



January 17, 2008

State-Tribal Relations Committee Meeting

**Prepared by: Dyani Bingham, Indian Art Market Development Manager
Montana Arts Council**

Overview

“Truth In Advertising” for Indian Made Arts and Crafts/Products

30-14-601. **Definitions.** As used in this part, the following definitions apply:

(1) "Imitation Indian arts or crafts articles" means those made by machine or made wholly out of synthetic or artificial materials or articles which are not made by Indian labor or workmanship.

(2) "Indian" means a person who is enrolled or who is a lineal descendant of one enrolled upon an enrollment listing of the bureau of Indian affairs or upon the enrollment listing of a recognized Indian tribe, domiciled in the United States.

History: En. Sec. 1, Ch. 42, L. 1967; R.C.M. 1947, 85-301.

30-14-602. **Articles to be designated and segregated.** A person may not distribute, sell, or offer for sale in this state any imitation American Indian arts or crafts articles unless the articles are at all times clearly and legibly designated as imitation. All imitation articles must be physically segregated from authentic Indian articles for display purposes. All imitation Indian arts or crafts articles must be displayed near a sign prominently and legibly designating the articles as imitation. History: En. Sec. 2, Ch. 42, L. 1967; amd. Sec. 1, Ch. 52, L. 1973; R.C.M. 1947, 85-302; amd. Sec. 1, Ch. 182, L. 1991.

Native Arts in Montana

- High percentage of American Indian Artists in Montana
- There is a need for an American Indian led effort to support our American Indian Artists in the state of Montana and to protect “Truth in Advertising”
- There is a need to define the contributions that Native Arts have made and are still making to the state of Montana:
 - Native Art of the past should be accessible and documented for Native Americans in Montana;
 - Native Art serves as a strong Cultural Preservation and Educational Tool in Montana Indian Communities;
 - The role of Native Arts in Economic Development on and off the reservations can flourish under the right conditions

- Marketing strategies specifically designed for Montana’s Indian Artists
- Professional Development and Marketing Tools for Indian Artists in Montana
- Education about the Importance of Native Art to General Public
- Native Art can serve as a key component in the beautification of Indian Communities
- Native Art can be used as a Healing Tool for At-Risk Youth & Adults

As we define the importance of Native Art in Montana, we could look to other states to see how they have used “Truth in Advertising” to build a program that directly supports Native Artists. It is imperative that we begin efforts that proactively protect “Truth in Advertising” for Native Artists in Montana and set standards that protect the authenticity of the Native Art in a way that adds value to the art and builds a solid foundation for Native Artists in the marketplace.

Ideally, it would be great to see the development of a Native led arts organization that could work in partnership with the Montana Arts Council to elevate Native Arts in Montana ~ The Land of Creativity. Like any movement, critical mass is key to success.

Example of Success

Silver Hand Program

The Silver Hand program protects the work of Alaska Native artists while guaranteeing the public that items bearing the Silver Hand identification seal were hand crafted in Alaska by an Alaska Eskimo, Aleut, or Indian craftsman or artist and made wholly or in significant part of natural materials.



An Alaska Native person who makes an authentic handicraft article in the state may obtain Silver Hand tags or labels to identify the article. ASCA provides identification labels for authentic Alaska Native handicraft to individual applicants. The label features a silver hand and the words, “Authentic Native Handicraft from Alaska”. The Silver Hand tags or labels may only be affixed to authentic Alaska Native handicrafts made by that individual while residing in the state.

The Silver Hand Permit holders are public record.

REQUIREMENTS

A permit to use Silver Hand identification will be issued to an Alaska Native who:

- (1) Applies to the Alaska State Council on the Arts;
- (2) Documents that the applicant is an Alaska Native with a blood quantum of ¼ or greater; documentation proving eligibility includes:
 - (A) United States Department of Interior, Bureau of Indian Affairs “Certificate of Indian Blood”;
 - (B) An official letter from a village or regional corporation established under 43 U.S.C.

- 1606-43 U.S.C. 1607 (Alaska Native Claims Settlement act of 1971, sec. 7 & 8; or
(C) An official letter from a village council or tribe in which the applicant is a member;
(3) Certifies on the application that the applicant will affix the Silver Hand identification only on a handicraft that was or will be made:
 (A) entirely by the applicant;
 (B) within this state; and
 (C) in whole or in significant part of natural materials.
(4) Copy of photo identification, i.e. State Drivers license, State identification card
(5) Is 18 years of age or older
(6) Is a full time resident of the state

UTILIZING SILVER HAND IDENTIFICATION

A permit holder may use the representation of the Silver Hand identification on catalogs, letterhead, business cards, in-store and other advertising, and for other similar purposes related to the permit holder's handicrafts. The permit holder may use a representative of the Silver Hand symbol only in advertising of that permit holder's handicrafts. The Silver Hand symbol or a representation of that symbol may not be:

- (A) used in a manner that is false or misleading.
- (B) Modified
- (C) incorporated into a business, company, or product logo or label.
- (D) sold as art or as a dominant feature of a handicraft unless approved by the ASCA Chair in writing. A permit holder may obtain 150 Silver Hand labels/tags annually from ASCA at no cost. Additional labels/tags may be purchased at ten cents per label or fifteen cents per tag. Contact ASCA for further information. To request your free supply of Silver Hand labels/tags for the second year, submit a written request to the Alaska State Council on the Arts for the quantity of tags or labels needed. The request must be signed by the permit holder.

DEFINITIONS

“Authentic Native handicraft”: an article made in the state, which is composed wholly, or in significant part, of natural materials, and which is produced, decorated or fashioned by an Alaska Native.

“Native”: a resident having not less than one-quarter Eskimo, Aleut, or Indian blood. (American Indians whose tribes are indigenous to other states are not eligible for this program.)

“Natural material”: material produced or existing in nature, not artificial or manufactured, and derived from lands, plants, animals or other natural resources.

“State resident” (AS43.23.095) means an individual who is physically present in the state with the intent to remain indefinitely in the state under the requirements of AS 1.10.055.

PENALTIES FOR MISUSE OF THE SILVER HAND IDENTIFICATION LABEL OR PERMIT

Sec. 45.65.060.

(a) A person who knowingly or willfully issues the document for or affixes or attaches the identification label provided for in this chapter to an article, knowing that it is not an authentic Native handicraft, is guilty of a class B misdemeanor.

(b) A person who knowingly or willfully sells or offers for sale an article with the label affixed or attached, knowing that it is not an authentic Native handicraft, is guilty of a class B misdemeanor.

(c) A person who knowingly or willfully alters, changes, or counterfeits an identification label or emblem, is guilty of a class B misdemeanor.

(d) A person who has been issued a permit under AS 45.65.030(a) is guilty of a class B misdemeanor if the person knowingly or willfully issues a permit for an article that is not an authentic Alaska Native Handicraft.

REVOCATION AND DEBARMENT

Sec. 3 AAC 58.075

(a) The permit of a person authorized to use the Silver Hand label or the Made in Alaska emblem or to act as an agent for either the Silver Hand or the Made in Alaska program who is convicted of an offense under AS 45.65.060 is automatically revoked on the date of the conviction.

(b) Any person who is convicted of an offense under AS 45.65.060 is barred from any further participation in either the Silver Hand or the Made in Alaska program.

(c) After notice and opportunity for hearing, the Council will, in the Council's discretion, revoke a permit for failure to comply with the requirements of AS 45.65.010 – 45.65.070 including the payment of fees, and this chapter.

A Native Arts Advisory Panel works closely with the Council and staff to provide better links with Native communities, to offer a Native perspective in ASCA's grant review process and provide advice and feedback on issues effecting Alaska Native artists. A full-time staff person manages the Native Arts Program and assists the Council and Native Arts Panel in supporting Alaska Native artists and organizations. ASCA took over management of the state Silver Hand Program in 1998 and an advisory committee is working with ASCA staff to improve the program to better serve artists.

ASCA coordinates frequent teleconferences with Alaska's statewide culture centers and provides funding assistance and training opportunities for culture center staff. The Council recently published a new handbook to give artists tools to get their work to the marketplace. Two-day marketing workshops have been scheduled at regional culture centers.

For more information:

Dyani Bingham, Indian Art Market Development Manager

16 Maier Road

Billings, MT 59103

406-259-4600

cell: 406-208-2389

fax: 406-259-8352

email: dyani_b@hotmail.com