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HOUSE BILL 1189

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Lantz, Dunn, Edmonds, Hunt, Dunshee, Ogden, Kenney and Wood; by request of Department of Community, Trade, and Economic Development

Read first time 01/19/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to the protection of archaeological sites; amending  
2 RCW 27.53.020, 27.53.060, and 27.53.080; adding a new section to  
3 chapter 27.53 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** Archaeological properties are a protected  
6 resource under chapter 27.53 RCW. The legislature has already stated  
7 that the public has an interest in the protection of these nonrenewable  
8 resources. Washington state's increasing development pressures have  
9 correlated into greater disturbances to archaeological sites and native  
10 American burials. Currently, disturbing an archaeological site without  
11 a permit is a class C felony. However, this penalty is not being  
12 applied due to competing demands on law enforcement. Therefore, new  
13 tools are needed to protect the state's heritage.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 27.53 RCW  
15 to read as follows:

16 Every person who fails to comply with this chapter or the rules  
17 adopted under this chapter may be subjected to a civil penalty, as  
18 determined by the director or the director's designee, in an amount of

1 not more than five thousand dollars for every violation. Each and  
2 every such violation shall be a separate and distinct offense. Every  
3 person who, through an act of commission or omission, procures, aids,  
4 or abets in the violation shall be considered to have violated this  
5 section and may be subject to the civil penalty provided in this  
6 section. Violators of this chapter are subject to reasonable  
7 investigative and restoration costs. Any and all artifacts in  
8 possession of a violator shall become the property of the state until  
9 proper identification of artifact ownership may be determined by the  
10 director.

11 **Sec. 3.** RCW 27.53.020 and 1986 c 266 s 16 are each amended to read  
12 as follows:

13 The discovery, identification, excavation, and study of the state's  
14 archaeological resources, the providing of information on  
15 archaeological sites for their nomination to the state and national  
16 registers of historic places, the maintaining of a complete inventory  
17 of archaeological sites and collections, and the providing of  
18 information to state, federal, and private construction agencies  
19 regarding the possible impact of construction activities on the state's  
20 archaeological resources, are proper public functions; and the  
21 (~~Washington archaeological research center~~) office of archaeology and  
22 historic preservation, created under the authority of chapter 39.34 RCW  
23 (~~as now existing or hereafter amended~~), is hereby designated as an  
24 appropriate agency to carry out these functions. The director, in  
25 consultation with the (~~Washington archaeological research center~~)  
26 office of archaeology and historic preservation, shall provide  
27 guidelines for the selection of depositories designated by the state  
28 for archaeological resources. The legislature directs that there shall  
29 be full cooperation amongst the department, the (~~Washington~~  
30 ~~archaeological research center~~) office of archaeology and historic  
31 preservation, and other agencies of the state.

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

34 (1) On the private and public lands of this state it shall be  
35 unlawful for any person, firm, corporation, or any agency or  
36 institution of the state or a political subdivision thereof to  
37 knowingly remove, alter, dig into, or excavate by use of any

1 mechanical, hydraulic, or other means, or to damage, deface, or destroy  
2 any historic or prehistoric archaeological resource or site, or remove  
3 any archaeological object from such site(~~(, except for)~~). Any such  
4 activity made without having obtained a written permit from the  
5 director is a class C felony punishable under chapter 9A.20 RCW.  
6 Disturbances to Indian graves or cairns, or any glyptic or painted  
7 record of any tribe or peoples, or historic graves as defined in  
8 chapter 68.05 RCW(~~(, disturbances of which shall be a class C felony~~  
9 ~~punishable under chapter 9A.20 RCW, without having obtained a written~~  
10 ~~permit from the director for such activities)~~) have separate penalties  
11 identified in chapter 27.44 RCW.

12 (2) The director must obtain the consent of the private or public  
13 property owner or agency responsible for the management thereof, prior  
14 to issuance of the permit. The property owner or agency responsible  
15 for the management of such land may condition its consent on the  
16 execution of a separate agreement, lease, or other real property  
17 conveyance with the applicant as may be necessary to carry out the  
18 legal rights or duties of the public property landowner or agency. The  
19 director, in consultation with the affected tribes, shall develop  
20 guidelines for the issuance and processing of permits. The director  
21 shall give great weight to the applicant's, the firm's, or the  
22 corporation's record of previous civil or criminal violations under  
23 this chapter or relevant federal laws when determining whether to grant  
24 or condition a permit. Such written permit and any agreement or lease  
25 or other conveyance required by any public property owner or agency  
26 responsible for management of such land shall be physically present  
27 while any such activity is being conducted. (~~(The provisions of this~~  
28 ~~section shall not apply to the removal of artifacts found exposed on~~  
29 ~~the surface of the ground which are not historic archaeological~~  
30 ~~resources or sites.)~~)

31 **Sec. 5.** RCW 27.53.080 and 1986 c 266 s 19 are each amended to read  
32 as follows:

33 Qualified or professional archaeologists, in performance of their  
34 duties, (~~(are hereby authorized to)~~) may enter upon public lands of the  
35 state of Washington and its political subdivisions after first  
36 notifying the entity responsible for managing those public lands, at  
37 such times and in such manner as not to interfere with the normal  
38 management thereof, for the purposes of doing archaeological resource

1 location and evaluation studies, including site sampling activities.  
2 The results of such studies shall be made known to the office of  
3 archaeology and historic preservation and are confidential unless the  
4 director declares in writing otherwise. Scientific excavations are to  
5 be carried out only after appropriate agreement has been made between  
6 a professional archaeologist or an institution of higher education and  
7 the agency or political subdivision responsible for such lands. Notice  
8 of such agreement shall be filed with the ((~~Washington archaeological~~  
9 ~~research center~~)) office of archaeology and historic preservation and  
10 by them to the department. Amateur societies may engage in such  
11 activities by submitting and having approved by the responsible agency  
12 or political subdivision a written proposal detailing the scope and  
13 duration of the activity. Before approval, a proposal from an amateur  
14 society shall be submitted to the ((~~Washington archaeological research~~  
15 ~~center~~)) office of archaeology and historic preservation for review and  
16 recommendation.

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