

Utah Indian Burial Laws

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UTAH

Citation: NAGPRA (Ut Code Ann. Â§9-9-401, et seq.).

Date Enacted: 1992

Summary: Utah's law is very similar to the federal Native American Graves Protection and Repatriation Act. It protects burial sites on state and private lands that have human remains. The ownership or control of Native American remains that are excavated or discovered on state lands are turned over to the lineal descendants of the Native Americans, if practicable, or to the Indian tribe that has the closest cultural affiliation with the remains and states a claim for the remains. If the tribe with closest cultural affiliation cannot be ascertained the tribe that is recognized as aboriginally occupying the area in which the remains are discovered, if a claim is filed. Unclaimed remains will be disposed in consultation with Native American groups and other interested organizations. The intentional removal or excavation of Native American remains from state lands may be permitted, only if the remains are excavated or removed under the terms established in a permit and remains from private lands are excavated with the written consent of the landowner. If remains are discovered inadvertently during construction, agriculture, mining, etc, the activity ceases and the state agency with primary management responsibility is notified until experts can determine cultural affiliation. Scientific study for up to 90 days may be done with approval of owner (descendant, tribal group or aboriginal tribe). In cases with conflicting ownership claims, the state agency will retain the remains until a court decision is made.

Any person who knowingly sells, purchases, uses for profit, or transports for sale the remains of a Native American is guilty of a Class A misdemeanor. A second or third offense is guilty of a third degree felony. A seven-member Native American Review Committee monitors the identification process, reviews any finding related to the identity or cultural affiliation of remains or their return, facilitates the resolution of disputes between tribes, lineal descendants, and state agencies relating to the return of remains, consults with Indian tribes, and makes recommendations, if appropriate, regarding future care of remains that are to be repatriated. Any person who discovers any archeological resources on lands controlled by the state, its subdivisions, or private lands shall promptly report the discovery to the appropriate state agency.

Jurisdiction: All state and private lands.

Statute of Limitations: Not specified.

Areas Covered Under Act: Unmarked graves on state and private lands.

Ownership: State agency with jurisdiction for the land.

Review/Consultation Committee: Native American Remains Review Committee is established and must be consulted.

Liable: Anyone who knowing sells, buys, uses for profit or transports for sale Native American remains without the right of possession is guilty of a Class A misdemeanor.

Penalties: All fines and imprisonment in the criminal code associated with a Class A misdemeanor.

Exemptions: Not specified.

Permitting: Division of State History issues excavation permits.

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