

Public Law 96-277
96th Congress

An Act

June 17, 1980
[H.R. 3979]

To repeal and amend certain laws regulating trade between Indians and certain Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 437 of title 18, United States Code, is amended to read as follows:

18 USC 437.

Fines and imprisonment.

“§437. Federal employees contracting or trading with Indians

“(a) Except as provided in subsection (b), whoever, being an officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service has (other than as a lawful representative of the United States) any interest, in such officer, employee, or agent’s name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interest—

“(1) in any contract made or under negotiation with any Indian, for the purchase or transportation or delivery of goods or supplies for any Indian, or

“(2) in any purchase or sale of any service or real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more than \$5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

Rules permitting sale of property.

“(b)(1) Notwithstanding the provisions of subsection (a) and in accordance with paragraph (2) of this subsection, the President or his designee may prescribe rules and regulations under which any officer, employee, or agent of the Bureau of Indian Affairs or of the Indian Health Service may purchase from or sell to any Indian any service or any real or personal property or any interest therein.

“(2) No rule or regulation prescribed pursuant to paragraph (1) of this subsection shall permit any officer, employee, or agent referred to in that paragraph—

“(A) to make any purchase from or sale to an Indian of any real or personal property (or any interest therein) for the purpose of commercially selling, reselling, trading, or bartering such property; or

“(B) to have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau of Indian Affairs or the Indian Health Service, if such officer, employee, or agent is employed in the office or installation of such Bureau or Service which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States: *Provided*, That such officer, employee, or agent may have such an interest if such purchase or sale is approved by the Secretary of the Interior in the case of a

Bureau of Indian Affairs officer, employee, or agent, or by the Secretary of Health, Education, and Welfare in the case of an Indian Health Service officer, employee, or agent, or a designee of such Secretary who is not employed at such office or installation: *Provided further*, That (1) any such designee may not be a relative by blood or marriage of the officer, employee, or agent engaging in such purchase or sale; (2) with respect to purchases or sales by any officer, employee, or agent employed at the reservation, agency, or service unit level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office or at an area office installation other than that with authority over such reservation, agency, or service unit; (3) with respect to purchases or sales by any officer, employee, or agent employed at the area office level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office; and (4) the Secretary must approve purchases or sales by any officer, employee, or agent employed at the Washington, District of Columbia, central office; or

“(C) to acquire any interest in property held in trust, or subject to restriction against alienation imposed, by the United States unless the conveyance or granting of such interest in such property is otherwise authorized by law.

“(c) Except as provided in subsection (b)(2), nothing contained in this section shall be construed as preventing any officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such officer, employee, or agent who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or their designee shall prescribe.

“(d) For purposes of this section, the term ‘Indian’ means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land.

“(e) For purposes of this section, the term ‘Bureau of Indian Affairs’ means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.”

SEC. 2. Section 2078 of the Revised Statutes (25 U.S.C. 68) and the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a and 441), are hereby repealed.

SEC. 3. The Secretary of the Interior may review any transaction, other than one involving the sale of property held in trust or subject to a restriction against alienation imposed by the United States, occurring prior to the effective date of this Act and, if the Secretary finds that such transaction would have been valid had the provisions of this Act been in effect at the time of such transaction, the

Indian benefit entitlement.

“Indian.”

“Bureau of Indian Affairs.”

Repeals.
25 USC 87a.

Validity of transaction, declaration by Secretary of Interior.
18 USC 437 note.

Secretary may declare such transaction to be valid, subject to all valid transactions subsequent to such time. The Secretary may issue or execute such documents as may be necessary or desirable to evidence the validity of such a transaction. A declaration of validity of a transaction pursuant to this section shall be conclusive evidence of such validity notwithstanding the provisions of section 437 of title 18, United States Code; section 2078 of the Revised Statutes; section 14 of the Act of June 30, 1834 (4 Stat. 738); and section 10 of the Act of June 22, 1874 (18 Stat. 177), which may have been in effect at the time of such transaction.

Ante, p. 544, 25
USC 68.

Effective date.
18 USC 437 note.

Wa-He-Lute
Indian School,
tract of land.

SEC. 4. The provisions of this Act shall take effect sixty days after the date of enactment of this Act.

SEC. 5. (a) On and after the effective date of this Act, the following tract of land shall be held by the Secretary of the Interior for the Wa-He-Lute Indian School for its use as an Indian school and community center for educational or cultural purposes:

Part of Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, described more particularly as follows: Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, except excluding that portion which begins at the northeast corner of the William Packwood Donation Claim Numbered 37, thence south along the east line of said claim, 655 feet to the point of beginning, thence south 655 feet; thence east 420 feet; thence north 655 feet; thence west 420 feet to place of beginning; all in section 8, township 18 north, range 1 east, Willamette meridian, except including a strip of land 0.7 foot in width, lying along the north boundary of said excluded tract, acquired by the United States of America on February 23, 1942, by Declaration of Taking filed in United States District Court, Western District of Washington, Southern Division.

Title to land.

(b) Title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land for the Wa-He-Lute Indian School so long as it is used for any of the above-mentioned purposes. At such time as the land ceases to be used for the above purposes, title thereto shall be taken in trust for the benefit of Willy Frank, Nisqually Enrollee No. 19 (November 8, 1976), or his heirs.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-653 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-629 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 27, considered and passed House.

Vol. 126 (1980): Mar. 19 considered and passed Senate, amended.

June 9, House concurred in Senate amendments Nos. 1 through

17 and concurred in Senate amendment No. 18 with amendments.

June 12, Senate concurred in House amendments.