
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2624

State of Washington

60th Legislature

2008 Regular Session

By House Appropriations (originally sponsored by Representatives McCoy, Kessler, Appleton, Ormsby, VanDeWege, Hunt, Kenney, Darneille, and Chase)

READ FIRST TIME 02/11/08.

1 AN ACT Relating to human remains; amending RCW 27.53.030; adding a
2 new section to chapter 68.50 RCW; adding a new section to chapter 27.44
3 RCW; adding a new section to chapter 68.60 RCW; adding new sections to
4 chapter 43.334 RCW; adding a new section to chapter 27.34 RCW; creating
5 new sections; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 68.50 RCW
8 to read as follows:

9 (1) It is the duty of every person who knows of the existence and
10 location of skeletal human remains to notify the coroner and local law
11 enforcement in the most expeditious manner possible, unless such person
12 has good reason to believe that such notice has already been given.
13 Any person knowing of the existence of skeletal human remains and not
14 having good reason to believe that the coroner and local law
15 enforcement has notice thereof and who fails to give notice to the
16 coroner and local law enforcement, is guilty of a misdemeanor.

17 (2) Any person engaged in ground disturbing activity and who
18 encounters or discovers skeletal human remains in or on the ground
19 shall:

1 (a) Immediately cease any activity which may cause further
2 disturbance;

3 (b) Make a reasonable effort to protect the area from further
4 disturbance;

5 (c) Report the presence and location of the remains to the coroner
6 and local law enforcement in the most expeditious manner possible; and

7 (d) Be held harmless from criminal and civil liability arising
8 under the provisions of this section provided the following criteria
9 are met:

10 (i) The finding of the remains was based on inadvertent discovery;

11 (ii) The requirements of the subsection are otherwise met; and

12 (iii) The person is otherwise in compliance with applicable law.

13 (3) The coroner must make a determination of whether the skeletal
14 human remains are forensic or nonforensic within five business days of
15 receiving notification of a finding of such human remains provided that
16 there is sufficient evidence to make such a determination within that
17 time period. The coroner will retain jurisdiction over forensic
18 remains.

19 (a) Upon determination that the remains are nonforensic, the
20 coroner must notify the department of archaeology and historic
21 preservation within two business days. The department will have
22 jurisdiction over such remains until provenance of the remains is
23 established. A determination that remains are nonforensic does not
24 create a presumption of removal or nonremoval.

25 (b) Upon receiving notice from a coroner of a finding of
26 nonforensic skeletal human remains, the department must notify the
27 appropriate local cemeteries, and all affected Indian tribes via
28 certified mail to the head of the appropriate tribal government, and
29 contact the appropriate tribal cultural resources staff within two
30 business days of the finding. The determination of what are
31 appropriate local cemeteries to be notified is at the discretion of the
32 department. A notification to tribes of a finding of such nonforensic
33 skeletal human remains does not create a presumption that the remains
34 are Indian.

35 (c) The state physical anthropologist must make an initial
36 determination of whether nonforensic skeletal human remains are Indian
37 or non-Indian to the extent possible based on the remains within two
38 business days of notification of a finding of nonforensic remains. If

1 the remains are determined to be Indian, the department must notify all
2 affected Indian tribes via certified mail to the head of the
3 appropriate tribal government within two business days and contact the
4 appropriate tribal cultural resources staff.

5 (d) The affected tribes have five business days to respond via
6 telephone or writing to the department as to their interest in the
7 remains.

8 (4) For the purposes of this section:

9 (a) "Affected tribes" are those federally recognized tribes with
10 usual and accustomed areas in the jurisdiction where the remains were
11 found, or those federally recognized tribes that submit to the
12 department maps that reflect the tribe's geographical area of cultural
13 affiliation.

14 (b) "Forensic remains" are those that come under the jurisdiction
15 of the coroner pursuant to RCW 68.50.010.

16 (c) "Inadvertent discovery" has the same meaning as used in RCW
17 27.44.040.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 27.44 RCW
19 to read as follows:

20 (1) Any person who discovers skeletal human remains must notify the
21 coroner and local law enforcement in the most expeditious manner
22 possible. Any person knowing of the existence of human remains and not
23 having good reason to believe that the coroner and local law
24 enforcement has notice thereof and who fails to give notice thereof is
25 guilty of a misdemeanor.

26 (2) Any person engaged in ground disturbing activity and who
27 encounters or discovers skeletal human remains in or on the ground
28 shall:

29 (a) Immediately cease any activity which may cause further
30 disturbance;

31 (b) Make a reasonable effort to protect the area from further
32 disturbance;

33 (c) Report the presence and location of the remains to the coroner
34 and local law enforcement in the most expeditious manner possible; and

35 (d) Be held harmless from criminal and civil liability arising
36 under the provisions of this section provided the following criteria
37 are met:

- 1 (i) The finding of the remains was based on inadvertent discovery;
2 (ii) The requirements of the subsection are otherwise met; and
3 (iii) The person is otherwise in compliance with applicable law.

4 (3) The coroner must make a determination whether the skeletal
5 human remains are forensic or nonforensic within five business days of
6 receiving notification of a finding of such remains provided that there
7 is sufficient evidence to make such a determination within that time
8 period. The coroner will retain jurisdiction over forensic remains.

9 (a) Upon determination that the remains are nonforensic, the
10 coroner must notify the department of archaeology and historic
11 preservation within two business days. The department will have
12 jurisdiction over such remains until provenance of the remains is
13 established. A determination that remains are nonforensic does not
14 create a presumption of removal or nonremoval.

15 (b) Upon receiving notice from a coroner of a finding of
16 nonforensic skeletal human remains, the department must notify the
17 appropriate local cemeteries, and all affected Indian tribes via
18 certified mail to the head of the appropriate tribal government, and
19 contact the appropriate tribal cultural resources staff within two
20 business days of the finding. The determination of what are
21 appropriate local cemeteries to be notified is at the discretion of the
22 department. A notification to tribes of a finding of nonforensic
23 skeletal human remains does not create a presumption that the remains
24 are Indian.

25 (c) The state physical anthropologist must make an initial
26 determination of whether nonforensic skeletal human remains are Indian
27 or non-Indian to the extent possible based on the remains within two
28 business days of notification of a finding of such nonforensic remains.
29 If the remains are determined to be Indian, the department must notify
30 all affected Indian tribes via certified mail to the head of the
31 appropriate tribal government within two business days and contact the
32 appropriate tribal cultural resources staff.

33 (d) The affected tribes have five business days to respond via
34 telephone or writing to the department as to their interest in the
35 remains.

36 (4) For the purposes of this section:

37 (a) "Affected tribes" are those federally recognized tribes with
38 usual and accustomed areas in the jurisdiction where the remains were

1 found, or those federally recognized tribes that submit to the
2 department maps that reflect the tribe's geographical area of cultural
3 affiliation.

4 (b) "Forensic remains" are those that come under the jurisdiction
5 of the coroner pursuant to RCW 68.50.010.

6 (c) "Inadvertent discovery" has the same meaning as used in RCW
7 27.44.040.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 68.60 RCW
9 to read as follows:

10 (1) Any person who discovers skeletal human remains shall notify
11 the coroner and local law enforcement in the most expeditious manner
12 possible. Any person knowing of the existence of skeletal human
13 remains and not having good reason to believe that the coroner and
14 local law enforcement has notice thereof and who fails to give notice
15 thereof is guilty of a misdemeanor.

16 (2) Any person engaged in ground disturbing activity and who
17 encounters or discovers skeletal human remains in or on the ground
18 shall:

19 (a) Immediately cease any activity which may cause further
20 disturbance;

21 (b) Make a reasonable effort to protect the area from further
22 disturbance;

23 (c) Report the presence and location of the remains to the coroner
24 and local law enforcement in the most expeditious manner possible; and

25 (d) Be held harmless from criminal and civil liability arising
26 under the provisions of this section provided the following criteria
27 are met:

28 (i) The finding of the remains was based on inadvertent discovery;

29 (ii) The requirements of the subsection are otherwise met; and

30 (iii) The person is otherwise in compliance with applicable law.

31 (3) The coroner must make a determination whether the skeletal
32 human remains are forensic or nonforensic within five business days of
33 receiving notification of a finding of such remains provided that there
34 is sufficient evidence to make such a determination within that time
35 period. The coroner will retain jurisdiction over forensic remains.

36 (a) Upon determination that the remains are nonforensic, the
37 coroner must notify the department of archaeology and historic

1 preservation within two business days. The department will have
2 jurisdiction over such remains until provenance of the remains is
3 established. A determination that remains are nonforensic does not
4 create a presumption of removal or nonremoval.

5 (b) Upon receiving notice from a coroner of a finding of
6 nonforensic skeletal human remains, the department must notify the
7 appropriate local cemeteries, and all affected Indian tribes via
8 certified mail to the head of the appropriate tribal government, and
9 contact the appropriate tribal cultural resources staff within two
10 business days of the finding. The determination of what are
11 appropriate local cemeteries to be notified is at the discretion of the
12 department. A notification to tribes of a finding of such nonforensic
13 skeletal human remains does not create a presumption that the remains
14 are Indian.

15 (c) The state physical anthropologist must make an initial
16 determination of whether nonforensic skeletal human remains are Indian
17 or non-Indian to the extent possible based on the remains within two
18 business days of notification of a finding of such nonforensic remains.
19 If the remains are determined to be Indian, the department must notify
20 all affected Indian tribes via certified mail to the head of the
21 appropriate tribal government within two business days and contact the
22 appropriate tribal cultural resources staff.

23 (d) The affected tribes have five business days to respond via
24 telephone or writing to the department as to their interest in the
25 remains.

26 (4) For the purposes of this section:

27 (a) "Affected tribes" are those federally recognized tribes with
28 usual and accustomed areas in the jurisdiction where the remains were
29 found, or those federally recognized tribes that submit to the
30 department maps that reflect the tribe's geographical area of cultural
31 affiliation.

32 (b) "Forensic remains" are those that come under the jurisdiction
33 of the coroner pursuant to RCW 68.50.010.

34 (c) "Inadvertent discovery" has the same meaning as used in RCW
35 27.44.040.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.334 RCW
37 to read as follows:

1 (1) The director shall appoint a state physical anthropologist. At
2 a minimum, the state physical anthropologist must have a doctorate in
3 either archaeology or anthropology and have experience in forensic
4 osteology or other relevant aspects of physical anthropology and must
5 have at least one year of experience in laboratory reconstruction and
6 analysis. A medical degree with archaeological experience in addition
7 to the experience required may substitute for a doctorate in
8 archaeology or anthropology.

9 (2) The state physical anthropologist has the primary
10 responsibility of investigating, preserving, and, when necessary,
11 removing and reintering discoveries of nonforensic skeletal human
12 remains. The state physical anthropologist is available to any local
13 governments or any federally recognized tribal government within the
14 boundaries of Washington to assist in determining whether discovered
15 skeletal human remains are forensic or nonforensic.

16 (3) The director shall hire staff as necessary to support the state
17 physical anthropologist to meet the objectives of this section.

18 (4) For the purposes of this section, "forensic remains" are those
19 that come under the jurisdiction of the coroner pursuant to RCW
20 68.50.010.

21 **Sec. 5.** RCW 27.53.030 and 2005 c 333 s 20 are each amended to read
22 as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) "Archaeology" means systematic, scientific study of man's past
26 through material remains.

27 (2) "Archaeological object" means an object that comprises the
28 physical evidence of an indigenous and subsequent culture including
29 material remains of past human life including monuments, symbols,
30 tools, facilities, and technological by-products.

31 (3) "Archaeological site" means a geographic locality in
32 Washington, including but not limited to, submerged and submersible
33 lands and the bed of the sea within the state's jurisdiction, that
34 contains archaeological objects.

35 (4) "Department" means the department of archaeology and historic
36 preservation, created in chapter 43.334 RCW.

1 (5) "Director" means the director of the department of archaeology
2 and historic preservation, created in chapter 43.334 RCW.

3 (6) "Historic" means peoples and cultures who are known through
4 written documents in their own or other languages. As applied to
5 underwater archaeological resources, the term historic shall include
6 only those properties which are listed in or eligible for listing in
7 the Washington State Register of Historic Places (RCW 27.34.220) or the
8 National Register of Historic Places as defined in the National
9 Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-
10 665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

11 (7) "Prehistoric" means peoples and cultures who are unknown
12 through contemporaneous written documents in any language.

13 (8) "Professional archaeologist" means a person (~~(who has met the~~
14 ~~educational, training, and experience requirements of the society of~~
15 ~~professional archaeologists.~~

16 ~~(9) "Qualified archaeologist" means a person who has had formal~~
17 ~~training and/or experience in archaeology over a period of at least~~
18 ~~three years, and has been certified in writing to be a qualified~~
19 ~~archaeologist by two professional archaeologists)) with qualifications
20 meeting the federal secretary of the interior's standards for a
21 professional archaeologist. Archaeologists not meeting this standard
22 may be conditionally employed by working under the supervision of a
23 professional archaeologist for a period of four years provided the
24 employee is pursuing qualifications necessary to meet the federal
25 secretary of the interior's standards for a professional archaeologist.
26 During this four-year period, the professional archaeologist is
27 responsible for all findings. The four-year period is not subject to
28 renewal.~~

29 ~~((+10+))~~ (9) "Amateur society" means any organization composed
30 primarily of persons who are not professional archaeologists, whose
31 primary interest is in the archaeological resources of the state, and
32 which has been certified in writing by two professional archaeologists.

33 ~~((+11+))~~ (10) "Historic archaeological resources" means those
34 properties which are listed in or eligible for listing in the
35 Washington State Register of Historic Places (RCW 27.34.220) or the
36 National Register of Historic Places as defined in the National
37 Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-
38 665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

1 June 30, 2008, in the omnibus appropriations act, this act is null and
2 void.

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