

Delaware Indian Burial Laws

Friday, 26 February 2010 17:34

DELAWARE

Citation: Archaeological Excavation (Delaware Code Ann. Title 7 Â§5403, et seq.)

Date Enacted: 1987

Summary: The law deals specifically with treatment of unmarked human burials and human skeletal remains located anywhere in the state except federal lands. Its intent is to protect unmarked human remains from construction, agriculture and other ground disturbing activities. A review committee is established. Upon discovery of any unmarked human remains including from agricultural practices, the activity ceases and the medical examiner is notified. If the medical examiner decides the remains are not from criminal action, they are referred to the State Archaeologist. If the remains are Native American, the review committee is notified within five days. Within 60 days of notification, a written plan for treatment and disposition of the remains must be completed: treatment of shall be determined by the next of kin or the committee. Native American remains will be reinterred within 90 days unless an extension is granted by the committee. Human remains located as a result of archaeological investigation are reported to the Director of the Division of Historical and Cultural Affairs. Reinterment cost will be paid by the next of kin. It is illegal to acquire, sell or exhibit any human remains. Fines of not less than \$1,000 or more than \$10,000 and prison for up to two years or both will result if the law is violated.

Jurisdiction: All state and private lands excluding federal lands.

Statute of Limitations: Not specified.

Areas Covered Under Act: Unmarked burials and skeletal remains are covered; the law does not deal specifically with grave goods.

Ownership: Not specified.

Review/Consultation Committee: A review committee composed of the Chief of the Nanticoke Indian Tribe, two members appointed by the Chief, the Director of the Division of Historical and Cultural Affairs, 2 members appointed by the Director, and a member of the general public appointed by the Governor is established.

Liable: Any person who knowingly acquires, sells or exhibits human skeletal remains removed from unmarked burials in Delaware.

Penalties: Violations of the law will result in fines of \$1,000 to \$10,000 and/or up to two years in jail.

Exemptions: It is not illegal to possess human remains acquired through biological supply houses or medical schools; human remains within the jurisdiction of the medical examiner; or human remains acquired through archaeological excavations under the supervision of a professional archaeologists.

Permitting: Division of Historic and Cultural Affairs issues permits.

Last Updated on Monday, 05 July 2010 17:26