

West Virginia Indian Burial Laws

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WEST VIRGINIA

Citation: Protection of Human Skeletal Remains, Grave Artifacts and Grave Markers (WV Code Â§29-1- 8a, et seq).

Date Enacted: 1991

Summary: The statute deals with all human skeletal remains, unmarked graves and human burials, grave artifacts and grave markers on private or public lands without reference to ethnic origin, cultural background or religious affiliation. No person may excavate, remove, destroy or disturb any prehistoric or historic ruins, burial grounds, archaeological site or human skeletal remains, unmarked grave, grave artifact or grave marker of historical significance unless a valid permit has issued by the Director of Archives and History. An archaeologist conducting work in compliance with federal law is not required to obtain a permit but must notify the director that an investigation is being undertaken. Anyone who either himself or through an agent, intentionally excavates, removes, destroys or otherwise disturbs any protected resource without a valid permit or who fails to comply with the terms and conditions of a permit, is guilty of a misdemeanor with fines of \$100 to \$500 and imprisonment for ten days or to six months, or both. A person who intentionally excavates, removes, destroys or otherwise disturbs human skeletal remains of historical significance without a permit or who fails to comply with the terms and conditions relating to disinterment of human skeletal remains is guilty of a felony. A person who intentionally withholds information about the excavation, removal, destruction or other disturbance of historic or prehistoric remains is guilty of a misdemeanor with fines not more than \$100 and imprisonment of not more than ten days. A person who offers for sale or exchange any human skeletal remains, grave artifact or grave maker is guilty of a misdemeanor with fines of \$1,000 to \$5,000 and imprisonment for six months to one year.

Should an unmarked grave be discovered on private or public land, the county sheriff is notified within 48 hours. The sheriff notifies the Director of Archives and History if the remains appear to be from an unmarked grave. The Director performs an on-site investigation to determine the archaeological significance. If there is no archaeological significance, the removal, transfer and disposition of the remains will take place. If the remains are of archaeological significance, appropriate private and public organizations will be consulted. A permit for the archaeological excavation of the remains may be issued and will include direction for respectful treatment of the remains, need for any scientific analysis, or reburial after consultation with any descendants. A final report must be submitted upon completion of the excavation. Private land owners must give written consent to the Director for excavation on privately owned land. All human skeletal remains and grave artifact found in unmarked graves on public or private lands and not subject to reburial are held in trust for the people of West Virginia and will be maintained with dignity and respect.

Jurisdiction: All private or public lands in West Virginia.

Statute of Limitations: Not specified.

Areas Covered Under Act: All human skeletal remains, unmarked graves and human burials, grave artifacts and grave markers are protected.

Ownership: People of West Virginia.

Review/Consultation Committee: The Director of Archives and History will consult with public and

private organizations but no specific Native American review committee is established.

Liability: No person may excavate, remove, destroy or otherwise disturb any prehistoric or historic ruins, burial grounds, archaeological site or human skeletal remains, unmarked grave, grave artifact or grave marker of historical significance.

Penalties: Excavation, removal, etc. of human remains without a permit is a felony with prison between two and five years. Sale of human skeletal remains, grave artifacts or grave makers is a misdemeanor with fines of \$1,000 to \$5,000 and prison for six months to one year. Civil penalties may include forfeiture of any and all equipment, cost of restoration of the site, and data recovery. The state offers up to \$1,000 in rewards for information leading to arrest and conviction of violators.

Exemptions: Persons with valid permits issued by the Director of Archives and History are exempt. Archaeologists conducting work compliance with Federal laws are exempted.

Permitting: Permits for archaeological excavation of human remains or unmarked burials are issued by the Director of Archives and History.

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