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

FEBRUARY 15, 2019

JOINT SPONSORS: SENATORS CANCELA AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to cultural resources and certain grave sites. (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 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:

1 Existing law makes it a gross misdemeanor for a person to willfully remove
2 without obtaining any required permit, mutilate, deface, injure or destroy the cairn
3 or grave of a native Indian. Under existing law, a first such offense is punishable by
4 a fine of \$2,000 and a second or subsequent such offense is punishable by a fine of
5 not more than \$4,500, and may be further punished by imprisonment in a county
6 jail for not more than 364 days. **Section 1** of this bill increases the penalties for
7 these offenses by providing that a first such offense is a gross misdemeanor, a
8 second such offense is a category E felony and a third or subsequent such offense is
9 a category C felony. **Section 1** also requires a court, in addition to any other
10 penalty, to order a person who committed such an offense to pay restitution for the
11 cost to reinter with appropriate dignity all artifacts and human remains associated
12 with the cairn or grave.

13 Existing law makes it a crime for a person to knowingly and willfully remove,
14 mutilate, deface, excavate, injure or destroy a historic or prehistoric site or resource
15 on state land or to receive, traffic in or sell cultural property appropriated from state
16 land without a valid permit. Under existing law, a first such offense is a
17 misdemeanor punishable by a fine of \$1,000 and a second or subsequent such



18 offense is a gross misdemeanor punishable by imprisonment in the county jail for
19 not more than 364 days or by a fine of not more than \$3,500, or by both fine and
20 imprisonment. (NRS 383.435)

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

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

1 **Section 1.** NRS 383.180 is hereby amended to read as follows:
2 383.180 1. Except as otherwise provided in NRS 383.170, a
3 person who willfully removes without obtaining any required
4 permit, mutilates, defaces, injures or destroys the cairn or grave of a
5 native Indian : ~~is guilty of a gross misdemeanor and shall be:~~ :

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

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

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

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

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

20 2. A person who fails to notify the Office of the discovery and
21 location of an Indian burial site in violation of NRS 383.170 is
22 guilty of a gross misdemeanor and shall be punished by a fine of
23 \$500 for the first offense, or by a fine of not more than \$1,500 for a
24 second or subsequent offense, and may be further punished by
25 imprisonment in the county jail for not more than 364 days.

26 3. A person who:

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

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

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



1 ↪ is guilty of a category D felony and shall be punished as provided
2 in NRS 193.130.

3 4. This section does not apply to:

4 (a) The possession or sale of an artifact:

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

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

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

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

12 383.435 1. Except as otherwise provided in this section, a
13 person who knowingly and willfully removes, mutilates, defaces,
14 excavates, injures or destroys a historic or prehistoric site or
15 resource on state land or who receives, traffics in or sells cultural
16 property appropriated from state land without a valid permit, unless
17 a greater penalty is provided by a specific statute:

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

20 (b) For a second ~~[or subsequent]~~ offense, is guilty of a ~~[gross~~
21 ~~misdemeanor and shall be punished by imprisonment in the county~~
22 ~~jail for not more than 364 days or by a fine of not more than \$3,500,~~
23 ~~or by both fine and imprisonment.]~~ *category E felony and shall be*
24 *punished as provided in NRS 193.130.*

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

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

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

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

34 (b) In accordance with the provisions of NRS 381.195 to
35 381.227, inclusive, by the holder of a permit issued pursuant to
36 those sections.

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

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



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

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