
HOUSE BILL 1924

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53rd Legislature

1993 Regular Session

By Representatives Ogden, Jacobsen, Wood, Shin, Casada, Kessler, Flemming and J. Kohl

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1 AN ACT Relating to historic preservation; amending RCW 27.53.060,
2 27.53.070, 27.53.080, and 68.60.030; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 27.53.060 and 1989 c 44 s 7 are each amended to read
5 as follows:

6 (1) On the private and public lands of this state it shall be
7 unlawful for any person, firm, corporation, or any agency or
8 institution of the state or a political subdivision thereof to
9 knowingly remove, alter, dig into, or excavate by use of any
10 mechanical, hydraulic, or other means, or to damage, deface, or destroy
11 any historic or prehistoric archaeological resource or site, or remove
12 any archaeological object from such site, except for Indian graves or
13 cairns, or any glyptic or painted record of any tribe or peoples, or
14 historic graves as defined in chapter 68.05 RCW(~~(, disturbances of~~
15 ~~which shall be a class C felony punishable under chapter 9A.20 RCW,)~~)
16 without having obtained a written permit from the director for such
17 activities. A violation of this subsection shall be a class C felony
18 punishable under chapter 9A.20 RCW.

1 (2) The director must obtain the consent of the private or public
2 property owner or agency responsible for the management thereof, prior
3 to issuance of the permit. The property owner or agency responsible
4 for the management of such land may condition its consent on the
5 execution of a separate agreement, lease, or other real property
6 conveyance with the applicant as may be necessary to carry out the
7 legal rights or duties of the public property landowner or agency. The
8 director, in consultation with the affected tribes, shall develop
9 guidelines for the issuance and processing of permits. Such written
10 permit and any agreement or lease or other conveyance required by any
11 public property owner or agency responsible for management of such land
12 shall be physically present while any such activity is being conducted.
13 The provisions of this section shall not apply to the removal of
14 artifacts found exposed on the surface of the ground which are not
15 historic archaeological resources or sites. The department shall, by
16 rule, establish penalties for violating permits issued under this
17 chapter, including but not limited to, fines and the denial of future
18 permit applications.

19 **Sec. 2.** RCW 27.53.070 and 1975-'76 2nd ex.s. c 82 s 3 are each
20 amended to read as follows:

21 It is the declared intention of the legislature that field
22 investigations on privately owned lands should be discouraged except in
23 accordance with both the provisions and spirit of this chapter and
24 persons having knowledge of the location of archaeological sites or
25 resources are encouraged to communicate such information to the
26 (~~Washington archaeological research center~~) director. Such
27 information shall not constitute a public record which requires
28 disclosure pursuant to the exception authorized in RCW 42.17.310(~~(, as~~
29 ~~now or hereafter amended,)~~) to avoid site depredation.

30 **Sec. 3.** RCW 27.53.080 and 1986 c 266 s 19 are each amended to read
31 as follows:

32 Qualified or professional archaeologists, in performance of their
33 duties, are hereby authorized to enter upon public lands of the state
34 of Washington and its political subdivisions, at such times and in such
35 manner as not to interfere with the normal management thereof, for the
36 purposes of doing archaeological resource location and evaluation
37 studies, including site sampling activities. Scientific excavations

1 are to be carried out only after appropriate agreement has been made
2 between a professional archaeologist or an institution of higher
3 education and the agency or political subdivision responsible for such
4 lands. Notice of such agreement shall be filed with the (~~Washington~~
5 ~~archaeological research center and by them to the department~~)
6 director. Amateur societies may engage in such activities by
7 submitting and having approved by the responsible agency or political
8 subdivision a written proposal detailing the scope and duration of the
9 activity. (~~Before approval, a proposal from an amateur society shall~~
10 ~~be submitted to the Washington archaeological research center for~~
11 ~~review and recommendation.~~)

12 **Sec. 4.** RCW 68.60.030 and 1990 c 92 s 3 are each amended to read
13 as follows:

14 (1)(a) The archaeological and historical division of the department
15 of community development may grant by nontransferable certificate
16 authority to maintain and protect an abandoned cemetery upon
17 application made by a preservation organization which has been
18 incorporated for the purpose of restoring, maintaining, and protecting
19 an abandoned cemetery. Such authority shall be limited to the care,
20 maintenance, restoration, protection, and historical preservation of
21 the abandoned cemetery, and shall not include authority to make
22 burials, unless specifically granted by the cemetery board.

23 (b) Those preservation and maintenance corporations that are
24 granted authority to maintain and protect an abandoned cemetery shall
25 be entitled to hold and possess burial records, maps, and other
26 historical documents as may exist. Maintenance and preservation
27 corporations that are granted authority to maintain and protect an
28 abandoned cemetery shall not be liable to those claiming burial rights,
29 ancestral ownership, or to any other person or organization alleging to
30 have control by any form of conveyance not previously recorded at the
31 county auditor's office within the county in which the abandoned
32 cemetery exists. Such organizations shall not be liable for any
33 reasonable alterations made during restoration work on memorials,
34 roadways, walkways, features, plantings, or any other detail of the
35 abandoned cemetery.

36 (c) Should the maintenance and preservation corporation be
37 dissolved, the archaeological and historical division of the department
38 of community development shall revoke the certificate of authority.

1 (d) Maintenance and preservation corporations that are granted
2 authority to maintain and protect an abandoned cemetery may establish
3 care funds pursuant to chapter 68.44 RCW, and shall report in
4 accordance with chapter 68.44 RCW to the state cemetery board.

5 (2) Except as provided in subsection (1) of this section, the
6 department of community development may, in its sole discretion,
7 authorize any Washington nonprofit corporation that is not expressly
8 incorporated for the purpose of restoring, maintaining, and protecting
9 an abandoned cemetery, to restore, maintain, and protect one or more
10 abandoned cemeteries. The authorization may include the right of
11 access to any burial records, maps, and other historical documents, but
12 shall not include the right to be the permanent custodian of original
13 records, maps, or documents. This authorization shall be granted by a
14 nontransferable certificate of authority. Any nonprofit corporation
15 authorized and acting under this subsection is immune from liability to
16 the same extent as if it were a preservation organization holding a
17 certificate of authority under subsection (1) of this section.

18 (3) The department of community development shall establish
19 standards and guidelines for granting certificates of authority under
20 subsections (1) and (2) of this section to assure that any restoration,
21 maintenance, and protection activities authorized under this subsection
22 are conducted and supervised in an appropriate manner.

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