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State-Tribal Relations Committee

60th Montana Legislature

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DAWN FIELD, Secretary

April 15, 2008

State Tribal Leader

Dear State Tribal Leader:

The State-Tribal Relations Committee of the Montana Legislature discussed at its January meeting concerns about false representation by artists claiming Indian heritage. Federal and state law both regulate truth in advertising for Indian arts and crafts. Federal law defines Indian for purposes of the Indian Arts and Crafts Act of 1990 as:

any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

In the discussions at the January meeting, the committee suggested getting input from tribes regarding any action the tribes might want regarding state legislation to extend the definition in state law to include a person who is certified as an Indian artisan by an Indian tribe or further define Indian under the act regulating sale of imitation Indian articles. The current state definition for purposes of the regulation of sales of imitation Indian articles is:

30-14-601(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.

The questions raised during the January discussions include:

- Is your tribe interested in further defining Indian to allow sales by descendants certified by a tribe who may not be an enrolled member but may have linear descendancy?
- Does your tribe want to put a limitation on the lineal descendant to reflect a lineal descendent of someone currently enrolled or enrolled as of a date put into law?
- Is your tribe interested in authorization of a design parallel to the Made-in-Montana brand for specific tribes or would you rather use the federal law that indicates that the Secretary of the Interior on behalf of the Indian Arts and Crafts Board is:
to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts and crafts organization....

The State-Tribal Relations Committee has 2 meetings remaining: June 23-24 and August 21. Please send a response, if you are interested in addressing this issue, to committee staff, Pat Murdo, by June 6 at the address above. Thank you for your attention to this matter.

Sincerely,

Sen. Frank Smith, presiding officer, State-Tribal Relations Committee