

North Carolina Indian Burial Laws

Friday, 26 February 2010 17:51

NORTH CAROLINA

Citation: Unmarked Human Burial and Unmarked Human Skeletal Remains Protection (NC Gen. Stat. Â§70-26-41).

Date Enacted: 1981

Summary: The statute deals with human remains. Article one, encourages private land owners to avoid excavation or destruction of Indian relics, artifacts, mounds or burial grounds. Any person in charge of construction or excavation on state lands or from a public agency, institution, county or municipality is responsible for reporting and preserving Indian relics, artifacts, mounds or burial grounds discovered. Permits are issued by the Department of Cultural Resources. If harm to or destruction of any religious or cultural site will occur, the Department notifies and consults with appropriate religious or cultural group including the NC Commission on Indian Affairs, who consults with the Eastern Band of Cherokee or other appropriate tribal groups or communities. If human skeletal remains are uncovered during archaeological investigation, the archaeologist bears the cost of reinterment. Any person who knows that unmarked human burials are being destroyed, defaced or damaged immediately will notify the medical examiner. If the remains are uncovered from construction or agricultural activity, the activity ceases immediately and will not resume without authorization of either the medical examiner or the chief archaeologist. If the remains are encountered by a professional archaeologist, they may be excavated after notification to the chief archaeologist, who notifies the chief medical examiner.

If remains are discovered by anyone other than a professional archaeologist, the medical examiner is contacted and determines as soon as possible whether the remains are subject of a crime. If not, the medical examiner notifies the chief medical examiner who has 48 hours to make arrangements with the landowner for the protection or removal of unmarked human graves on private lands. If agreement is reached for excavation, a professional archaeologist will determine the cultural or biological characteristics within two business days after removal of the burial. The chief archaeologist notifies the Executive Director of the NC Commission on Indian Affairs who notifies and consults with the Eastern Band of the Cherokee or other appropriate tribal groups or communities if the remains are Indian. Within four weeks of notification, the Executive Director notifies the chief archaeologist of the Commission's and tribal groups' concerns regarding the treatment and disposition of the remains. Within 90 days of receipt of these concerns, the chief archaeologist and Executive Director with approval of tribal officials will prepare a written agreement on the disposition including designation of qualified skeletal analyst, type of analysis and period of time for analysis, timetable for written progress reports, plan for the ultimate disposition of the Native American remains subsequent to completion of adequate skeletal analysis. If no agreement is reached, the Archaeological Advisory Committee will determine the terms. The tribal group may provide a suitable burial location: if they do not, the NC Commission of Indian Affairs will provide a location. The cost of transporting the remains to the reburial location is paid by the party conducting the excavation. The reburial ceremony may be provided by the appropriate tribal groups, if they elect not to, the ceremony will be paid by the Commission on Indian Affairs. If the remains are other than Native American, a newspaper notice will be published for four weeks. If next of kin are located, the chief archaeologist has 90 days to develop a written agreement on the treatment and disposition of the remains. If no agreement is reached, the remains will be dealt with

according to the wishes of the next of kin. If the non-Native American human remains have no next of kin, the chief archaeologist will permanently curate the remains according to standard museum procedures after adequate skeletal analysis.

Jurisdiction: All public and private lands in North Carolina.

Statute of Limitations: Not specified.

Areas Covered Under Act: Indian relics, artifacts, mounds or burial grounds, graves and human skeletal remains are protected.

Ownership: Not specified.

Review/Consultation Committee: The NC Commission on Indian Affairs is the primary point of consultation. The Commission notifies and consults with the Eastern Band of the Cherokee or other appropriate tribal groups or communities.

Liability: Any person who knowingly acquires, exhibits, sells or retains human skeletal removed from unmarked graves.

Penalties: Failure to notify authorities of discovery is a misdemeanor with up to two years in jail and fines at the discretion of the court. Disturbing burials in violation of the Act is a Class H felony.

Exemptions: Human skeletal remains acquired from commercial biological supply houses or through medical means and remains determined to be within the jurisdiction of the medical examiner.

Permitting: Permits are issued for archaeological excavation by the NC Department of Cultural Resources.