise" means any artificial compound or
11 mineral manufactured or treated so as to closely approximate turquoise
12 in composition or color or any other mineral represented as turquoise
13 when in fact it is not.

14 (6) "Indian" means any person who is enrolled or is a lineal
15 descendent of one enrolled upon an enrollment listing of the bureau of
16 Indian affairs or upon the enrollment listing of a recognized Indian tribe
17 domiciled in the United States or a person recognized by any Indian tribe
18 as being Indian.

19 (7) "Indian tribe" means any Indian tribe, organized band, or
20 pueblo ~~which~~ THAT is domiciled in the United States.

21 (8) "Natural" means the status of a mineral component, used in the
22 preparation of authentic Indian arts and crafts, ~~which~~ THAT does not
23 include any chemical alteration or discoloration.

24 (9) "Plasticized" means the process through which natural
25 turquoise of a soft, porous nature is altered by impregnating it with acrylic
26 resin or any other substance of a similar nature to produce a change in
27 coloration of the turquoise and allow it to accept a polished finish.

1 (10) "Represented" means the presentation of a product in words,
2 description, state of being, or symbols when ~~said~~ THE product is offered
3 for sale, trade, exchange, or purchase.

4 (11) "Spin cast" means the casting of jewelry components, other
5 than findings, by means of centrifugal force.

6 (12) "Stabilized" means the chemical process through which
7 natural turquoise of a soft, porous nature is altered to produce a change
8 in the coloration of the natural mineral.

9 (13) "Treated" means any chemical process through which a
10 natural turquoise is altered to produce a change in coloration of the
11 natural mineral.

12 (14) "Turquoise" means a blue, green, greenish-blue, or sky-blue
13 mineral, containing phosphorus, aluminum, copper, and iron, used as a
14 gemstone in its cut and polished form.

15 (15) "Unnatural" means the status of any mineral compound or
16 substance ~~which~~ THAT is not natural or ~~which~~ THAT has been chemically
17 altered, including a stabilized, plasticized, or treated mineral and imitation
18 turquoise.

19 **6-15-204. [Formerly 12-44.5-104] Inquiry as to producer.**

20 (1) It is the duty of every person selling or offering for sale at retail
21 authentic Indian arts and crafts or other arts and crafts to the general
22 public to make due inquiry of their suppliers concerning the methods used
23 in producing ~~such~~ THE arts and crafts and to determine whether ~~such~~ THE
24 arts and crafts are in fact authentic.

25 (2) It is hereby made the duty of every person selling or offering
26 for sale at retail to the general public natural or unnatural turquoise to
27 make due inquiry of their suppliers concerning the source, grade, and

1 quality of the turquoise for resale.

2 (3) If the supplier cannot authenticate to the seller the origin and
3 process of manufacture regarding the Indian arts and crafts to be sold or
4 traded to the seller, the seller shall not sell ~~said~~ THE arts and crafts to the
5 general public as authentic Indian arts and crafts.

6 **6-15-205. [Formerly 12-44.5-105] Unlawful acts.** (1) A person
7 shall not knowingly:

8 (a) Sell or offer for sale any products represented as authentic
9 Indian arts and crafts unless ~~such~~ THE products are in fact authentic
10 Indian arts and crafts;

11 (b) Sell or offer to sell any authentic Indian arts and crafts
12 purporting to be silver unless ~~such~~ THE products are made of coin silver
13 or sterling silver ~~which~~ THAT is not less than ninety-percent pure silver by
14 weight or unless ~~said~~ THE person provides a statement to the purchaser at
15 retail concerning the content of the silver used in ~~such~~ THE arts or crafts;

16 (c) Sell or offer to sell any authentic Indian arts and crafts that are
17 not separately displayed from other arts and crafts and the authentic
18 Indian arts and crafts are not clearly designated with a tag attached to
19 each product and containing the words "Authentic Indian" in letters not
20 less than one-quarter inch high or, if the authentic Indian arts and crafts
21 can clearly be labeled by the use of a display card, then in lieu of tagging
22 each article the person may label the authentic Indian arts and crafts with
23 a printed display card in letters not less than one-half inch in height and
24 containing the words "Authentic Indian". The label or display card shall
25 be maintained with the related crafts in an area separate from other arts
26 and crafts so as to clearly designate the authentic Indian arts and crafts.

27 (d) Sell or offer to sell spin cast components of authentic Indian

1 jewelry, other than findings, or use spin cast components in authentic
2 Indian jewelry unless ~~such~~ THE jewelry is labeled as being so cast in its
3 manufacture.

4 **6-15-206. [Formerly 12-44.5-106] Unfair trade practices.** (1) A
5 person shall not:

6 (a) Use a false or misleading statement, written or oral, or the lack
7 thereof, a visual description or the lack thereof, or any representation or
8 lack thereof made in connection with the sale or trade of Indian arts and
9 crafts in the regular course of trade or commerce with the intent to
10 deceive or mislead any person;

11 (b) Falsely represent turquoise being sold as having
12 characteristics, elements, or qualities it does not have;

13 (c) Falsely represent turquoise being sold as natural turquoise if
14 in fact it is in an unnatural state;

15 (d) Make a false or misleading statement of fact concerning the
16 price or value for the purpose of selling or trading turquoise.

17 **6-15-207. [Formerly 12-44.5-107] Violations - penalty.** Any
18 person who knowingly violates any of the provisions of ~~section~~
19 ~~12-44.5-105 or 12-44.5-106~~ SECTION 6-15-205 OR 6-15-206 commits a
20 class 1 misdemeanor and shall be punished as provided in section
21 18-1.3-501. ~~C.R.S.~~

22 **6-15-208. [Formerly 12-44.5-108] Right of action - damages.**
23 In addition to any judicial relief, any person who suffers financial injury
24 or damages by reason of anything forbidden in this ~~article~~ PART 2 may sue
25 in district court and may recover actual damages sustained by him OR HER
26 and the cost of suit, including reasonable ~~attorney's~~ ATTORNEY fees.

27 **SECTION 2.** In Colorado Revised Statutes, 6-15-101, **amend** the

1 introductory portion as follows:

2 **6-15-101. Definitions.** As used in this ~~article~~ PART 1, unless the
3 context otherwise requires:

4 **SECTION 3.** In Colorado Revised Statutes, **amend** 6-15-103 as
5 follows:

6 **6-15-103. Penalties.** A violation by an art dealer of any of the
7 provisions of this ~~article~~ PART 1 shall render the art dealer liable for
8 damages to the artist in an amount equal to fifty dollars plus the actual
9 damages sustained by the artist, including incidental and consequential
10 damages. In such an action reasonable attorney fees and court costs shall
11 be paid to the prevailing party.

12 **SECTION 4.** In Colorado Revised Statutes, **amend** 6-15-104 as
13 follows:

14 **6-15-104. Applicability.** (1) This ~~article~~ PART 1 shall not apply
15 to any contract or arrangement in existence prior to March 25, 1982, nor
16 to any extensions or renewals thereof; except that the parties to ~~such~~ THE
17 contract or arrangement may thereafter elect to be governed by the
18 provisions of this ~~article~~ PART 1.

19 (2) Any provision, whether oral or written, in or pertaining to the
20 placing of a work of fine art on consignment whereby any provision of
21 this ~~article~~ PART 1 is waived shall be deemed to be against public policy
22 and shall be void.

23 **SECTION 5.** In Colorado Revised Statutes, 4-2-326, **amend** (4)
24 as follows:

25 **4-2-326. Sale on approval and sale or return - rights of**
26 **creditors.** (4) The provisions of this section shall not apply to the
27 placement of works of fine art on consignment, which shall be governed

1 by the provisions of PART 1 OF article 15 of title 6. ~~C.R.S.~~

2 **SECTION 6. Repeal of relocated provisions in this act.** In
3 Colorado Revised Statutes, **repeal** article 44.5 of title 12.

4 **SECTION 7. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.