

California Indian Burial Laws

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CALIFORNIA

Citation: California Native American Historical, Cultural and Sacred Sites Act (California Public Resource Code, Â§5097.9); Archaeological, Paleontological and Historic Sites (California Public Resource Code, Â§5097, et seq.); Health and Safety (California Public Resource Code, Â§7050.5)

Date Enacted: 1976; amended 1982

Summary: The California Native American Historical, Cultural and Sacred Sites Act applies to both state and private lands. Upon discovery of human remains, the activity ceases and the county coroner is notified. If the remains are of a Native American, the coroner notifies the Native American Heritage Commission (NAHC). NAHC then notifies those persons mostly likely to be descended from the Native American remains. The descendants may, with the permission of private landowners, inspect the site and recommend to the owner or the person responsible for the excavation means for treating or disposing of the remains and associated grave goods. The descendants must complete their inspection and make recommendations within 24 hours of their notification by the NAHC. The recommendation may include scientific removal and non-destructive analysis. When the NAHC is unable to identify a descendant or the identified descendant fails to make a recommendation, or the landowner objects to the descendants' recommendations and mediation was unsuccessful, the landowner shall reinter the human remains and associated items with appropriate dignity. The Commission is directed to prepare an inventory of Native American sacred places on public lands. It is illegal for anyone to knowingly or willfully possess or obtain any Native American artifacts or human remains from a Native American grave or cairn after January 1, 1988. Any person who removes, without authority of law, Native American artifacts or human remains from a Native American grave or cairn with the intent to sell or dissect is guilty of a felony punishable by imprisonment in the state prison.

Jurisdiction: Human remains and grave goods found on state and private lands.

Statute of Limitations: Not specified.

Areas Covered Under Act: All burials and associated remains located on state and private lands.

Ownership: Not specified.

Review/Consultation Committee: The Native American Heritage Commission must be notified.

Liable: Anyone who knowingly or willfully possess or obtain any Native American artifacts or human remains which were taken from a Native American grave or cairn after January 1, 1988 except as otherwise provided by law.

Penalties: It is a felony for any person to remove, without authority of law, any Native American artifact or human remains is liable. Fines of up to \$10,000 may be assessed.

Exemptions: Not specified.

Permitting: Permission is required for archaeological excavation on public lands by the agency with jurisdiction.

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