S. 3127

To amend title 18, United States Code, to enhance protections of Native American cultural objects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 6, 2016

Mr. HEINRICH (for himself, Mr. UDALL, and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend title 18, United States Code, to enhance protections of Native American cultural objects, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Safeguard Tribal Ob-
5 jects of Patrimony Act of 2016”.

SEC. 2. ENHANCED PROTECTIONS FOR NATIVE AMERICAN CULTURAL OBJECTS.

(a) Enhanced Penalties.—Section 1170 of title 18, United States Code, is amended by striking “5 years” each place it appears and inserting “10 years”.

(b) Prohibition of Exporting Native American Cultural Objects.—Chapter 53 of title 18, United States Code, is amended by adding at the end the following:

“§ 1171. Illegal exportation of Native American cultural objects

“(a) Definition of Native American Cultural Object.—In this section, the term ‘Native American cultural object’ means any Native American (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001))—

“(1) cultural items, as defined in that section;

“(2) archaeological resource, as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb); or

“(3) object of antiquity protected under section 1866(b).

“(b) Prohibition.—It shall be unlawful for any person to knowingly export or otherwise transport from the United States any Native American cultural object obtained in violation of—
“(1) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

“(2) section 1170;

“(3) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.); or

“(4) section 1866(b).

“(c) PENALTY.—Any person who violates subsection (b) shall—

“(1) in the case of a first violation under this section, be fined under this title, imprisoned for not more than 1 year, or both; and

“(2) in the case of a second or subsequent violation under this section, be fined under this title, imprisoned for not more than 10 years, or both.”.

“(c) Private Repatriation of Native American Cultural Objects.—Chapter 53 of title 18, United States Code (as amended by subsection (b)), is amended by adding at the end the following:

“§ 1172. Private repatriation of Native American cultural objects

“(a) IN GENERAL.—Except as provided in subsection (b), if a person voluntarily repatriates to the appropriate Indian tribe or Native Hawaiian organization by not later than 2 years after the date of enactment of this section, all of the Native American cultural objects (as defined in
section 1171(a)) in the possession of the person, that person shall be immune from criminal prosecution under this title, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), or any other related law with respect to the returned Native American cultural objects.

“(b) EXCEPTION.—Subsection (a) shall not apply if the person repatriates the Native American cultural objects on a date that is after the date on which an active investigation or prosecution of the person relating to the Native American cultural objects is initiated.”.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 18, United States Code, is amended by adding at the end the following:

“1171. Illegal exportation of Native American cultural objects.
“1172. Private repatriation of Native American cultural objects.”.

SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.

(a) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(2) NATIVE AMERICAN CULTURAL OBJECT.—The term “Native American cultural object” has the meaning given the term in section 1171(a) of title 18, United States Code.
(3) Native Hawaiian organization.—The term “Native Hawaiian organization” has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(b) Submission.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States, after collecting information from the Attorney General, the Secretary of the Interior, and the Secretary of State, and meeting, as appropriate, with Indian tribes and Native Hawaiian organizations, shall submit the report described in subsection (c) to—

(1) the Committee on Indian Affairs of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(c) Report described.—The report submitted under subsection (b) shall include a description of—

(1) an estimate of the number of Native American cultural objects illegally trafficked in the United States and foreign markets;

(2) the extent to which the Attorney General has prosecuted, under section 1170 of title 18, United States Code, the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.),
section 1866(b) of title 18, United States Code, or any other related law, cases of trafficking in—

(A) the human remains of a Native Amer-

ican (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)); or

(B) other Native American cultural ob-

jects; and

(3) recommendations for actions the Attorney General, the Secretary of State, and the Secretary of the Interior can take—

(A) to eliminate illegal commerce in Native American cultural objects in the United States and foreign markets; and

(B) to secure the repatriation to Indian tribes and Native Hawaiian organizations of Native American cultural objects that have been illegally removed or trafficked in violation of—

(i) section 1170(b) of title 18, United States Code;

(ii) the Archaeological Resources Pro-
tection Act of 1979 (16 U.S.C. 470aa et seq.); or

(iii) section 1866(b) of title 18, United States Code.
(d) **TRIBAL WORKING GROUP.**—The Secretary of the Interior shall facilitate the convention of a tribal working group composed of representatives of Indian tribes and Native Hawaiian organizations, the Department of Justice, the Department of the Interior, the Department of Homeland Security, and the Department of State—

(1) to provide an opportunity for Indian tribes and Native Hawaiian organizations to contribute information to the Attorney General, the Secretary of the Interior, and the Secretary of State during the preparation of the report described in subsection (c); and

(2) to advise the Attorney General, the Secretary of the Interior, and the Secretary of State on methods for implementing recommendations included in the report described in subsection (c).