

Oregon Indian Burial Laws

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OREGON

Citation: Indian Graves and Protected Objects (Or. Rev. Stat. Â§97.740 to Â§97.760); Archaeological Objects and Sites (Or. Rev. Stat. Â§358.905 to Â§358.955).

Date Enacted: 1981

Summary: The law states that no person will willfully remove, mutilate, deface, injure or destroy any cairn or grave of any Native American. Anyone who inadvertently disturbs a native Indian grave, including by construction, mining, logging or agricultural activity, will at their own expense reinter the human remains under the supervision of the appropriate Indian tribe. It is illegal to possess any native Indian artifacts or human remains taken from a native Indian cairn or grave on or after October 3, 1979. It is illegal to publicly display or exhibit native Indian human remains or sell any native Indian artifacts or human remains taken from any native Indian cairn or grave. The law does not apply to possession or sale of native Indian artifacts from sources other than native Indian cairns or graves or artifacts removed from cairns or graves by other than human sources. Any discovered remains suspected to be native Indian shall be reported to the state police, the State Historic Preservation Officer, the appropriate Indian tribe, and the Commission on Indian Services. A professional archaeologist may excavate a native Indian cairn or grave and remove material objects and human remains, if it is necessary to protect the burial from imminent destruction. Any person who disturbs native Indian remains or a funerary object at or associated with an archaeological site shall reinter at their own expense those remains or objects under the supervision of an Indian tribe. Written consent of the appropriate Indian tribe in the vicinity is required, as is written notification to the State Historic Preservation Officer, prior to excavation. Failure by the tribe to respond within 30 days will be deemed consent. All material objects and human remains removed during an excavation, following scientific study, will be reinterred at the archaeologist's expense under the supervision of the Indian tribe. Indian tribes are those that are recognized by the Secretary of the Interior, listed in the Klamath Termination Act or listed in the Western Oregon Indian Termination Act.

Jurisdiction: All native Indian cairns, graves and burials on lands in Oregon.

Statute of Limitations: Civil action must be brought within two years of the discovery of the violation.

Areas Covered Under Act: Only native Indian cairns and burials and the human remains and grave goods within them.

Ownership: Not specified.

Review/Consultation Committee: Consultation with Indian tribe in the vicinity of the action is mandated.

Liable: Anyone who knowingly violates the law by willfully removing, mutilating, defacing, injuring or destroying any cairn or grave of any Native American. It is illegal to possess any native Indian artifacts or human remains taken from a native Indian cairn or grave on or after October 3, 1979. It is illegal to publicly display or exhibit native Indian human remains, sell any native Indian artifacts or human remains taken from any native Indian cairn or grave.

Penalties: Civil penalties are the most common penalty for violations. Criminal action may be filed using general criminal penalty statutes.

Exemptions: The law does not apply to possession or sale of native Indian artifacts from sources

other than native Indian cairns or graves or artifacts removed from cairns or graves by other than human sources.

Permitting: The SHPO in consultation with the appropriate Indian tribe will issue permission for a professional archaeologist to excavate a native Indian cairn or grave if the burial is in imminent danger of destruction.