

ASSEMBLY BILL NO. 152—ASSEMBLYMEN MONROE-MORENO;
COHEN, FUMO, PETERS, SPRINKLE AND SWANK

FEBRUARY 15, 2019

JOINT SPONSORS: SENATORS CANCELA AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to cultural resources.
(BDR 33-868)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to historic preservation; revising and increasing the penalties for crimes related to certain actions which tend to injure or destroy historic or prehistoric sites or the trafficking of cultural property obtained from state land without a permit; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it a crime for a person to knowingly and willfully remove, mutilate, deface, excavate, injure or destroy a historic or prehistoric site or resource on state land or to receive, traffic in or sell cultural property appropriated from state land without a valid permit. Under existing law, a first such offense is a misdemeanor punishable by a fine of \$1,000 and a second or subsequent such offense is a gross misdemeanor punishable by imprisonment in the county jail for not more than 364 days or by a fine of not more than \$3,500, or by both fine and imprisonment. (NRS 383.435)

Section 1 of this bill increases the penalties for these offenses by providing that if for the first offense: (1) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property is \$500 or less, the first offense is a category E felony, punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 2 years, or by a fine of not more than \$5,000, or by both fine and imprisonment; or (2) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property is more than \$500, the first offense is a category C felony, punishable by



19 imprisonment in the state prison for a minimum term of not less than 1 year and a
20 maximum term of not more than 5 years, or by a fine of not more than \$10,000, or
21 by both fine and imprisonment. **Section 1** further provides that if for any second or
22 subsequent offense: (1) the sum of the commercial and paleontological value of the
23 site or cultural property and the cost of the restoration, stabilization and
24 interpretation of the site or cultural property is \$500 or less, the offense is a
25 category C felony, punishable by imprisonment in the state prison for a minimum
26 term of not less than 1 year and a maximum term of not more than 4 years, or by a
27 fine of not more than \$5,000, or by both fine and imprisonment; or (2) the sum of
28 the commercial and paleontological value of the site or cultural property and the
29 cost of the restoration, stabilization and interpretation of the site or cultural property
30 more than \$500, the offense is a category B felony, punishable by imprisonment in
31 the state prison for a minimum term of not less than 2 years and a maximum term
32 of not more than 10 years.

33 **Section 2** of this bill makes a conforming change.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 383.435 is hereby amended to read as follows:

2 383.435 1. Except as otherwise provided in this section, a
3 person who knowingly and willfully removes, mutilates, defaces,
4 excavates, injures or destroys a historic or prehistoric site or
5 resource on state land or who receives, traffics in or sells cultural
6 property appropriated from state land without a valid permit, unless
7 a greater penalty is provided by a specific statute:

8 (a) For a first offense ~~[, is guilty of a misdemeanor and shall be~~
9 ~~punished by a fine of \$1,000.] :~~

10 (1) *If the sum of the commercial and paleontological value*
11 *of the site or cultural property, as applicable, and the cost of the*
12 *restoration, stabilization and interpretation of the site or cultural*
13 *property, as applicable, is not more than \$500, is guilty of a*
14 *category E felony and shall be punished by imprisonment in the*
15 *state prison for a minimum term of not less than 1 year and a*
16 *maximum term of not more than 2 years, or by a fine of not more*
17 *than \$5,000, or by both fine and imprisonment.*

18 (2) *If the sum of the commercial and paleontological value*
19 *of the site or cultural property, as applicable, and the cost of the*
20 *restoration, stabilization and interpretation of the site or cultural*
21 *property, as applicable, is more than \$500, is guilty of a category C*
22 *felony and shall be punished by imprisonment in the state prison*
23 *for a minimum term of not less than 1 year and a maximum term*
24 *of not more than 5 years, or by a fine of not more than \$10,000, or*
25 *by both fine and imprisonment.*

26 (b) For a second or subsequent offense ~~[, is guilty of a gross~~
27 ~~misdemeanor and shall be punished by imprisonment in the county~~



1 ~~jail for not more than 364 days or by a fine of not more than \$3,500,~~
2 ~~or by both fine and imprisonment.] :~~

3 (1) *If the sum of the commercial and paleontological value*
4 *of the site or cultural property, as applicable, and the cost of the*
5 *restoration, stabilization and interpretation of the site or cultural*
6 *property, as applicable, is not more than \$500, is guilty of a*
7 *category C felony and shall be punished by imprisonment in the*
8 *state prison for a minimum term of not less than 1 year and a*
9 *maximum term of not more than 4 years, or by a fine of not more*
10 *than \$10,000, or by both fine and imprisonment.*

11 (2) *If the sum of the commercial and paleontological value*
12 *of the site or cultural property, as applicable, and the cost of the*
13 *restoration, stabilization and interpretation of the site or cultural*
14 *property, as applicable, is more than \$500, is guilty of a category B*
15 *felony and shall be punished by imprisonment in the state prison*
16 *for a minimum term of not less than 2 years and a maximum term*
17 *of not more than 10 years, or by a fine of not more than \$20,000,*
18 *or by both fine and imprisonment.*

19 2. This section does not apply to any action taken:

20 (a) In accordance with an agreement with the Office entered into
21 pursuant to NRS 383.430; or

22 (b) In accordance with the provisions of NRS 381.195 to
23 381.227, inclusive, by the holder of a permit issued pursuant to
24 those sections.

25 3. In addition to any other penalty, a person who violates a
26 provision of this section is liable for civil damages to the state
27 agency or political subdivision which has jurisdiction over the state
28 land in an amount equal to the cost or, in the discretion of the court,
29 an amount equal to twice the cost of the restoration, stabilization
30 and interpretation of the site plus any court costs and fees.

31 **Sec. 2.** NRS 193.130 is hereby amended to read as follows:

32 193.130 1. Except when a person is convicted of a category
33 A felony, and except as otherwise provided by specific statute, a
34 person convicted of a felony shall be sentenced to a minimum term
35 and a maximum term of imprisonment which must be within the
36 limits prescribed by the applicable statute, unless the statute in force
37 at the time of commission of the felony prescribed a different
38 penalty. ~~[The]~~ *Except as otherwise provided by NRS 383.435, the*
39 *minimum term of imprisonment that may be imposed must not*
40 *exceed 40 percent of the maximum term imposed.*

41 2. Except as otherwise provided by specific statute, for each
42 felony committed on or after July 1, 1995:

43 (a) A category A felony is a sentence of death
44 or imprisonment in the state prison for life with or without the



1 possibility of parole may be imposed, as provided by specific
2 statute.

3 (b) A category B felony is a felony for which the minimum term
4 of imprisonment in the state prison that may be imposed is not less
5 than 1 year and the maximum term of imprisonment that may be
6 imposed is not more than 20 years, as provided by specific statute.

7 (c) A category C felony is a felony for which a court shall
8 sentence a convicted person to imprisonment in the state prison for a
9 minimum term of not less than 1 year and a maximum term of not
10 more than 5 years. In addition to any other penalty, the court may
11 impose a fine of not more than \$10,000, unless a greater fine is
12 authorized or required by statute.

13 (d) A category D felony is a felony for which a court shall
14 sentence a convicted person to imprisonment in the state prison for a
15 minimum term of not less than 1 year and a maximum term of not
16 more than 4 years. In addition to any other penalty, the court may
17 impose a fine of not more than \$5,000, unless a greater fine is
18 authorized or required by statute.

19 (e) A category E felony is a felony for which a court shall
20 sentence a convicted person to imprisonment in the state prison for a
21 minimum term of not less than 1 year and a maximum term of not
22 more than 4 years. Except as otherwise provided in paragraph (b) of
23 subsection 1 of NRS 176A.100, upon sentencing a person who is
24 found guilty of a category E felony, the court shall suspend the
25 execution of the sentence and grant probation to the person upon
26 such conditions as the court deems appropriate. Such conditions of
27 probation may include, but are not limited to, requiring the person to
28 serve a term of confinement of not more than 1 year in the county
29 jail. In addition to any other penalty, the court may impose a fine of
30 not more than \$5,000, unless a greater penalty is authorized or
31 required by statute.

32 **Sec. 3.** This act becomes effective on July 1, 2019.

