

## **South Carolina Indian Burial Laws**

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### **SOUTH CAROLINA**

**Citation:** South Carolina Cemetery Act (S.C. Code Ann. 39-55-15 to 39-55-305); Underwater Antiquities Act (Code of Laws SC, Title 54-7-610, et seq.).

**Date Enacted:** Cemeteries Act, 1984; Underwater Antiquities, 1991

**Summary:** Although there is no South Carolina law specifically singling out Native American burials on terrestrial areas, these burials are covered and protected under laws covering all burials regardless of age, race, culture, religion, etc. Public cemeteries cannot be established or operate unless licensed by the South Carolina Cemetery Board. Removal of the dead can only be countenanced in exceptional circumstances, determined by the governing body of the county or municipality in which the burying ground is located. Relatives of deceased persons, if known, must be given 30 days' notice privately. If relatives cannot be determined 30 days' notice must be published in a newspaper of general circulation. The new location must be agreeable to the governing body and relatives of the deceased. If an agreement cannot be reached a board of three members shall be appointed to resolve the dispute. Costs for removal must be borne by the person seeking removal. Any person who willfully disturbs or desecrates human remains is guilty of a felony, punishable by one to ten years in prison, and no more than a \$2,000 fine.

Section 820(c) of the Underwater Antiquities Act deals with discovery of human remains or gravesite as part of a shipwreck. If such remains are encountered as part of a licensed excavation, the activity ceases until the State Archaeologist or State Underwater Archaeologist can investigate the site. The state may remove the human remains for study or reburial. South Carolina claims jurisdiction to all Paleontological, archaeological and historic submerged cultural resource sin a shipwreck. Terrestrial site protection and management is placed in the Institute of Archaeology and Anthropology and the Department of Parks, Recreation and Tourism. No provisions are outlined for consolation with Native Americans or steps to follow when undocumented human remains are encouraged during terrestrial projects.

**Jurisdiction:** All state lands and waters.

**Statute of Limitations:** Not specified.

**Areas Covered Under Act:** Human graves including those in shipwrecks.

**Ownership:** Not specified.

**Review/Consultation Committee:** Not specified.

**Liable:** Anyone who disturbs a site without a permit.

**Penalties:** Prison from one to 10 years and fines up to \$2,000 for violation of the cemeteries law.

**Exemptions:** Not specified.

**Permitting:** The South Carolina State Archaeologist issues excavation permits.