

Assembly Bill No. 152--Assemblymen Monroe-Moreno;  
Cohen, Fumo, Peters, and Swank

Joint Sponsors: Senators Cancela and Spearman

CHAPTER.....

AN ACT relating to historic preservation; revising and increasing the penalties for crimes related to certain actions which injure or destroy the cairn or grave of a native Indian or an historic or prehistoric site and crimes related to 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 gross misdemeanor for a person to willfully remove without obtaining any required permit, mutilate, deface, injure or destroy the cairn or grave of a native Indian. Under existing law, a first such offense is punishable by a fine of \$2,000 and a second or subsequent such offense is punishable by a fine of not more than \$4,500, and may be further punished by imprisonment in a county jail for not more than 364 days. **Section 1** of this bill increases the penalties for these offenses by providing that a first such offense is a gross misdemeanor, a second such offense is a category E felony and a third or subsequent such offense is a category C felony. **Section 1** also requires a court, in addition to any other penalty, to order a person who committed such an offense to pay restitution for the cost to reinter with appropriate dignity all artifacts and human remains associated with the cairn or grave.

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 1.5** of this bill increases the penalties for these offenses by providing that a first such offense is a gross misdemeanor, a second such offense is a category E felony and a third or subsequent such offense is a category C felony. **Section 1.5** also requires a court, in addition to any other penalty, to order a person who committed such an offense to pay restitution for the cost of restoration, stabilization and interpretation of the site or cultural property.

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

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

**Section 1.** NRS 383.180 is hereby amended to read as follows:  
383.180 1. Except as otherwise provided in NRS 383.170, a person who willfully removes without obtaining any required



permit, mutilates, defaces, injures or destroys the cairn or grave of a native Indian : ~~[is guilty of a gross misdemeanor and shall be:]~~

(a) ~~[Punished by a fine of \$2,000 for the]~~ *For a first offense, [or by a fine of not more than \$4,500 for] is guilty of a gross misdemeanor.*

(b) *For a second [or subsequent] offense, [and may be further punished by imprisonment in the county jail for not more than 364 days; and-*

~~— (b) Ordered to pay for the costs]~~ *is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

(c) *For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

*↳ In addition to any other penalty, the court shall order a person found guilty of any violation of this subsection to pay restitution for the cost to reinter with appropriate dignity all artifacts and human remains associated with the cairn or grave.*

2. A person who fails to notify the Office of the discovery and location of an Indian burial site in violation of NRS 383.170 is guilty of a gross misdemeanor and shall be punished by a fine of \$500 for the first offense, or by a fine of not more than \$1,500 for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than 364 days.

3. A person who:

(a) Possesses any artifact or human remains taken from the cairn or grave of a native Indian on or after October 1, 1989, in a manner other than that authorized by NRS 383.170;

(b) Publicly displays or exhibits any of the human remains of a native Indian, except during a funeral ceremony; or

(c) Sells any artifact or human remains taken from the cairn or grave of a native Indian,

*↳ is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

4. This section does not apply to:

(a) The possession or sale of an artifact:

(1) Discovered in or taken from a location other than the cairn or grave of a native Indian; or

(2) Removed from the cairn or grave of a native Indian by other than human action; or

(b) Action taken by a peace officer in the performance of his or her duties.

**Sec. 1.5.** NRS 383.435 is hereby amended to read as follows:

383.435 1. Except as otherwise provided in this section, a person who knowingly and willfully removes, mutilates, defaces,



excavates, injures or destroys a historic or prehistoric site or resource on state land or who receives, traffics in or sells cultural property appropriated from state land without a valid permit, unless a greater penalty is provided by a specific statute:

(a) For a first offense, is guilty of a **gross** misdemeanor . ~~and shall be punished by a fine of \$1,000.~~

(b) For a second ~~for subsequent~~ offense, is guilty of a ~~gross misdemeanor and shall be punished 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.~~ **category E felony and shall be punished as provided in NRS 193.130.**

(c) **For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.**

**↳ In addition to any other penalty, the court shall order a person found guilty of any violation of this subsection to pay restitution for the cost of restoration, stabilization and interpretation of the site or cultural property, as applicable.**

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

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

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

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

**Sec. 2.** (Deleted by amendment.)

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

