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**HOUSE CS FOR CS FOR SENATE BILL NO. 97(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/17/08**

**Referred: Rules**

**Sponsor(s): SENATORS STEVENS, Hoffman**

**REPRESENTATIVES Ramras, Gara, Meyer**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to identification seals for certain articles created or crafted in the state**  
2 **by Alaska Native persons; relating to the Alaska State Council on the Arts; and making**  
3 **certain identification seal violations unfair trade practices."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 44.27.050 is amended to read:

6 **Sec. 44.27.050. Duties of council.** The duties of the council are

7 (1) to stimulate and encourage throughout the state the study and  
8 presentation of the performing, visual, and fine arts and public interest and  
9 participation;

10 (2) to make surveys, which are considered advisable, of public and  
11 private institutions engaged in the state in artistic and cultural activities, including but  
12 not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts  
13 and crafts, and to make recommendations concerning appropriate methods to  
14 encourage participation in and appreciation of the arts to meet the legitimate needs and

1 aspirations of persons in all parts of the state;

2 (3) to take steps necessary and appropriate to encourage public interest  
3 in the cultural heritage of the state and to expand the state's cultural resources;

4 (4) to encourage and assist freedom of artistic expression essential for  
5 the well being of the arts;

6 (5) to manage the art in public places fund;

7 (6) to administer the provisions of AS 45.65 relating to [THE]  
8 identification seals [SEAL] for authentic Alaska Native art created or crafted  
9 [HANDICRAFTS MADE] in the state and adopt regulations to carry out those  
10 provisions.

11 \* **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

12 (53) violating AS 45.65.055 (authentic Alaska Native art identification  
13 seals).

14 \* **Sec. 3.** AS 45.65.010(a) is amended to read:

15 (a) An Alaska Native [A] person who creates or crafts [MAKES] an  
16 original article of authentic Alaska Native art [HANDICRAFT] in the state may  
17 obtain an identification seal as specified in AS 45.65.030(a) to identify the article. The  
18 identification seal may be affixed only to original articles of authentic Alaska Native  
19 art created or crafted [HANDICRAFTS MADE] in the state.

20 \* **Sec. 4.** AS 45.65.020(b) is amended to read:

21 (b) The Alaska State Council on the Arts (AS 44.27.040) is responsible for the  
22 administration of the provisions of AS 45.65.010 - 45.65.070 relating to [THE]  
23 identification seals [SEAL] for authentic Alaska Native art [HANDICRAFTS MADE  
24 IN THE STATE], including

25 (1) subject to AS 45.65.030(a), the design, method of affixing,  
26 preparation, issuance, and control of identification seals;

27 (2) the issuance of permits to use identification [AGENTS TO  
28 DISTRIBUTE THE] seals and the collection of the fees established under  
29 AS 45.65.040(c);

30 (3) the supervision of the use of identification [THE] seals; and

31 (4) the enforcement of AS 45.65.010 - 45.65.070 regarding [THE]

1 identification seals.

2 \* **Sec. 5.** AS 45.65.030(a) is amended to read:

3 (a) The official [AUTHENTIC NATIVE HANDICRAFT] symbol **for the**  
 4 **identification seal** is the silver hand symbol. It must bear the words: "Authentic  
 5 **Alaska** Native **Art** [HANDICRAFT] from Alaska" [,] and include **space** [A BLANK  
 6 LINE] for the artist's name and the place of origin of the article.

7 \* **Sec. 6.** AS 45.65.040(a) is amended to read:

8 (a) The identification seal [AUTHORIZED UNDER AS 45.65.010(a)] may  
 9 only be used after receiving a permit from the council [OR FROM AN AGENT WHO  
 10 POSSESSES A CURRENT PERMIT UNDER (b) OF THIS SECTION].

11 \* **Sec. 7.** AS 45.65.040(d) is amended to read:

12 (d) Before issuing a permit **to a person** [FOR AN ARTICLE] under **(a) of** this  
 13 section, the council [OR THE IDENTIFICATION SEAL AGENT] shall determine  
 14 that the **person is eligible under AS 45.65.010(a) to obtain the identification seal**  
 15 **and that the** article **for which the person** is **applying for the permit is** eligible  
 16 **under AS 45.65.010(a)** for the identification seal.

17 \* **Sec. 8.** AS 45.65.040(e) is amended to read:

18 (e) **A person** [AN IDENTIFICATION SEAL AGENT] may report alleged  
 19 violations of AS 45.65.010 - 45.65.070 regarding identification seals to the council.

20 \* **Sec. 9.** AS 45.65 is amended by adding a new section to read:

21 **Sec. 45.65.055. Prohibited conduct.** An individual may not

22 (1) affix or attach the identification seal to an article that is not an  
 23 original article of authentic Alaska Native art created or crafted in the state;

24 (2) sell or offer for sale an article that has an identification seal affixed  
 25 or attached but that is not an original article of authentic Alaska Native art created or  
 26 crafted in the state; or

27 (3) alter, change, or counterfeit an identification seal.

28 \* **Sec. 10.** AS 45.65.060(a) is amended to read:

29 (a) A person who knowingly **violates AS 45.65.055** [OR WILFULLY  
 30 AFFIXES OR ATTACHES THE IDENTIFICATION SEAL PROVIDED FOR IN  
 31 AS 45.65.010 - 45.65.070 TO AN ARTICLE, KNOWING THAT IT IS NOT AN

1 AUTHENTIC NATIVE HANDICRAFT,] is guilty of a class B misdemeanor. **In this**  
 2 **subsection, "knowingly" has the meaning given in AS 11.81.900.**

3 \* **Sec. 11.** AS 45.65.060(c) is amended to read:

4 (c) A person who knowingly or wilfully alters, changes, or counterfeits an  
 5 [IDENTIFICATION SEAL OR] emblem is guilty of a class B misdemeanor.

6 \* **Sec. 12.** AS 45.65.070(1) is amended to read:

7 (1) "authentic **Alaska** Native **art** [HANDICRAFT]" means **a work of**  
 8 **art that is created or crafted** [AN ARTICLE MADE] in the state [WHICH IS  
 9 COMPOSED WHOLLY, OR IN SOME SIGNIFICANT RESPECT, OF NATURAL  
 10 MATERIALS, AND WHICH IS PRODUCED, DECORATED OR FASHIONED] by  
 11 an Alaska Native **person**;

12 \* **Sec. 13.** AS 45.65.070 is amended by adding new paragraphs to read:

13 (6) "Alaska Native person" means an individual who is a state resident  
 14 and who is an enrolled member of an Alaska tribe; in this paragraph, "state resident"  
 15 means an individual who is physically present in the state with the intent to remain  
 16 indefinitely in the state under the requirements of AS 01.10.055, or, if the individual is  
 17 not physically present in the state, intends to return to the state and remain indefinitely  
 18 in the state under the requirements of AS 01.10.055;

19 (7) "Alaska tribe" means an organized group or community in Alaska  
 20 that is an Indian tribe; in this paragraph, "Indian tribe" has the meaning given in 25  
 21 U.S.C. 450b(e) (Indian Self-Determination and Education Assistance Act);

22 (8) "identification seal" means the seal authorized by AS 45.65.010(a);

23 (9) "original" means new, unique, not a reproduction, and created or  
 24 crafted by one person without the use of mechanized duplication instruments,  
 25 electronic duplication instruments, or other devices or systems for copying large  
 26 numbers of articles, except that "original" includes etched prints, lithographic prints,  
 27 serigraphic prints, and prints from photographs, if the prints are made by hand by the  
 28 person who created or crafted the etched plate, etched drawing, etched design,  
 29 lithographic plate, lithographic stone, silkscreen, or photograph from which the prints  
 30 were made;

31 (10) "work of art" means a creation or crafting of

1 (A) a visual article, including a painting, a sculpture, a drawing,  
2 a mosaic, a photograph, an etching, a lithograph, and a serigraph;

3 (B) calligraphy;

4 (C) clay, textile, fiber, wood, metal, plastic, or glass, or a  
5 combination of these materials;

6 (D) traditional Alaska Native materials, including ivory, bone,  
7 grass, baleen, animal skins, wood, or furs; or

8 (E) a collage or combination of two or more of the categories  
9 identified in (A) - (D) of this paragraph.

10 \* **Sec. 14.** AS 45.65.040(b), 45.65.060(b), 45.65.060(f), and 45.65.070(5) are repealed.