

HOUSE BILL NO. 114

INTRODUCED BY G. KIPP III

BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE SALE OR OTHER COMMERCIAL TRANSACTION OF CULTURAL PATRIMONY AND SACRED OBJECTS; PROVIDING REQUIREMENTS TO ESTABLISH AN OBJECT AS CULTURAL PATRIMONY OR A SACRED OBJECT; PROVIDING A PENALTY; AND PROVIDING DEFINITIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Prohibition against sale or trade of cultural patrimony or sacred**

**object.** (1) A person may not purposely or knowingly buy, sell, exchange, distribute, market, or otherwise conduct a commercial transaction for profit that involves an object of cultural patrimony or a sacred object.

(2) For purposes of [sections 1 through 3], the following definitions apply:

(a) "Cultural patrimony" means an object:

(i) that has ongoing historical, traditional, or cultural importance central to an Indian tribe, group, or culture itself, rather than property owned by an individual; and

(ii) for which the duties as a caretaker are transferred through a ceremonial transfer.

(b) (i) "Sacred object" means a specific ceremonial object that is necessary to traditional Native American ~~religious~~ CEREMONIAL leaders for the practice of traditional Native American ~~religions~~ CEREMONIES by their present-day adherents and requires a ceremonial transfer to be transferred from one person to another.

(ii) The term does not include a LAND, WATER, OR ANY OTHER geographical feature.

(III) THE TERM DOES NOT INCLUDE A FISH OR WILDLIFE SPECIES OR ANY PORTION OF A FISH OR WILDLIFE SPECIES LEGALLY TAKEN PURSUANT TO THE LAWS OF THIS STATE, ANY OTHER STATE, THE UNITED STATES, OR ANY FEDERALLY RECOGNIZED INDIAN TRIBE.

**NEW SECTION. Section 2. Establishment of object as cultural patrimony or sacred object.** An

object may be established as an object of cultural patrimony or a sacred object by obtaining evidence of the history and nature of the object from:



- 1 (1) an Indian tribe or group that can show that the object of cultural patrimony was owned or controlled
- 2 by the tribe or group;
- 3 (2) a direct lineal descendant of an individual who owned the sacred object;
- 4 (3) an Indian tribe or group that can show that the sacred object was owned or controlled by a member
- 5 of that tribe or group; or
- 6 (4) an Indian tribe or group that can show that the object of cultural patrimony or the sacred object
- 7 transferred through a ceremonial transfer.

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9 **NEW SECTION. Section 3. Criminal penalty.** A person who violates [section 1] is guilty of a

10 misdemeanor and on conviction shall be fined an amount equal to the value of the object or be imprisoned in the

11 county jail for not more than 6 months, or both.

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13 **NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a

14 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell

15 Chippewa tribe.

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17 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified

18 as an integral part of Title 22, chapter 3, and the provisions of Title 22, chapter 3, apply to [sections 1 through 3].

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