

CAVE PROTECTION and ARCHAEOLOGY STATUTES

STATE – by – STATE

NSS Cave Vandalism Deterrence Reward Commission

Researched and Prepared by Thomas Lera, 2020

Updated by _____, _____
name date

There are many free websites which have Federal and State Laws, Codes, Statutes and Regulations. The Cave and Archaeology Laws and Statutes included on the following pages can be found on Justia US Law webpages. Access to the law and statutes is critical to understanding your rights and your responsibilities. In my opinion the Justia website is one of the best organized, most up-to-date, easy to navigate, and offers free access to federal and state codes, statutes, and regulations. Go to <https://law.justia.com/> to begin your search.

Also review the individual State code, statute, and regulation webpages. Links and citations have been included. Useful law school websites are <https://www.law.cornell.edu/> and <http://www.washlaw.edu/>. When in doubt, contact a lawyer.

INTRODUCTION

Laws passed by legislatures are generally known as “statutes.” Often, they outline general guidelines authorizing agencies to develop the specifics of process and enforcement.

“Laws” created by agencies are called regulations, which usually must be authorized by a statute. Although they are subordinate to statutes, they have the same legal force. Agencies and their departments are part of the executive branch of state and federal governments and are tasked with the execution of the law. They have expertise in their field and are expected to be better equipped to develop the details of how a law will operate.

Regulations can be enforced by citations, fines, and other forms of discipline just as easily as statutes. They can have a bigger effect on organizations than statutes because they are more detailed.

There are valid reasons for laws, statues, and regulations restricting access to some information, such as locations of caves and archaeological sites. Caves contain valuable mineral specimens, fragile important ecosystems, and can be dangerous if visitors are inexperienced or unprepared. Karst areas, which are landscapes associated with caves, area also important sources of drinking water in many areas of the United States.

Some states’ cave protection and open record laws do not contain specific language exempting the site locations from open records requests. Instead they include vague statements indicating that information protected by law is confidential. Of the twenty-eight states having cave protection statutes, Hawaii, Maryland, and Virginia protect their locations. In Hawaii, the Cave Protection Law requires confidentiality of cave locations. The Freedom of Information laws in Maryland and Virginia specifically exempt cave locations from public release.

Archaeological sites contain artifacts that can be used to interpret and reconstruct the culture and history of an area’s past inhabitants as well as its natural history. In addition, some archaeological sites, especially Indian mounds, located on private property, are protected by trespassing laws.

While archaeological sites are protected in all states, the laws vary from state to state. Some state archaeological protection laws include a clause protecting site locations (e.g., West Virginia and Wisconsin), while others exempt release of information on archaeological sites in their public record or Freedom of Information (FOIA) laws. In cases where confidentiality of archaeological sites is not mentioned in either the state archaeological protection law or the open records law, the FOIA laws contain clauses saying information protected by Federal or other statutes is exempt from public release.

The following pages list the individual state statutes but not the individual state regulations promulgated by the responsible department, such as the Department of Conservation and Natural Resources, the Division of Historical and Cultural Affairs, Department of Historic Resources, etc.

We hope this information is useful in your research. Use your contacts to find the appropriate regulations, then send us a link to their website, a general phone number, and the office contact email (not your contact’s phone or email) and we will post this. Please send to conservation@caves.org.

Remember, the federal laws, state statutes, and department regulations are always changing. Make sure the information you are reviewing is the most current. If you find a change, let us know and we will update the appropriate page.

Thomas Lera, 2020

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ALABAMA CAVE PROTECTION STATUTES

2016 Code of Alabama

Title 9 - Conservation and Natural Resources.

Chapter 19 – Caves

<https://law.justia.com/codes/alabama/2016/title-9/chapter-19/>

The 1988 law was updated in 2016. The universal citation: AL Code § 9-19-1 to 9-15-5 (2016).

Section 9-19-1 - Definitions.

The following words and phrases when used in this Chapter shall for the purpose of this Chapter have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) CAVE. Any natural subterranean cavity that is at least 50 feet in length or depth, or any combination of length and depth or that contains obligatory cavernicolous fauna (animals obliged to live underground).

The word “cave” includes but is not limited to cavern, pit, pothole, well (natural), sinkhole, and/or grotto.

(2) SPELEOTHEM. A natural secondary mineral deposit or formation in a cave. This includes but is not limited to deposits called stalactites, stalagmites, helictites, anthodites, gypsum flowers, needles, or angel’s hair, soda straws, draperies, bacon, cave pearls, popcorn, rimstone dams, columns, pallettes and flowstone. Speleothems are commonly composed of calcite, aragonite, epsomite, gypsum, celestite, and other similar minerals.

(3) COMMERCIAL CAVE. Any cave or portion of a cave that is improved with trails and lighting utilized by the owner or lessee for the purpose of exhibition to the public as a profit or nonprofit enterprise.

(4) WILD CAVE. Any cave or portion of a cave that is not a commercial cave.

(Acts 1988, No. 88-582, p. 909, §1.)

Section 9-19-2 - Liability for injury while engaged in cave related activity; liability for equipment failure.

(a) While engaged in cave related activities, no person or organization, or formal or informal group of persons in the company of other persons whether he or they be leading, accompanying, or in the area with the other person, shall be held liable for injuries or the results of actions by said other person, unless said other person acted as a result of an act or order issued by the first person intended to inflict injury.

(b) Each person in a group engaged in cave related activities is individually responsible for evaluating the safety of group equipment which that person intends to use, such as ropes, rigging, anchor devices, climbing gear and similar equipment. The club, organization, group, leader, organizer, or person owning or emplacing such gear or equipment shall not be held liable for failure of any such equipment or gear or its emplacement, except, if the rigging or equipment is altered after the person injured has had an opportunity to inspect it.

(Acts 1988, No. 88-582, p. 909, §2.)

Section 9-19-3 - Penalty for damage, litter, etc.

It shall be unlawful and constitute a misdemeanor for any person, organization, firm or corporation, including an officer, agent or employee of any town or municipality to:

(1) Maliciously break, break off, crack, carve upon, write, burn, damage, or otherwise mar or mark on, remove, or in any other manner destroy, disturb, deface, mar or harm the walls or any speleothem in any cave, except for recognized scientific purposes.

- (2) Discard litter or refuse to any degree in any cave.
- (3) Break, force, tamper with, remove, or otherwise disturb a lock, gate, door, or other structure or obstruction designed to control or prevent access to any cave, unless such act is specifically ordered by the owner.
- (4) Offer for sale any speleothem or export from the State of Alabama speleothems for sale elsewhere.
- (5) Remove, kill, harm, or disturb any plant or animal life found within any wild cave, except for recognized scientific purposes.
- (6) The provisions of subdivisions (1) through (6) of this section shall not apply to a recognized rescue unit operating in response to an emergency or believed emergency.

(Acts 1988, No. 88-582, p. 909, §3.)

Section 9-19-4 - Penalty for risk of pollution of underground water resources.

It shall be unlawful and constitute a misdemeanor for any person, organization, firm, corporation, including any officer, employee or agent of any town or municipality to risk the pollution of the underground water resources of the state by storing, dumping, disposing, or otherwise placing in caves, sinkholes or natural wells: chemicals, refuse, dead animals, garbage or other materials which are potentially injurious or hazardous to the quality of the aquifer, water and/or water table.

(Acts 1988, No. 88-582, p. 909, §4.)

Section 9-19-5 - Penalties for violations of Chapter.

Violations of the misdemeanor provisions of this Chapter shall incur the following penalties:

- (1) First offense: A Class C misdemeanor.
- (2) Second offense: A Class B misdemeanor.
- (3) Subsequent offenses: A Class A misdemeanor.

(Acts 1988, No. 88-582, p. 909, §5.)

Alabama Misdemeanor Severity Levels

Alabama categorizes misdemeanors into three different classes: Class A, B, and C. Class A misdemeanors are the most serious category, while Class B and Class C are less serious.

Jail Sentence

Each misdemeanor category in Alabama has a maximum sentence associated with it. Whenever a person is convicted of a misdemeanor, that person faces a maximum sentence of either hard labor or imprisonment in a county jail.

- (1) Class A. Not more than one year.
- (2) Class B. Not more than six months.
- (3) Class C. Not more than three months.

Fines

In addition to jail sentences, an Alabama court can also sentence you to pay a fine if you are convicted of a misdemeanor offense or order you to pay a fine instead of serving a jail sentence. Like jail sentences, the amount of the fine associated with each crime depends upon its class.

- (1) Class A. No more than \$6,000.
- (2) Class B. No more than \$3,000.
- (3) Class C. No more than \$500, or no more than double the amount the victim lost, or the defendant gained from the crime.

ALABAMA ARCHAEOLOGY STATUTES

2014 Code of Alabama

Title 41 - State Government, Chapter 3 - Aboriginal Mounds, Earthworks and Other Antiquities.

Sections 1-6

<https://law.justia.com/codes/alabama/2014/title-41/chapter-3/>

- §41-3-1 - Reservation of exclusive right and privilege of state to explore, excavate or survey aboriginal mounds, earthworks, burial sites, etc.; state ownership of objects found or located therein declared.
- §41-3-2 - Nonresidents not to explore or excavate remains or carry away, etc., from state objects discovered therein, etc.
- §41-3-3 - Explorations or excavations of remains not to be done without consent of owner of land and not to injure crops, houses, etc., thereon.
- §41-3-4 - Explorations or excavations not to destroy, deface, etc., remains; restoration of remains after explorations or excavations.
- §41-3-5 - Disposition of objects taken from remains.
- §41-3-6 - Exploration or excavation of aboriginal mounds, earthworks, etc., contrary to law.

Alabama Public Records Law

The Alabama Public Records Law under Al. Code §36-12-40 grants citizens the right to inspect and copy public writings. Pursuant to the statute, every citizen has a right to inspect and take a copy of any public writing of the state, except as otherwise expressly provided by statute.

Public Records Law - [Alabama Open Records Act § 36-12-40 et seq.](#)

ALASKA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

ALASKA ARCHAEOLOGY STATUTES

2015 Alaska Statutes

Title 41 - Public Resources, Chapter 41.35 - Historic Preservation

<https://law.justia.com/codes/alaska/2015/title-41/chapter-41.35/article-01/>

The universal citation: AK Stat §41.35.010 – 41.25.240 (2015)

It is the policy of the state to preserve and protect the historic, prehistoric, and archeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric, and archaeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited, and evaluated.

§41.35.100 Excavation and removal of historic, prehistoric, or archeological remains on private land.

Before any historic, prehistoric, or archeological remains are excavated or removed from private land by the department, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court.

§41.35.200 Unlawful acts

1. A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric, or archeological resources of the state.
2. A person may not possess, sell, buy, or transport within the state, or offer to sell, buy, or transport within the state, historic, prehistoric, or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.
3. An historic, prehistoric, or archeological resource that is taken in violation of this section shall be seized by any person designated in AS §41.35.220 wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository.

Penalties

A person who is convicted of violating a provision of AS §§41.35.010 - 41.35.240 is guilty of a class A misdemeanor. In addition to other penalties and remedies provided by law, a person who violates a provision of AS §41.35.010 - 41.35.240 is subject to a maximum civil penalty of \$100,000 for each violation.

Alaska Statutes Title 40. Public Records and Recordors

§40.25.120. Public records; exceptions; certified copies.

- (a)(4) Exceptions to open records law if provided by statute

ARIZONA CAVE PROTECTION STATUTES

2019 Arizona Revised Statutes

Title 13 - Criminal Code

§13-3702 Defacing or damaging petroglyphs, pictographs, caves, or caverns; classification

<https://law.justia.com/codes/arizona/2019/title-13/section-13-3702/>

The universal citation: AZ Rev Stat §13-3702 to 13-3702.01 (2019)

A. A person commits defacing or damaging petroglyphs, pictographs, caves or caverns if such person knowingly, without the prior written permission of the owner:

1. Breaks, breaks off, cracks, carves upon, writes, or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms petroglyphs, pictographs or any natural material found in any cave or cavern; or
2. Kills, harms or disturbs plant or animal life found in any cave or cavern, except for safety reasons; or
3. Disturbs or alters the natural condition of such petroglyph, pictograph, cave or cavern or takes into a cave or cavern any aerosol or other type of container containing paints, dyes or other coloring agents; or
4. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern whether or not entrance is gained.

B. As used in this section, “natural material” means stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions or other similar crystalline mineral formations found in any cave or cavern.

C. Defacing or damaging petroglyphs, pictographs, caves or caverns is a class 2 misdemeanor.

§13-3702.01 Excavating certain sites; collecting certain specimens; classification

A. A person who knowingly excavates in violation of §41-841, subsection A without obtaining a permit as required under §41-842 is guilty of a class 5 felony. A second or subsequent violation under this subsection is a class 3 felony.

B. A person who knowingly collects any archaeological specimen in violation of §41-841, subsection B, is guilty of a class 1 misdemeanor.

2019 Arizona Revised Statutes

Title 13 - Criminal Code

A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

1. For a class 1 misdemeanor, six months.
2. For a class 2 misdemeanor, four months.
3. For a class 3 felony, Mitigated 2 years, Minimum 2.5 years, Maximum 7 years
4. For a class 5 felony, Mitigated 0.5 year, Minimum 0.75 year, Maximum 2 years

If the court imposes a sentence to perform community restitution for a misdemeanor conviction pursuant to §13-603, the court shall determine and fix the number of hours of community restitution that are required.

ARIZONA ARCHAEOLOGY STATUTES

Chapter 4.1 History, Archaeology and State Emblems

Article 4 Archaeological Discoveries §41-841 – 41-846

<https://law.justia.com/codes/arizona/2019/title-41/section-41-841/>

- § 41-841 Archaeological and vertebrate paleontological discoveries
- § 41-842 Permits to explore
- § 41-843 Prohibiting unnecessary defacing of site or object
- § 41-844 Duty to report discoveries; disposition of discoveries; definitions
- § 41-845 Unlawful reproduction of original archaeological specimen
- § 41-846 Violation; classification

Except as otherwise provided in §13-3702.01, any person, institution or corporation violating any provision of this article is guilty of a class 2 misdemeanor and shall forfeit to the Arizona state museum all articles and material discovered, collected, excavated or offered for sale or exchange, together with all photographs and records relating to such objects.

Arizona Law §39-125. Information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the Arizona register of historic places, confidentiality

Nothing in this Chapter requires the disclosure of public records or other matters in the office of any officer that relate to the location of archaeological discoveries as described in §41-841 or §41-844 or places or objects that are included on or may qualify for inclusion on the Arizona register of historic places as described in §41-511.04, subsection A, paragraph 9.

An officer may decline to release this information if the officer determines that the release of the information creates a reasonable risk of vandalism, theft or other damage to the archaeological discoveries or the places or objects that are included on or may qualify for inclusion on the register. In making a decision to disclose public records pursuant to this section, an officer may consult with the director of the Arizona state museum or the state historic preservation officer.

ARKANSAS CAVE PROTECTION STATUTES

2018 Arkansas Code

Title 15 - Natural Resources and Economic Development, Subtitle 2 - Land and Water Resources Generally, Chapter 20 - General Provisions, Subchapter 6 - Arkansas Cave Resources Protection Act.

<https://law.justia.com/codes/arkansas/2015/title-15/subtitle-2/chapter-20/subchapter-6/>

The universal citation: AR Code §15-20-601 to 15-20-607 (2018)

15-20-601. Legislative findings and policy.

The General Assembly finds that caves are uncommon geologic phenomena, and that the minerals deposited therein may be rare and occur in unique forms of great beauty which are irreplaceable if destroyed. Also irreplaceable are the cultural resources in caves which are of great scientific and historic value. It is further found that the organisms which live in caves are unusual and of limited numbers, that many are rare and endangered species, and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man-made property boundaries. It is therefore declared to be the policy of the State of Arkansas and the intent of this subchapter to protect these unique natural and cultural resources.

15-20-602. Definitions.

As used in this subchapter:

- (1) "Archeological site" means physical evidence of human activity which is fifty (50) years old or older;
- (2)(A)(i) "Cave" means any naturally formed cavity beneath the surface of the earth which is enterable by people by a natural entrance into the bedrock;
- (2)(A)(ii) For the purposes of this subchapter, "cave" also includes any rock shelter formed by an overhanging bluff whenever the bluff is undercut by at least twenty feet (20');
- (2)(B) "Cave" does not include any mine or other human excavation;
- (3) "Cave life" means any life-form normally found in a cave or subterranean water system;
- (4) "Cold water solution" means solution processes occurring below seventy degrees Fahrenheit (70° F);
- (5) "Owner" means any person or the State of Arkansas and any of its agencies, departments, boards, commissions, and other political subdivisions holding any possessory estate in any cave and any agent of such a person or governmental entity;
- (6) "Sinkhole" means a depression of the surface of the earth due to solution or collapse of material below the surface; and,
- (7)(A) "Speleothem" means any mineral deposit formed within a cave, including, but not limited to, stalactites, stalagmites, and all other forms of minerals precipitated from cold water solution.
- (7)(B) "Speleothem" does not include cementation of sediments by calcium salts.

15-20-603. Vandalism — Penalties.

- (a) It shall be unlawful for any person, without express permission of the owner, to purposefully or recklessly:
 - (1) Break, carve, mark upon, or deface the natural rock surface of any cave, whether wall, ceiling, or floor, any speleothem, whether attached or previously broken, or any man-made material within the cave which constitutes an archeological site or was placed within the cave under permission of the owner;
 - (2) Remove from the cave any material protected by this subchapter;
 - (3) Damage in any way any lock, gate, door, or other obstruction designed to control access to any cave, even though entry thereto may not be gained;
 - (4) Remove or deface any sign stating that the cave is posted or citing provisions of this subchapter; and

(5) Excavate, deface, or disrupt the integrity of any identifiable archeological or paleontological site which may be found in any cave.

(b)(1) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

(b)(2) Any permission obtained under the provisions of this subchapter shall be deemed sufficient compliance with any law relating to recreational use of private lands.

(b)(3) Subject to any restrictions imposed by the owner, it shall not be a violation of this subchapter to move any dangerous or obstructive material or to place shoring or anchorage where necessary for safe passage or to place small isolated marks where necessary to recover a location critical to a measurement or study.

(c) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

15-20-604. Pollution — Penalties.

(a) It shall be unlawful for any person to knowingly store, dump, litter, dispose of, or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans in any cave or sinkhole.

(b) It shall be unlawful to burn within a cave or sinkhole any material which produces any smoke or gas which is harmful to any organism naturally occurring in the cave.

(c) This section shall not prohibit the operation within a cave of any source of flame capable of being carried in the hand or attached to a person, provided that the heat and exhaust of such a device is not directed onto any cave life or used as prohibited in §15-20-603(a).

(d) This section shall not be interpreted to prohibit or regulate any agricultural or silvacultural practice whatever nor to prohibit or regulate the charging of a fee for admission to a cave.

(e) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

15-20-605. Cave conservation.

Any cave owner may, at the owner's discretion and with the consent of the Arkansas Natural Heritage Commission, enter into an agreement with the commission for the purpose of applying conservation measures to the owner's cave.

15-20-606. Liability of owners limited.

Neither the owner of a cave nor his or her employees or agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave. This section is supplemental to any other limitation of landowner liability which may be in effect.

15-20-607. Enforcement.

In addition to the enforcement of this subchapter by criminal process, an owner may apply to the circuit court of any county in which he or she has reasonable cause to believe conduct prohibited by this subchapter is occurring or is about to occur for a temporary or permanent injunction restraining any person from such conduct, and the court shall have jurisdiction to grant all proper relief without requiring the owner to post bond during pendency of the action.

Note: Class A misdemeanor carries a maximum sentence not to exceed one year and a maximum fine of \$2,500.

ARKANSAS ARCHAEOLOGY STATUTES

2018 Arkansas Code

Title 13 - Libraries, Archives, and Cultural Resources, Chapter 6 - Archeological Research

Subchapter 3 – Sites

<https://law.justia.com/codes/arkansas/2018/title-13/chapter-6/subchapter-3/>

The universal citation: AR Code §13-6-301 to 13-6-308 (2018)

§ 13-6-301. Reservation of rights -- Legislative intent

(a)(1) The State of Arkansas reserves to itself the exclusive right and privilege of field archaeology on sites owned or controlled by the state, its agencies, departments, and institutions, in order to protect and preserve archeological and scientific information, matter, and objects.

(a)(2) All information and objects deriving from state lands shall be utilized solely for scientific or public educational purposes and shall remain the property of the state.

(b)(1) It is a declaration and statement of legislative intent that field archaeology on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this subchapter.

(b) (2) Persons having knowledge of the location of archeological sites are encouraged to communicate the information to the Arkansas Archeological Survey.

§ 13-6-306. State archeological landmarks -- Penalty for disturbing

(a)(1) An archeological site of significance to the scientific study or public representation of Arkansas's aboriginal past may be publicly designated by the Arkansas Archeological Survey as a state archeological landmark.

(a)(2) However, no sites shall be so designated without the express written consent of the state agency having jurisdiction over the land in question or, if it is on privately owned land, of the owner thereof.

(b) When an archeological site has been designated as a state archeological landmark, excavation for the purpose of recovery or the recovery of one (1) or more artifacts from the state archeological landmark by a person other than the survey or its designated agent is a:

(1) Class D felony for the first offense and a Class C felony for a subsequent offense if the value of the artifacts excavated or recovered or the cost to restore or repair the damage to the archeological site is greater than one thousand dollars (\$1,000); or

(2) Class B misdemeanor for the first offense and a Class A misdemeanor for a subsequent offense if the value of the artifacts excavated or recovered or the cost to restore or repair the damage to the archeological site is one thousand dollars (\$1,000) or less.

(c) Once so designated, excavation for the purpose of recovery or the recovery of artifacts from such sites by persons other than the survey or its duly designated agents shall be a misdemeanor.

§ 13-6-307. Digging up or removing artifact without permission – Penalty

(a)(1) It is unlawful for any person, natural or corporate, to knowingly dig up an artifact from the private land of the owner without first obtaining the owner's permission.

(a)(2) A violation of subdivision (a)(1) of this section is a:

(A) Class D felony for the first offense and a Class C felony for a subsequent offense if the value of all artifacts dug up or the cost to restore or repair the owner's property is greater than one thousand dollars (\$1,000); or

(B) Class B misdemeanor for the first offense and a Class A misdemeanor for a subsequent offense if the value of all artifacts dug up or the cost to restore or repair the owner's property is one thousand dollars (\$1,000) or less.

(b)(1) It is unlawful for any person, natural or corporate, to knowingly remove an artifact from the private land of the owner without first obtaining the owner's permission.

(b)(2) A violation of subdivision (b)(1) of this section is a Class C misdemeanor for the first offense and a Class B misdemeanor for a subsequent offense.

§ 13-6-308. Vandalism of archeological sites and artifacts – Penalty

(a) In order that archeological sites and artifacts on state-owned or state-controlled land shall be protected for the benefit of the public, no person, natural or corporate, shall knowingly dig up and remove, write upon, carve upon, paint, deface, mutilate, destroy, or otherwise injure any artifact or archeological site.

(b) A violation of this section is a:

(1) Class D felony for the first offense and a Class C felony for a subsequent offense if the value of all artifacts dug up and removed or the cost to repair or restore the damage to the archeological site is greater than one thousand dollars (\$1,000); or

(2) Class B misdemeanor for the first offense and a Class A misdemeanor for a subsequent offense if the value of all artifacts dug up and removed or the cost to repair or restore the damage to the archeological site is one thousand dollars (\$1,000) or less.

§39-125. Information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the Arizona register of historic places, Exempts Release of Archaeological Information

Nothing in this Chapter requires the disclosure of public records or other matters in the office of any officer that relate to the location of archaeological discoveries as described in §§41-841 or 41-844 or places or objects that are included on or may qualify for inclusion on the Arizona register of historic places as described in §41-511.04, subsection A, paragraph 9. An officer may decline to release this information if the officer determines that the release of the information creates a reasonable risk of vandalism, theft or other damage to the archaeological discoveries or the places or objects that are included on or may qualify for inclusion on the register. In making a decision to disclose public records pursuant to this section, an officer may consult with the director of the Arizona state museum or the state historic preservation officer.

CALIFORNIA CAVE PROTECTION STATUTES

2019 California Code

Penal Code – PEN., Part 1 - Of Crimes and Punishments, Title 14 - Malicious Mischief Section 623.

<https://law.justia.com/codes/california/2019/code-pen/part-1/title-14/section-623/>

The universal citation: CA Penal Code §623 (2019)

§623. Malicious Mischief in Caves

(a) Except as otherwise provided in §599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment:

- (1) Breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave.
- (2) Disturbs or alters any archaeological evidence of prior occupation in any cave.
- (3) Kills, harms, or removes any animal or plant life found in any cave.
- (4) Burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave.
- (5) Removes any material found in any cave.
- (6) Breaks, forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

(b) For purposes of this section:

- (1) “Cave” means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.
- (2) “Owner” means the person or private or public agency which has the right of possession to the cave.
- (3) “Natural material” means any stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion, crystalline mineral formation, and any wall, ceiling, or mineral protuberance therefrom, whether attached or broken, found in any cave.
- (4) “Material” means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

(c) The entering or remaining in a cave by itself shall not constitute a violation of this section.

(Amended by Stats. 1983, Ch. 1092, Sec. 312. Effective September 27, 1983. Operative January 1, 1984, by Sec. 427 of Ch. 1092.)

2019 California Code

Civil Code – CIV., Division 2 – Property, Part 2 - Real or Immovable Property, Title 3 - Rights and Obligations of Owners, Chapter 2 - Obligations of Owners, Section 846.

<https://law.justia.com/codes/california/2019/code-civ/division-2/part-2/title-3/chapter-2/section-846/>

The universal citation: CA Civ Code §846 (2019)

§846 Obligations of Owners

- (a) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, except as provided in this section.
- (b) A “recreational purpose,” as used in this section, includes activities such as fishing, hunting, camping, water sports, hiking, **spelunking**, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, private noncommercial aviation activities, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.
- (c) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby do any of the following:
- (1) Extend any assurance that the premises are safe for that purpose.
 - (2) Constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed.
 - (3) Assume responsibility for or incur liability for any injury to person or property caused by any act of the person to whom permission has been granted except as provided in this section.
- (d) This section does not limit the liability which otherwise exists for any of the following:
- (1) Willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity.
 - (2) Injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose.
 - (3) Any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.
- (e) This section does not create a duty of care or ground of liability for injury to person or property.

(Amended by Stats. 2018, Ch. 92, Sec. 33. (SB 1289) Effective January 1, 2019.)

2019 California Code

Government Code – GOV., Title 1 – General, Division 3.6 - Claims and Actions Against Public Entities and Public Employees, Part 2 - Liability of Public Entities and Public Employees, Chapter 2 - Dangerous Conditions of Public Property, Article 1 – General, Section 831.7.

<https://law.justia.com/codes/california/2019/code-gov/title-1/division-3-6/part-2/chapter-2/article-1/section-831-7/>

The universal citation: CA Govt Code §831.7 (2019)

§831.7. Liability

- (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.
- (b) As used in this section, “hazardous recreational activity” means a recreational activity conducted on property of a public entity that creates a substantial, as distinguished from a minor, trivial, or insignificant, risk of injury to a participant or a spectator.

“Hazardous recreational activity” also means:

(1) Water contact activities, except diving, in places where, or at a time when, lifeguards are not provided and reasonable warning thereof has been given, or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited, and reasonable warning thereof has been given.

(3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, bicycle motocross, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, self-contained underwater breathing apparatus (SCUBA) diving, **spelunking**, skydiving, sport parachuting, paragliding, body contact sports, surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, “mountain bicycling” does not include riding a bicycle on paved pathways, roadways, or sidewalks. For the purpose of this paragraph, “body contact sports” means sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants.

(c)(1) Notwithstanding subdivision (a), this section does not limit liability that would otherwise exist for any of the following:

(A) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(B) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this subparagraph, “specific fee” does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(C) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(D) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this subparagraph, promotional literature or a public announcement or advertisement that merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(E) An act of gross negligence by a public entity or a public employee that is the proximate cause of the injury.

(c)(2) Nothing in this subdivision creates a duty of care or basis of liability for personal injury or damage to personal property.

(d) Nothing in this section limits the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

(Amended by Stats. 2014, Chapter 913, §17. (AB 2747) Effective January 1, 2015.)

Title 14 - Malicious Mischief, Section 623.

<https://law.justia.com/codes/california/2019/code-pen/part-1/title-14/section-623/>

The universal citation: CA Penal Code § 623 (2019)

§623. Malicious Mischief – Cave

(a) Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment:

(1) Breaks, breaks off, cracks, carves upon, paints, writes, or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave.

(2) Disturbs or alters any archaeological evidence of prior occupation in any cave.

(3) Kills, harms, or removes any animal or plant life found in any cave.

(4) Burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave.

(5) Removes any material found in any cave.

(6) Breaks, forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

(b) For purposes of this section:

(1) “Cave” means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.

(2) “Owner” means the person or private or public agency which has the right of possession to the cave.

(3) “Natural material” means any stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion, crystalline mineral formation, and any wall, ceiling, or mineral protuberance therefrom, whether attached or broken, found in any cave.

(4) “Material” means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

(c) The entering or remaining in a cave by itself shall not constitute a violation of this section.

(Amended by Stats. 1983, Chapter 1092, §312. Effective September 27, 1983. Operative January 1, 1984, by §427 of Chapter 1092.)

CALIFORNIA ARCHAEOLOGY STATUTES

2019 California Code regarding Archaeology

Public Resources Code – PRC., Division 5 - Parks and Monuments, Chapter 1.76 - Native American Historic Resource Protection Act, Section 5097.993.

<https://law.justia.com/codes/california/2019/code-prc/division-5/chapter-1-76/>

The universal citation: CA Pub Res Code §5097.993 (2019)

§5097.993. Native American Historic Resource Protection Act

(a)(1) A person who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources pursuant to §5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site, any archaeological or historic Native American rock art, or any archaeological or historic feature of a Native American historic, cultural, or sacred site, is guilty of a misdemeanor if the act was committed with specific intent to vandalize, deface, destroy, steal, convert, possess, collect, or sell a Native American historic, cultural, or sacred artifact, art object, inscription, or feature, or site, and the act was committed as follows:

(A) On public land.

(B) On private land, by a person, other than the landowner, as described in subdivision (b).

(a)(2) A violation of this section is punishable by imprisonment in the county jail for up to one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) This section does not apply to any of the following:

(1) An act taken in accordance with, or pursuant to, an agreement entered into pursuant to subdivision (1) of §5097.94.

(2) An action taken pursuant to §5097.98.

(3) An act taken in accordance with the California Environmental Quality Act (Division 13 (commencing with §21000)).

(4) An act taken in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(5) An act authorized under the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with §4511) of Part 2 of Division 4).

(6) An action taken with respect to a conservation easement in accordance with Chapter 4 (commencing with §815) of Division 2 of the Civil Code, or any similar nonperpetual enforceable restriction that has as its purpose the conservation, maintenance, or provision of physical access of Native Americans to one or more Native American historic, cultural, or sacred sites, or pursuant to a contractual agreement for that purpose to which most likely descendants of historic Native American inhabitants are signatories.

(7) An otherwise lawful act undertaken by the owner, or an employee or authorized agent of the owner acting at the direction of the owner, of land on which artifacts, sites, or other Native American resources covered by this section are found, including, but not limited to, farming, ranching, forestry, improvements, investigations into the characteristics of the property conducted in a manner that minimizes adverse impacts unnecessary to that purpose, and the sale, lease, exchange, or financing of real property.

(8) Research conducted under the auspices of an accredited postsecondary educational institution or other legitimate research institution on public land in accordance with applicable permitting requirements or on private land in accordance with otherwise applicable law.

(Added by renumbering §5097.995 by Stats. 2004, Chapter 286, §9. Effective January 1, 2005.)

§5097.994. Native American Historic Resource Protection Act Section

- (a) A person who violates subdivision (a) of §5097.993 is subject to a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation.
- (b) A civil penalty may be imposed for each separate violation of subdivision (a) in addition to any other civil penalty imposed for a separate violation of any other provision of law.
- (c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into account the extent of the damage to the resource. In making the determination of damage, the court may consider the commercial or archaeological value of the resource involved and the cost to restore and repair the resource.
- (d) A civil action may be brought pursuant to this section by the district attorney, the city attorney, or the Attorney General, or by the Attorney General upon a complaint by the Native American Heritage Commission.
- (e)(1) All moneys collected from civil penalties imposed pursuant to this section as a result of an enforcement action brought by a city or county shall be distributed to the city or county treasurer of the city or county that brought the action. These moneys shall be first utilized to repair or restore the damaged site, and the remaining moneys shall be available to that city or county to offset costs incurred in enforcing this Chapter.
- (e)(2) All moneys collected from civil penalties imposed pursuant to this section as a result of an enforcement action brought by the Attorney General shall be first distributed to, and utilized by, the Native American Heritage Commission to repair or restore the damaged site, and the remaining moneys shall be available to the Attorney General to offset costs incurred in enforcing this Chapter.

(Added by renumbering Section 5097.996 by Stats. 2004, Ch. 286, §10. Effective January 1, 2005.)

2019 California Code

Penal Code – PEN., Part 1 - Of Crimes and Punishments, Title 14 - Malicious Mischief, §594.

<https://law.justia.com/codes/california/2019/code-pen/part-1/title-14/section-594/>

The universal citation: CA Penal Code §594 (2019)

§594. Malicious Mischief

- (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:
- (1) Defaces with graffiti or other inscribed material.
 - (2) Damages.
 - (3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by §811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

- (b)(1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment pursuant to subdivision (h) of §1170 or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.
- (b)(2)(A) If the amount of defacement, damage, or destruction is less than four hundred dollars (\$400), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
- (b)(2)(B) If the amount of defacement, damage, or destruction is less than four hundred dollars (\$400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under §§594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by imprisonment in a county jail for not

more than one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court shall, when appropriate and feasible, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children. If the court finds that graffiti cleanup is inappropriate, the court shall consider other types of community service, where feasible.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine, or any part thereof, by the parent upon a finding of good cause.

(e) As used in this section, the term “graffiti or other inscribed material” includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.

(g) This section shall become operative on January 1, 2002.

(Amended by Stats. 2011, Chapter 15, §406. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by §636 of Chapter 15, as amended by Stats. 2011, Chapter 39, §68. Note: This section was amended on March 7, 2000, by initiative Prop. 21.)

2019 California Code

Government Code – GOV., Title 1 – General, Division 7, Miscellaneous, Chapter 3.5 - Inspection of Public Records, Article 1 - General Provisions, Section 6254.10.a.

<https://law.justia.com/codes/california/2019/code-gov/title-1/division-7/chapter-3-5/article-1/section-6254-10-a/>

The universal citation: CA Govt Code §6254.10.a (2019)

§6254.10. Freedom of Information

Nothing in this Chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

(Amended by Stats. 2005, Chapter 670, §2. Effective October 7, 2005.)

COLORADO CAVE PROTECTION STATUTES

2018 Colorado Revised Statutes

Title 18 - Criminal Code, Article 4 - Offenses Against Property, Part 5 - Trespass, Tampering, and Criminal Mischief,

<https://law.justia.com/codes/colorado/2018/title-18/article-4/part-5/section-18-4-509/>

The universal citation: CO Rev Stat § 18-4-509 (2018)

§18-4-509. Defacing property – definitions

(1)(a) Any person who destroys, defaces, removes, or damages any historical monument commits the crime of defacing property.

(1)(b) Any person who defaces or causes, aids in, or permits the defacing of public or private property without the consent of the owner by any method of defacement, including but not limited to painting, drawing, writing, or otherwise marring the surface of the property by use of paint, spray paint, ink, or any other substance or object, commits the crime of defacing property.

(1)(c)(I) Any person who, with regard to a cave that is public property or the property of another, knowingly performs any of the following acts without the consent of the owner commits the crime of defacing property:

(A) Breaking or damaging any lock, fastening, door, or structure designed to enclose or protect any such cave;

(B) Defacing, damaging, or breaking from any part of such cave any cave resource; or

(C) Removing from such cave any cave resource.

(1)(II) For purposes of this section:

(A) “Cave” means any naturally occurring void, cavity, recess, lava tube, or system of interconnected passages that occurs beneath the surface of the earth or within a cliff or ledge, including any cave resource therein, but not including any mine, tunnel, aqueduct, or other artificial excavation, and that is large enough to permit an individual to enter, regardless of whether the entrance is naturally formed or has been artificially created or enlarged. “Cave” includes any natural pit, sinkhole, or other feature that is an extension of the entrance.

(B) “Cave resource” includes any material or substance occurring naturally in caves, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

(B.5) “Juvenile” shall have the same meaning as set forth in §19-1-103 (68), C.R.S.

(C) “Speleogen” means relief features on the walls, ceiling, or floor of any cave that are part of the surrounding rock, including, but not limited to, anastomoses, scallops, meander niches, petromorphs, and rock pendants in solution caves and similar features unique to volcanic caves.

(D) “Speleothem” means any natural mineral formation or deposit occurring in a cave, including, but not limited to, any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(2)(a)(I) Defacing property is a class 2 misdemeanor; except that:

(A) A second or subsequent conviction for the offense of defacing property is a class 1 misdemeanor and the court shall impose a mandatory minimum fine of seven hundred fifty dollars upon conviction;

(B) If a person violates paragraph (b) of subsection (1) of this section twice or more within a period of six months, the damages caused by two or more of the violations may be aggregated and charged in a single count, in which event the violations so aggregated and charged shall constitute a single offense, and, if the aggregate damages are five hundred dollars or more, it is a class 1 misdemeanor and the court shall impose a mandatory minimum fine of seven hundred fifty dollars upon conviction.

(2)(a)(II) In sentencing a person who violates this section, the court has discretion to impose alternatives in sentencing as described in part 1 of article 1.3 of this title, including but not limited to restorative justice practices, as defined in §18-1-901 (3)(o.5), or in the case of a juvenile offender, to impose restorative justice, as defined in §19-1-103 (94.1), C.R.S.

(2)(a)(III) The court may suspend all or part of the mandatory minimum fine associated with a conviction under this section upon the offender's successful completion of any sentence alternative imposed by the court pursuant to subparagraph (II) of this paragraph (a).

(2)(a)(IV) Fifty percent of the fines collected pursuant to this paragraph:

(a) shall be credited to the highway users tax fund, created in §43-4-201, C.R.S., and allocated and expended as specified in §43-4-205 (5.5)(a), C.R.S., and fifty percent of the fines collected pursuant to this paragraph (a) shall be credited to the juvenile diversion cash fund created in §19-2-303.5, C.R.S.; except that the fines collected pursuant to paragraph (c) of subsection (1) of this section shall be credited to the Colorado travel and tourism promotion fund created in § 24-49.7-106, C.R.S.

(b) Any person convicted of defacing property pursuant to paragraph (b) or (c) of subsection (1) of this section shall be ordered by the court to personally make repairs to any property damaged, or properties similarly damaged, if possible. If the property cannot be repaired, the court shall order a person convicted of defacing property to replace or compensate the owner for the damaged property but may, in the case of a violation of paragraph (b) of subsection (1) of this section, limit such compensation to two thousand five hundred dollars.

COLORADO ARCHAEOLOGY STATUTES

2018 Colorado Revised Statutes

Title 24 - Government – State, State History, Archives, and Emblems, Article 80 - State History, Archives, and Emblems, Part 4 - Historical, Prehistorical, and Archaeological Resources

- § 24-80-401. Title to historical, prehistorical, and archaeological resources
- § 24-80-402. Administration of part 4
- § 24-80-403. Office of state archaeologist - purpose
- § 24-80-404. State archaeologist - appointment - qualifications
- § 24-80-405. Objectives and duties of the state archaeologist
- § 24-80-406. Permits
- § 24-80-407. Agreements
- § 24-80-408. Properties not owned by the state
- § 24-80-409. Penalty - injunction - temporary restraining order
- § 24-80-410. State monuments
- § 24-80-411. Applicability of this part 4 to human remains

<https://law.justia.com/codes/colorado/2018/title-24/state-history-archives-and-emblems/article-80/part-4/>

§24-80-406. Permits

(1)(a) The society shall issue or deny permits for the investigation, excavation, gathering, or removal from the natural state of any historical, prehistorical, and archaeological resources within the state and determine whether or not the applicants for such permits are duly qualified to conduct investigations in the field for which the permit is requested.

(1)(b) The issuance, denial, or revocation of permits shall be made in conformity with article 4 of this title.

(2) Permits shall carry the following stipulations, in addition to such others as the society may require:

(a) The investigations, excavations, gatherings, and removals shall be undertaken only for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such resources; and such activities shall be conducted for permanent preservation, either on the site or in museums, open to the public and available to qualified students.

(b) All permit holders shall provide the state archaeologist, within one year after the start of the investigation, excavation, gathering, or removal, with a preliminary report of progress. If such activity continues for more than one year, an annual progress report shall be made. The permit holder shall furnish a final report of the activity undertaken within three years after termination of the field work.

(c) An inventory of all materials recovered during the course of the investigation, excavation, gathering, or removal shall be supplied to the state archaeologist.

(d) Upon receipt of the final report of the activity undertaken by a permit holder, the state archaeologist may require that a representative collection of the materials recovered be delivered to the state of Colorado and shall determine a repository for the same.

(e) Any permit issued by the society may be revoked by the society, pursuant to article 4 of this title, at any time if there is evidence that the activity authorized by the permit is being unlawfully or improperly conducted or if the permit holder does not honor the conditions of the permit. When a permit is revoked, all recovered materials, catalogues, maps, field notes, and other records necessary to identify the same shall be surrendered immediately to the society.

§24-80-409. Penalty - injunction - temporary restraining order

(1) Any person who knowingly appropriates, excavates, injures, or destroys any historical, prehistorical, or archaeological resource on land owned by the state or any county, city and county, city, town, district, or other political subdivision of the state without a valid permit is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. All articles and materials illegally taken, and all moneys and materials derived from the sale or trade of the same shall be forfeited to the society.

(2) When the society has cause to believe that a person has engaged in or is engaging in any unlawful conduct as defined in subsection (1) of this section, it may apply for and obtain, in an action in any district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof.

2018 Colorado Revised Statutes

Title 24 - Government – State, State History, Archives, and Emblems, Article 80 - State History, Archives, and Emblems, Part 13 - Unmarked Human Graves

- §24-80-1301. Definitions
- §24-80-1302. Discovery of human remains
- §24-80-1303. Discovery of human remains during an anthropological investigation
- §24-80-1304. Rule-making authority - state archaeologist
- §24-80-1305. Violation and penalty

<https://law.justia.com/codes/colorado/2018/title-24/state-history-archives-and-emblems/article-80/part-13/>

§24-80-1301. Definitions

As used in this part 13, unless the context otherwise requires:

- (1) “Commission” means the commission of Indian affairs.
- (2) “Disturb” means to move, open, expose, dig up, disinter, excavate, remove, carry away, damage, injure, deface, desecrate, loot, vandalize, mutilate, or destroy.
- (3) “Human remains” means any part of the body of a deceased human being in any stage of decomposition.
- (4) “Land” means all lands, including submerged lands, located within the state of Colorado which are owned by the state or its political subdivisions, agencies, or instrumentalities or by any private person.
- (5) “Person” means an individual, limited liability company, corporation, unincorporated association, partnership, proprietorship, or governmental entity.
- (6) “Unmarked human burial” means any interment of human remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

Colorado Revised Statutes, §24-72203 (1) allows exemptions to public records laws but does not mention archaeological resources; Office of Archaeology and Historic Preservation, Publication #1333 (Dissemination of Cultural Resource Information: Policy and Procedures) exempts cultural resource information from public records law

CONNECTICUT DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

CONNECTICUT ARCHAEOLOGY STATUTES

2012 Connecticut General Statutes

Title 10 - Education and Culture, Chapter 184a - Native American Cultures. Policy Concerning Archaeological Investigations, Section 10-390 - Penalty.

<https://law.justia.com/codes/connecticut/2012/title-10/chapter-184a/section-10-390>

The universal citation: CT Gen Stat §10-390 (2012)

§10-390 – Penalty

(a) No person shall excavate, damage or otherwise alter or deface any archaeological or sacred site on state lands or within a state archaeological preserve unless such activity is in accordance with the terms and conditions of a permit issued under §10-386 or in the case of an emergency.

(b) No person shall sell, exchange, transport, receive or offer to sell, any archaeological artifact or human remains collected, excavated or otherwise removed from state lands or a state archaeological preserve in violation of subsection (a) of this section.

(c) No person shall engage in any activity that will desecrate, disturb or alter any Native American burial, sacred site or cemetery, including any associated objects, unless the activity is engaged in pursuant to a permit issued under §10-386 or under the direction of the State Archaeologist.

(d) Any person who violates any provision of this section shall be fined not more than five thousand dollars or twice the value of the site or artifact that was the subject of the violation, whichever is greater, and imprisoned not more than five years or both.

(e) Any person who violates any provision of this section shall be liable to the state for the reasonable costs and expenses of the state in restoring the site and any associated sacred objects or archaeological artifacts.

(P.A. 89-368, §12.)

2012 Connecticut General Statutes

Title 1 - Provisions of General Application, Chapter 14 - Freedom of Information Act

<https://law.justia.com/codes/connecticut/2012/title-1/chapter-14/>

- §1-200 - (Formerly §1-18a). Definitions.
- §1-201 - (Formerly §1-19c). Division of Criminal Justice deemed not to be public agency,
- §1-202 - (Formerly §1-20e). Application of freedom of information provisions to agency committee composed entirely of individuals who are not members of the agency.
- §§1-203 and 1-204 - Reserved for future use.
- §1-205 - (Formerly §1-21j). Freedom of Information Commission.
- §1-205a - Recommended appropriations. Allotments.
- §1-206 - (Formerly §1-21i). Denial of access to public records or meetings. Appeals. Notice. Orders. Civil penalty. Service of process upon commission. Frivolous appeals.
- §1-207 to 1-209 - Reserved for future use.
- §1-210 - (Formerly §1-19). Access to public records. Exempt records.

Note: Exceptions to open records law if provided by statute.

DELAWARE DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

DELAWARE ARCHAEOLOGY STATUTES

2017 Delaware Code

Title 7 – Conservation, Chapter 53. Archaeological Resources in the State Subchapter II - Archaeological Resources in or on State Lands,

<https://law.justia.com/codes/delaware/2017/title-7/chapter-53/subchapter-ii/section-5301/>

The universal citation: 7 DE Code §301 (2017)

§5301. Duties of the Department of State.

The duties of the Department of State relative to archaeology within the State are as follows:

- (1) To sponsor, engage in and direct archaeological research in this State and to encourage and coordinate archaeological research undertaken by any archaeological society, institution, agency or association of the State;
- (2) To encourage cooperation among State agencies in the preservation, protection and excavation of archaeological resources which have or may come into the custody of any other agency of this State;
- (3) To protect and encourage the preservation of archaeological resources located on privately owned lands in this State;
- (4) To recover and preserve archaeological resources discovered during the course of any public construction in this State, when deemed appropriate by the Director of the Division of Historical and Cultural Affairs of the Department of State, and when the discovery is not subject to federal laws or other state laws that may require an archaeological investigation be conducted;
- (5) To cooperate with and assist the University of Delaware and other public institutions of this State in the preservation and protection of archaeological resources;
- (6) To furnish materials and objects to the Delaware State Museum, and/or other museums in the State, suitable for demonstrating and interpreting the State's history and heritage;
- (7) To furnish exhibits and/or other materials to public and private schools of this State, and to assist in the instruction of students on the State's history and heritage, and the discipline of archaeology;
- (8) To cooperate with similar agencies and institutions of other states and the federal government for the general purpose of preserving archaeological resources of this State, and to ensure that all such activity of agencies and institutions is in the best interest of the State;
- (9) To publish or otherwise disseminate information resulting from archaeological research conducted in this State;
- (10) To enforce the laws regulating archaeological resources situated on state-owned or state-controlled lands, including subaqueous lands.

§5302. Rules, regulations, and guidelines.

The Division of Historical and Cultural Affairs, with the approval of the Department of State, may formulate and adopt such rules, regulations, standards, and guidelines as it deems necessary for the effective execution of its purposes under this Chapter.

§5303. Purposes.

(a) The General Assembly finds that:

- (1) Archaeological resources in or on State lands are an integral and irreplaceable part of the State's heritage;
- (2) Archaeological resources are valued as non-renewable resources that provide educational, scientific, social and economic benefits for all citizens;
- (3) These resources are increasingly endangered because of their commercial attractiveness and the effects of natural forces and human intervention;
- (4) Existing State laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources resulting from such causes; and
- (5) There is a wealth of archaeological information which has been legally obtained by private individuals for non-commercial purposes and which could voluntarily be made available to professional archaeological institutions to further the educational, scientific, social and economic benefits for all citizens.

(b) The purpose of this subchapter is to secure, for the present and future benefit of the people of Delaware, the protection of archaeological resources which are in or on State lands, including subaqueous lands, to increase awareness and encourage meaningful stewardship of the State's archaeological heritage, and to foster increased cooperation and exchange of information among governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data.

§5304. Definitions.

(a) "Abandoned shipwreck" means any shipwreck to which title has been voluntarily given up by the owner or by the owner not taking action after a wreck incident to claim title.

(b) "Archaeological investigation" means any surface collection, subsurface tests, excavation, or other activity that results in the disturbance or removal of archaeological resources.

(c) "Archaeological resource" means any artifact or material remains of past human life or activities which are at least 50 years old and are of archaeological interest, including but not limited to pottery, basketry, whole or fragmentary tools, implements, containers, weapons, weapon projectiles, by-products resulting from manufacture or use of human-made or natural materials, surface or subsurface structures or portions thereof, earthworks, fortifications, ceremonial structures or objects, cooking pits, refuse pits, hearths, kilns, post molds, middens, and shipwrecks; the site, location, or context in which such artifacts or material remains are situated; and any portion or piece of any of the foregoing.

(d) "Department" means the Department of State.

(e) "Director" means the Director of the Division of Historical and Cultural Affairs of the Department of State.

(f) "Division" means the Division of Historical and Cultural Affairs of the Department of State.

(g) "Embedded" means firmly affixed in the subaqueous lands such that the use of tools of excavation is required in order to move bottom sediments to gain access to a shipwreck, its cargo, and any part thereof, or to any other archaeological resource.

(h) "Historic shipwreck" means a shipwreck that is listed in or eligible for listing in the National Register of Historic Places.

(i) "National Register of Historic Places" means the nation's official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture maintained by the United States National Park Service, Department of the Interior.

(j) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

(k) "Ordinary high water mark" means, for nontidal waters, the line at which the presence and action of water are so continuous in all ordinary years so as to leave a distinct mark on a bank either by erosion or destruction of terrestrial (nonaquatic) vegetation, or that can be determined by other physical or biological means.

- (l) “Person” means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer or employee, agent, department, or instrumentality of the United States or of any state or political subdivision thereof.
- (m) “Qualified person” means a person meeting the United States Secretary of the Interior’s Professional Qualification Standards for Archaeology (48 FR 44716; 36 CFR Part 61), as determined by the Director.
- (n) “Secretary” means the Secretary of State.
- (o) “Shipwreck” means a vessel or wreck, its cargo, and other contents
- (p) “State lands” means any lands owned or controlled by the State of Delaware, including subaqueous lands.
- (q) “Subaqueous lands” means submerged lands and tidelands.
- (r) “Submerged lands” means:
 - (1) lands lying below the line of mean low tide in the beds of all tidal waters within the boundaries of the State;
 - (2) lands lying below the plane of the ordinary high-water mark of nontidal rivers, streams, lakes, ponds, bays and inlets within the boundaries of the State as established by law; and
 - (3) specific manmade lakes or ponds as designated by the Secretary of the Department of Natural Resources and Environmental Control.
- (s) “Tidelands” means lands lying between the line of mean high water and the line of mean low water.
- (t) “Terrestrial lands” means lands owned or controlled by the State lying above the line of mean low tide.

§5305. Authority to enhance, preserve and protect archaeological resources.

- (a) The title to all archaeological resources in or on State lands, including those in or on subaqueous lands, is hereby declared to be under the exclusive domain and control of the State of Delaware. Further , as provided for under the Abandoned Shipwreck Act (Pub. L. 100-298; 43 U.S.C. 2101-2106), and Guidelines therefore (55 FR 50115, 56 FR 7875, 55 FR 51528):
 - (1) the State has title to all shipwrecks embedded in subaqueous lands of this State; and
 - (2) the State has title to every shipwreck located on the State’s subaqueous lands if the shipwreck is listed in or determined eligible for listing in the National Register of Historic Places (16 U.S.C. 470a; 33 CFR Part 63; 36 CFR Part 60).
- (b) The State’s authority to enhance, preserve and protect archaeological resources in or on State lands is vested solely in the Department.
- (c) Notwithstanding the jurisdictional provisions of 7 Del. C. § 7203, the Department is the custodian of archaeological resources in or on the State’s subaqueous lands, including but not limited to shipwrecks to which the State has title under § 5305(a) of this subchapter.

§5306. Jurisdiction and inter-agency cooperation.

- (a) When an archaeological resource is located within the jurisdiction of another State agency, the Division shall coordinate the review and evaluation of permit applications issued pursuant to §5309 of this Chapter to ensure conformance with all applicable laws and regulations.
- (b) Any agency whose activities may affect state-owned shipwrecks shall consult with the Division, provide the Division the opportunity to review and comment on the proposed activity, and take into account the effects of the activity on such resources. This review will not substitute for consultation under Section 106 of the National Historic Preservation Act or Section 307 of the Coastal Zone Management Act, if applicable.
- (c) The Division may enter into agreements with State land managing agencies for the purposes of enhancing, preserving, protecting and promoting good stewardship of archaeological resources located in or on State lands managed by those agencies.
- (d) All State land managing agencies shall cooperate with the Division in implementing the provisions of this Chapter.
- (e) All State and local law enforcement agencies and officers are hereby empowered to and shall assist the Division in carrying out its duties under this Chapter.

§5307. Restriction or closure of public access.

(a) The Division may temporarily restrict or close public access to any archaeological resource and its surrounding location or context in or on State lands, including subaqueous lands , and including public beaches notwithstanding the jurisdictional provisions of §6803 of this title, whenever:

- (1) in the judgment of the Director a condition constituting an imminent threat to an archaeological resource exists, which may cause harm to the qualities that make the resource of archaeological interest. Such threats may be due to the effects of natural forces or human intervention;
- (2) the Director finds that an archaeological investigation is needed to determine if a resource is of archaeological interest; and/or
- (3) the Director has issued a permit for archaeological investigation of an archaeological resource under §5309 of this Chapter, or the Division is conducting an archaeological investigation of an archaeological resource .

(b) The Director shall consult with the State land managing agency with jurisdiction over the lands in or on which the archaeological resource is located to define: the area to be restricted or closed; the anticipated period of the restriction or closure; how the restriction or closure will be posted to provide public notice ; how the restriction or closure will be monitored or enforced; and, if the restriction or closure occurs pursuant to subsection (a)(1) of this section, the steps that the Director and the other State land managing agency must take to alleviate the threat to the archaeological resource.

(c) The period of a restriction or closure under this section may not exceed 90 days , unless occurring pursuant to subsection (a)(3) of this section, in which case the period of the restriction or closure is the term of the permit. The Director may, with the approval of the Secretary of State, extend a period of restriction or closure.

- (1) The Director shall first consult with the State land managing agency in or on which the archaeological resource is located, as to the need for extending the period; and
- (2) When occurring pursuant to subsection (a)(1) of this section, the Director shall hold a public hearing; the Director shall take into account the comments provided at the public hearing, and within 15 days notify local governments and the public of his or her decision on whether or not to extend the restriction or closure of access . The Director shall publish that decision in a daily newspaper of statewide circulation and in a newspaper of general circulation in the county in which the restriction or closure will occur.

(d) The Director may, with the approval of the Secretary of State, indefinitely restrict access to and recovery of certain shipwrecks to which the State holds title or terrestrial sites in or on State lands that have particular archaeological and/or environmental values.

(e) The Director may permit public access to certain shipwrecks to which the State holds title with appropriate restrictions to protect their archaeological and/or environmental values.

(f) Any person whose interest is substantially affected may appeal a decision of the Division made pursuant to this subsection regarding access to an archaeological resource. The appeal must be made to the Secretary and filed with the Secretary within 60 days from the issuance of the Division's decision. The appeal must be conducted in accordance with the Administrative Procedures Act, 29 Del. C. § 10101 et seq. If an appellant exhausts all administrative remedies, the appellant is entitled to judicial review in accordance with Subchapter V of the Administrative Procedures Act.

§ 5308. Permit required.

No person may excavate, collect, salvage, recover, remove, damage, or otherwise alter or deface any archaeological resource or its surrounding location or context, located in or on State lands, including subaqueous lands, without first having obtained a permit from the Division.

§ 5309. Permit application.

(a) Any qualified person may apply to the Division for a permit to conduct archaeological investigations on State lands. The application must contain information that the Division considers necessary, including

information concerning the time, scope, location, specific purpose of the proposed work, and proposed disposition of recovered materials and associated records.

(b) The Division shall issue a permit pursuant to an application under subsection (a) of this section if the Division finds that:

- (1) The applicant is qualified to carry out the permitted activity;
- (2) The proposed activity is undertaken for the purpose of furthering archaeological knowledge in the public interest;
- (3) The archaeological resources which are excavated or removed from State lands, including subaqueous lands, will remain the property of the State of Delaware. Those resources and copies of associated archaeological records and data will be preserved by a qualified university, museum, or other scientific or educational institution, except as may be provided for under a shipwreck management program established pursuant to §5316 of this Chapter;
- (4) The activity pursuant to the permit is not inconsistent with any management plan applicable to the State lands concerned; and
- (5) The proposed activity will not interfere with archaeological investigations being conducted or planned by the Division.

(c) A permit may contain any terms, conditions, or limitations which the Division considers necessary to achieve the intent of the Chapter in the best interest of the State. A permit must identify the person responsible for carrying out the archaeological investigation. The Division may set reasonable permit fees that approximate and reasonably reflect the costs necessary to defray the expenses of the Division for its services. Any fees collected by the Division under this section are hereby appropriated to the Division to carry out the purposes of this Chapter.

(d) The Division may renew a permit upon or prior to expiration, upon such terms as the applicant and the Division may mutually agree. Holders of permits are responsible for obtaining permission of any federal agencies having jurisdiction, including but not limited to the United States Coast Guard, the United States Department of the Navy and the United States Army Corps of Engineers, and of State agencies having jurisdiction, including but not limited to the Department of Natural Resources and Environmental Control, prior to conducting any archaeological investigation on subaqueous or terrestrial state lands.

(e) The Division may suspend a permit issued under this Chapter upon the determination that the permit holder has violated any provision of §5312(a), (b), (c) or (d) of this Chapter. The Division may revoke a permit upon the assessment of a civil penalty under § 5312(e) of this Chapter against the permit holder, or upon the permit holder's conviction under §5312(f) of this Chapter. The Division may suspend or revoke a permit if the permit holder has not substantially commenced or is not diligently pursuing the archaeological investigation.

(f) Any permit applicant or permit holder may appeal the denial, suspension, or revocation of a permit by the Division. An appeal must be made to the Secretary and filed with the Secretary within 60 days from the issuance of the Division's decision. The appeal must be conducted in accordance with the Administrative Procedures Act, 29 Del. C. §10101 et seq. If an appellant exhausts all administrative remedies, the appellant is entitled to judicial review in accordance with Subchapter V of the Administrative Procedures Act.

§5310. Qualified repositories.

The University of Delaware and the Division of Historical and Cultural Affairs are designated as properly qualified repositories within the meaning of this Chapter.

§5311. Repository of artifacts or material remains.

All artifacts or material remains found in or on State lands, including subaqueous lands, and related records resulting from research, surveys and excavation conducted under a permit must be deposited for permanent preservation in either the University of Delaware Department of Anthropology or the Division of Historical and Cultural Affairs, or in a qualified repository approved by the Director, except as may be provided for under a shipwreck management program established pursuant to § 5316 of this Chapter .

§5312. Prohibited acts, criminal and civil penalties.

- (a) A person may not excavate, collect, salvage, recover, remove, damage, or otherwise alter or deface any archaeological resource, or its surrounding location or context, located on State lands, including subaqueous lands, unless such activity is pursuant to a permit issued under §5309 of this Chapter.
- (b) A person may not sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological resource as defined in §5303 of this Chapter, unless the Division specifically allows for such activity under a permit issued pursuant to §5309 of this Chapter and/or as may be provided for under a shipwreck management program established pursuant to §5316 of this Chapter.
- (c) A person may not possess, use, or employ on lands owned or controlled by the State, including subaqueous lands, tools or devices designed, modified or commonly used for the excavation, collection, salvage, recovery or removal of archaeological resources or otherwise designed or modified for activities prohibited by this Chapter, excluding individuals permitted or authorized to possess such tools and devices in accordance with the requirements of this Chapter.
- (d) A person may not knowingly make a false statement, representation, or certification in any application for permits granted under this Chapter.
- (e) Whoever violates or counsels, procures, solicits, or employs another to violate (1) any prohibition contained in this Chapter, (2) any condition or limitation in a permit issued pursuant to this Chapter, or (3) any rule or regulation promulgated under this Chapter shall, upon conviction, be sentenced to pay a fine of not less than \$1000 but not exceeding \$10,000, or to imprisonment of up to 30 days, or both. Each day of excavation, alteration, destruction, injury or other violation is considered a separate offense and is punishable as such. Unauthorized tools or devices seized from violators of subsection (c) of this section may be ordered forfeited to the State without compensation. Further, restitution may be ordered to compensate the State for the cost of remedying or remediating any violation of this Chapter. The Superior Court has jurisdiction of offenses under this Chapter.
- (f) Whoever violates or counsels, procures, solicits, or employs another person to violate (1) any prohibition contained in this Chapter, (2) any condition or limitation in a permit issued pursuant to this Chapter, or (3) any rule or regulation promulgated hereunder shall be assessed a civil penalty of not less than \$1000 but not exceeding \$10,000. The Superior Court shall have jurisdiction of a violation in which a civil penalty is sought.
- (g) Any expenses or civil penalties collected by the Division under this section may be allocated to the Division, subject to the approval of the Department, to carry out the purposes of this Chapter.

§ 5313. Exemptions.

- (a) The provisions of §5308, §5309, and §5312(c) of this Chapter do not apply to activities of State agencies which are:
 - (1) already subject to federal laws or regulations relating to archaeological resources , or
 - (2) not intended as archaeological activities, such as, but not limited to, surveying, environmental remediation, soil testing, construction, or property maintenance. State agencies are encouraged to advise the Division of any archaeological resources found during the course of such activities, pursuant to the letter or spirit of §5306 of this Chapter.
- (b) This Chapter does not apply to public use areas on lands along the Atlantic coast from Cape Henlopen south to the State line, situated between the mean low water line and the base of the primary dune, unless otherwise restricted or closed by the Director under the authority of §5307 of this Chapter.

§5314. Confidentiality.

If the Director has reason to believe that disclosure of the exact location or nature of an archaeological resource would lead to vandalism, pilferage, damage, or otherwise pose a risk of harm to the resource or to the site at which the resource is located, regardless of ownership of the property, the Director may:

- (1) elect not to disclose such information to the public;

(2) provide the public with only general information about the resource and/or its location, when notifying the public of a restriction or closure of access to a State archaeological resource under § 5307 of this Chapter, or under provisions applicable to shipwrecks to which the State has title.

§5315. Cooperation with private individuals.

(a) The Division shall take any action necessary and consistent with the purposes of the Chapter to foster and improve the communication, cooperation, and exchange of information between the Division and:

(1) private individuals having collections of archaeological resources and data which were obtained through legal means;

(2) professional archaeologists and associations of professional archaeologists concerned with the archaeological resources of Delaware and of the United States.

(b) In order to protect and preserve archaeological resources which are found on privately owned lands in this State, it is a declaration and statement of legislative intent that archaeological excavations on privately owned lands are discouraged, except in accordance with and pursuant to the spirit and policy of this Chapter; and persons having knowledge of the location of archaeological resources in Delaware are encouraged to communicate such information to the Director or to the Chairperson of the Department of Anthropology of the University of Delaware.

Note: The location of archaeological sites is confidential.

39 Del. Laws, Chapter 11, §2; 7 Del. C. 1953, §5302; 64 Del. Laws, Chapter 138, §§4-6; 69 Del. Laws, Chapter 430, §2; 70 Del. Laws, Chapter 186, §1; 75 Del. Laws, Chapter 153, §2.

FLORIDA CAVE PROTECTION STATUTES

2016 Florida Statutes

TITLE XLVI – Crimes, Chapter 810 - Burglary and Trespass

810.13 - Cave vandalism and related offenses.

<https://law.justia.com/codes/florida/2016/title-xlvi/chapter-810/section-810.13/>

The universal citation: FL Stat §810.13 (2016)

§810.13 Cave vandalism and related offenses.

(1) DEFINITIONS. As used in this act:

(a) "Cave" means any void, cavity, recess, or system of interconnecting passages which naturally occurs beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems but not including any mine, tunnel, aqueduct, or other manmade excavation, and which is large enough to permit a person to enter. The word "cave" includes any cavern, natural pit, or sinkhole which is an extension of an entrance to a cave.

(b) "Cave life" means any life form which is indigenous to a cave or to a cave ecosystem.

(c) "Gate" means any structure or device located to limit or prohibit access or entry to a cave.

(d) "Owner" means a person who owns title to land where a cave is located, including a person who holds a leasehold estate in such land; the state or any of its agencies, departments, boards, bureaus, commissions, or authorities; or any county, municipality, or other political subdivision of the state.

(e) "Person" means any individual, partnership, firm, association, trust, corporation, or other legal entity.

(f) "Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink, or sink.

(g) "Speleogen" means an erosional feature of a cave boundary, including, but not restricted to, anastomoses, scallops, rills, flutes, spongework, or pendants.

(h) "Speleothem" means a natural mineral formation or deposit occurring in a cave, including, but not restricted to, a stalagmite, stalactite, helictite, anothodite, gypsum flower, gypsum needle, angel hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, or flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, or other similar minerals.

(2) VANDALISM. It is unlawful for any person, without the prior written permission of the owner, to:

(a) Break, break off, crack, carve upon, write upon, burn, mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, or sedimentary deposits. This paragraph does not prohibit minimal disturbance or removal for scientific inquiry.

(b) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to a cave, even though entrance thereto may not be gained.

(c) Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this act.

(3) CAVE LIFE. It is unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism within a cave, except for safety or health reasons. The provisions of this subsection do not prohibit minimal disturbance or removal of organisms for scientific inquiry.

(4) POLLUTION AND LITTERING. It is unlawful to store in a cave any chemical or other material which may be detrimental or hazardous to the cave, to the mineral deposits therein, to the cave life therein, to the waters of the state, or to persons using such cave for any purposes. It is also unlawful to dump, litter, dispose of, or otherwise place any refuse, garbage, dead animal, sewage, trash, or other similar waste materials in a cave. This subsection shall not apply to activity which is regulated pursuant to §373.106, regarding the intentional introduction of water into an underground formation, or Chapter 377, regarding the injection of fluids into subsurface formations in connection with oil or gas operations.

(5) SALE OF SPELEOTHEMS. It is unlawful for any person to sell or offer for sale any speleothems in this state or to transport them for sale outside this state.

(6) PENALTIES. Any person who violates subsection (2), subsection (3), subsection (4), or subsection (5) is guilty of a misdemeanor of the first degree, punishable as provided in §775.082 - .083.

History.— §§8, 9, 10, 11, 12, 13, Chapter 80-356; §486, Chapter 81-259.

1997 Florida Code

Title XLVI Crimes, Chapter 775 Definitions; General Penalties; Registration of Criminals

§775.082 Penalties

4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

§775.083 Fines.

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in §775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in §775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

(d) \$1,000, when the conviction is of a misdemeanor of the first degree.

FLORIDA ARCHAEOLOGY STATUTES

2016 Florida Statutes

Title XVIII - Public Lands and Property, Chapter 267 - Historical Resources

<https://law.justia.com/codes/florida/2016/title-xviii/chapter-267/section-267.13/>

The universal citation: FL Stat §267.13 (2016)

§267.13 Prohibited practices; penalties.

(1)(a) Any person who by means other than excavation conducts archaeological field investigations on, or removes or attempts to remove or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a misdemeanor of the first degree, punishable as provided in §775.082 or §775.083, and, in addition, shall forfeit to the state all specimens, objects, and materials collected, together with all photographs and records relating to such material.

(1)(b) Any person who by means of excavation conducts archaeological field investigations on, or removes or attempts to remove or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a felony of the third degree, punishable as provided in §775.082, §775.083, or §775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that the vehicle or equipment was involved in the violation. Such person shall forfeit to the state all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).

(1)(c) Any person who offers for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of §§267.11-267.14, or who procures, counsels, solicits, or employs any other person to violate any prohibition contained in §§267.11-267.14 or to sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource excavated or removed from land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except with the express consent of the division, commits a felony of the third degree, punishable as provided in §775.082, §775.083, or §775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that such vehicle or equipment was involved in the violation. All specimens, objects, and material collected or excavated, together with all photographs and records relating to such material, shall be forfeited to the state. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).

(2)(a) The division may institute an administrative proceeding to impose an administrative fine of not more than \$500 a day on any person or business organization that, without written permission of the division, explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located upon land owned or controlled by the state, including state sovereignty submerged land, or land owned by a water authority.

(2)(b) The division shall institute an administrative proceeding by serving written notice of a violation by certified mail upon the alleged violator. The notice shall specify the law or rule allegedly violated and the facts upon which the allegation is based. The notice shall also specify the amount of the administrative fine sought by the division. The fine is not due until after service of notice and an administrative hearing. However, the alleged

violator has 20 days after service of notice to request an administrative hearing. Failure to respond within that time constitutes a waiver, and the fine becomes due without a hearing.

(2)(c) The division may enter its judgment for the amount of the administrative penalty imposed in a court of competent jurisdiction, pursuant to §120.69. The judgment may be enforced as any other judgment.

(2)(d) The division may apply to a court of competent jurisdiction for injunctive relief against any person or business organization that explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located upon land owned or controlled by the state, including state sovereignty submerged land, or land owned by a water authority without the written permission of the division.

(2)(e) The division shall adopt rules pursuant to §§120.536(1) and 120.54 to administer this section.

(3) Any person who:

(a) Reproduces, retouches, reworks, or forges any archaeological or historical object originating from an archaeological site as designated by §§267.11-267.14 and deriving its principal value from its antiquity or makes any such object, whether a copy or not; or

(b) Falsely labels, describes, identifies, or offers for sale or exchange any object with intent to represent the same to be an original and genuine archaeological or historical specimen, commits a misdemeanor of the first degree, punishable as provided in §775.082 or §775.083.

(4) Determination of Archaeological or Commercial Value and Cost of Restoration and Repair.

(a) Archaeological value. For purposes of this section, the archaeological value of any archaeological resource involved in a violation of the prohibitions in §§267.11-267.14 or conditions of a permit issued pursuant to §§267.11-267.14 shall be the value of the data associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) Commercial value. For purposes of this section, the commercial value of any archaeological resource involved in a violation of the prohibitions in §§267.11-267.14 or conditions of a permit issued pursuant to §§267.11-267.14 shall be its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation, to the extent that its prior condition can be ascertained.

(c) Cost of restoration and repair. For purposes of this section, the cost of restoration and repair of archaeological resources damaged as a result of a violation of prohibitions or conditions pursuant to this section shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

1. Reconstruction of the archaeological resource.
2. Stabilization of the archaeological resource.
3. Ground contour reconstruction and surface stabilization.
4. Research necessary to carry out reconstruction or stabilization.
5. Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance.
6. Examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved.
7. Reinterment of human remains in accordance with religious custom and state, local, or tribal law, where appropriate, as determined by the land manager.
8. Preparation of reports relating to any of the activities described in this paragraph.

History. §1, Chapter 73-166; §9, Chapter 81-173; §1, Chapter 93-114; §15, Chapter 2001-199; §18, Chapter 2005-207; §2, Chapter 2013-204.

§267.135 - Location of archaeological sites.

<https://law.justia.com/codes/florida/2016/title-xviii/chapter-267/section-267.135/>

The universal citation: FL Stat §267.135 (2016)

Any information identifying the location of an archaeological site held by the Division of Historical Resources of the Department of State is exempt from §119.07(1) and §24(a) of Art. I of the State Constitution, if the Division of Historical Resources finds that disclosure of such information will create a substantial risk of harm, theft, or destruction at such site.

History. §1, Chapter 2001-162; §1, Chapter 2006-106.

GEORGIA CAVE PROTECTION STATUTES

2018 Georgia Code

Title 12 - Conservation and Natural Resources, Chapter 4 - Mineral Resources and Caves

Article 4 - Cave Protection

<https://law.justia.com/codes/georgia/2018/title-12/chapter-4/article-4/>

The universal citation: GA Code §12-4-140 (2018)

This article shall be known and may be cited as the “**Cave Protection Act of 1977.**”

§12-4-142. Definitions

As used in this article, the term:

- (1) “Cave” means any naturally occurring subterranean cavity, including, but not restricted to, a cavern, pit, pothole, natural well, sinkhole, and grotto.
- (2) “Commercial cave” means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.
- (3) “Gate” means any structure or device located so as to limit or prohibit access or entry to a cave.
- (4) “Owner” means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically includes the state and any of its agencies, departments, boards, bureaus, commissions, or authorities, as well as counties, municipalities, and other political subdivisions of the state.
- (5) “Sinkhole” means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink, or sink.
- (6) “Speleothem” means a natural mineral formation or deposit occurring in a cave, including, but not restricted to, stalagmites, stalactites, helectites, anthodites, gypsum flowers, gypsum needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals.
- (7) “Wildlife” means any vertebrate or invertebrate animal life indigenous to this state or any species introduced or specified by the Board of Natural Resources and includes, but is not restricted to, quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks, or any part thereof.

§ 12-4-143. Defacing or disturbing natural condition of cave; breaking or tampering with gates, doors, or other device controlling or preventing access to caves; trespass

- (a) It shall be unlawful for any person, without the express written permission of the owner, willfully or knowingly to:
- (1) Break, break off, crack, carve upon, write upon, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural or archeological material therein, including speleothems;
 - (2) Disturb or alter in any manner the natural condition of any cave;
 - (3) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained; or
 - (4) Enter a cave posted against trespassing or a cave with a lock, gate, door, or other obstruction designed to control or prevent access to the cave.
- (b) Any person who violates any provision of subsection (a) of this Code section shall be guilty of a misdemeanor.

§ 12-4-144. Sale or offer to sell speleothems

(a) It shall be unlawful to sell or offer for sale any speleothems in this state or to export them for sale outside this state without the express written permission of the owner of the cave from which such speleothems were obtained.

(b) Any person violating this Code section shall be guilty of a misdemeanor.

§ 12-4-145. Storing hazardous or detrimental chemicals or materials in caves or sinkholes; dumping or disposing of garbage, dead animals, or similar materials in caves or sinkholes

(a) It shall be unlawful to store in caves or sinkholes any chemicals or other materials which may be detrimental or hazardous to caves or sinkholes, to the mineral deposits therein, to the wildlife inhabiting caves, to the waters of the state, or to the persons using such phenomena for any purposes.

(b) It shall be unlawful to dump, litter, dispose of, or otherwise place any refuse, garbage, dead animals, sewage, trash, or other such similar waste materials in any quantity in any cave or sinkhole.

(c) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

§ 12-4-146. Killing, harming, removing, or disturbing wildlife found in a cave

(a) It shall be unlawful to remove, kill, harm, or disturb any wildlife found within any cave, provided that nothing contained in this Code section shall be construed to repeal Code Section 27-2-12, relating to scientific collectors' permits, or any rules or regulations promulgated pursuant thereto, or any federal or state laws relating to the protection of certain plants or animals.

(b) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

§ 12-4-147. Liability of owners of caves for injuries

(a) Neither the owner of a cave nor his authorized agents, officers, employees, or designated representatives acting within the scope of their authority shall be liable for injuries sustained by any person using such cave for recreational or scientific purposes if the prior consent of the owner has been obtained and if no charge has been made for the use of such features and notwithstanding that an inquiry as to the experience or expertise of the individual seeking consent may have been made.

(b) Neither the owner of a commercial cave nor his authorized agents, officers, employees, or designated representatives acting within the scope of their authority shall be liable for an injury sustained by a spectator who has paid to view the cave, unless such injury is sustained as a result of such owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires, or other modifications, and such negligence shall be the proximate cause of the injury.

(c) Nothing in this Code section shall be construed to constitute a waiver of the sovereign immunity of the state or any of its boards, departments, bureaus, or agencies.

2010 Georgia Code

Title 17 - Criminal Procedure, Chapter 10 - Sentence and Punishment, Article 1 - Procedure for Sentencing and Imposition of Punishment

§17-10-3. Punishment for misdemeanors generally

(a) Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows:

(1) By a fine not to exceed \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both.

GEORGIA ARCHAEOLOGY STATUTES

2010 Georgia Code

Title 12 - Conservation and Natural Resources, Chapter 3 - Parks, Historic Areas, Memorials, and Recreation, E - 3. Historic Areas, Part 1 - General Provisions

<https://law.justia.com/codes/georgia/2010/title-12/chapter-3/e/part-1/12-3-52>

The universal citation: O.C.G.A. §12-3-52 (2010)

§12-3-52. Archeological exploration, excavation, or surveying; administrative appeal of department orders

(a) The State of Georgia, acting through the department and its authorized officers and employees, reserves to itself the exclusive right and privilege of exploring, excavating, or surveying all prehistoric and historic sites, ruins, artifacts, treasure, and treasure-trove, and other similar sites and objects found on all lands owned or controlled by the state, provided that this reservation shall not apply to property under the jurisdiction of the Board of Regents of the University System of Georgia.

(b) All findings of such ruins, artifacts, treasure, treasure-trove, and other similar sites and objects shall be reported to the department within two days, Saturdays, Sundays, and legal holidays excluded, after being found.

(c) The department is authorized to grant permits to or enter into contractual agreements with recognized scientific institutions or qualified individuals to conduct field archeological research or salvage archeology through data recovery on such state properties if, in the opinion of the department, conditions or situations warrant such arrangements or agreements. All such permits and agreements that affect burial sites or burial objects shall be issued by the department in accordance with the procedures outlined in subsection (d) of this Code section. All such information and archeologically significant objects derived from archeological research conducted on state lands shall be utilized solely for scientific or public educational purposes and shall remain the property of the state with the exception of those items required to be repatriated by Public Law 101-601 or by Code §44-12-262. In addition, the State of Georgia urges that all archeological research conducted on privately owned land within the boundaries of the state be likewise undertaken solely by recognized scientific institutions or qualified individuals.

(d) The department shall issue permits and enter into contractual agreements:

(1) With recognized scientific institutions or qualified individuals for the purposes enumerated in subsection (c) of this Code section on all state owned or state-controlled lands.

(2) Applicants or contractors shall submit a detailed research plan for conducting such field archeological research or salvage archeology which outlines the location, objectives, scope, methods, and expected results.

(3) If burial sites are involved, the research plan or design must include a plan for identifying and notifying lineal descendants, for skeletal analysis, and for curation and disposition as prescribed by Public Law 101-601 or by Part 1 of Article 7 of Chapter 12 of Title 44.

(4) The department, as custodian of all prehistoric and historic sites, ruins, artifacts, treasure, and treasure-trove, and other similar sites and objects found on state owned or state controlled lands, is empowered to promulgate such rules and regulations as may be necessary to preserve, survey, protect, recover, and repatriate such findings.

(5) Permits may be renewed upon or prior to expiration upon such terms and conditions as the department deems appropriate.

(6) A permit may be revoked by the department upon a determination by the department that the permit holder has violated this chapter or any term or condition of its permit. Any determination to revoke or deny a permit may be administratively and judicially reviewed in the manner provided in subsection (e) of this Code section.

(7) Upon issuing a permit or entering into a contract that involves aboriginal, prehistoric, or American Indian burial sites, the department shall send written notice to the Council on American Indian Concerns created by Code §44-12-280.

(e) Any person who is aggrieved or adversely affected by any order or action of the department shall, upon petition within 30 days after the issuance of such order or taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the department, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” Persons are “aggrieved or adversely affected” where the challenged action has caused or will cause them injury in fact and where the injury is to an interest within the zone of interests to be protected or regulated by the statutes that the department is empowered to administer and enforce. In the event the department asserts in response to the petition before the administrative law judge that the petitioner is not aggrieved or adversely affected, the administrative law judge shall take evidence and hear arguments on this issue and thereafter make a ruling on same before continuing on with the hearing. The burden of going forward with evidence on this issue shall rest with the petitioner.

HISTORY: Ga. L. 1969, p. 993, §1; Ga. L. 1985, p. 906, §1; Ga. L. 1992, p. 1790, §1; Ga. L. 1993, p. 91, §12.

<https://law.justia.com/codes/georgia/2010/title-12/chapter-3/e/part-1/12-3-54>

§12-3-54. Penalty

Any person who intentionally violates Code §12-3-52 or who intentionally defaces, injures, destroys, displaces, or removes an object or site of archeological or historical value located on areas as designated in Code §12-3-52 shall be guilty of a misdemeanor. (See above §17-10-3. Punishment for misdemeanors generally)

HISTORY: Ga. L. 1969, p. 993, §3; Ga. L. 1985, p. 906, §3.

2010 Georgia Code

Title 12 - Conservation and Natural Resources, Chapter 3 - Parks, Historic Areas, Memorials, and Recreation, E – 9 - Protection Of Archeological, Aboriginal, Prehistoric, and Historic Sites

<https://law.justia.com/codes/georgia/2010/title-12/chapter-3/e/12-3-620>

The universal citation: O.C.G.A. §12-3-620-622 (2010)

§12-3-620. Definitions

As used in this article, the term:

(1) “American Indian” means an individual who is a member of a nation, tribe, band, group, or community that was indigenous to Georgia; is a descendant of persons named as American Indians in the Georgia Senate Bill 89, enacted during the legislative session of 1839 (Ga. L. 1839, p. 374); or is a descendant of persons included in the United States Indian Claims Commission, Docket 21, 1962, and those sequel dockets pertaining to the Creek Nation east of the Mississippi.

(2) “Burial object” means an object that, as a part of the death rite or ceremony of a culture, is reasonably believed to have been placed with individual human remains either at the time of death or later. Such term includes any item defined in paragraph (4) of Code Section 36-72-2 and may also include but not be limited to urns; whole or broken ceramic, metal, or glass vessels; chipped stone tools; ground stone tools; worked bone and shell items; clothing; medals; buttons; jewelry; firearms; edged weapons; and the caskets or containers for the human remains.

(3) “Council” means the Council on American Indian Concerns established by Code §44-12-280.

(4) "Human remains" means the bodies of deceased human beings in any stage of decomposition, including cremated remains.

(5) "Object of cultural patrimony" means an object having ongoing historical, traditional, or cultural importance central to a group or culture itself, rather than property owned by an individual, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of a tribe or an organization.

(6) "Sacred object" means a specific ceremonial object which is used by a religious leader for the practice of a religion by the present-day adherents of such religion.

HISTORY: Code 1981, §12-3-620, enacted by Ga. L. 1992, p. 1790, §2.

§12-3-621. Prohibited acts as to archeological, aboriginal, prehistoric, or historic sites; notification of state archeologist before beginning investigation or disturbance of site; penalty

(a) It shall be unlawful for any person or entity not operating under the provisions of Section 106 of the National Historic Preservation Act, as amended, or the express written permission of the owner willfully or knowingly to:

(1) Dig, probe, break, crack, carve upon, write upon, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the structures, features, surfaces, or contents of archeological, aboriginal, prehistoric, or historic sites; provided, however, that except for human remains and burial objects, this paragraph shall not apply to the collecting of artifacts exposed on the surface of dry land;

(2) Disturb or alter in any manner the prevailing condition of any archeological, aboriginal, prehistoric, or historic site; provided, however, that except for human remains and burial objects, this paragraph shall not apply to the collecting of artifacts exposed on the surface of dry land;

(3) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any area containing an archeological, aboriginal, prehistoric, or historic site or artifacts, even though entrance thereto may not be gained; or

(4) Enter an archeological, aboriginal, prehistoric, or historic site posted against trespassing or a site with a lock, gate, door, or other obstruction designed to control or prevent access to the site.

(b) When the surface of any archeological, aboriginal, prehistoric, or historic site is disturbed by a person not documented as operating under the provisions of Section 106 of the National Historic Preservation Act, as amended, for the purpose of investigating the site or discovering artifacts with the written permission of the landowner, such person shall notify the state archeologist before beginning any such investigation or disturbance. The state archeologist shall maintain a web site and telephone hot line, available at all times, for the purpose of receiving notice in such form as shall be specified by policy of the department. The state archeologist shall immediately notify the Council on American Indian Concerns created by Code Section 44-12-280 of any such investigation that might involve American Indian human remains or burial objects. The state archeologist shall make available to the council any information pertaining to investigations conducted pursuant to Section 106 of the National Historic Preservation Act, as amended.

(c) Possession of any archeological artifact collected on or after July 1, 2001, without the written permission of the owner of the land from which the artifact was removed shall be prima-facie evidence that the archeological artifact was taken in violation of this chapter. As to archeological artifacts unlawfully in the possession of any person or entity, same shall be confiscated and held by the appropriate law enforcement official(s) and shall be returned by said official(s) to the property owner from whose property the artifacts were improperly removed.

(d) Any person who violates any provision of subsection (a) or (b) of this Code section shall be guilty of a misdemeanor.

HISTORY: Code 1981, §12-3-621, enacted by Ga. L. 1992, p. 1790, §2; Ga. L. 2001, p. 313, §1; Ga. L. 2007, p. 166, §1/HB 177.

§12-3-622. Buying, selling, trading, importing, or exporting American Indian burial, sacred, or cultural objects

(a) After December 1, 1992, it shall be unlawful for any person to buy, sell, trade, import, or export for purposes of buying, selling, or trading for profit any American Indian burial object, sacred object, or object of cultural patrimony, with knowledge that the object is an American Indian burial or sacred object or an object of cultural patrimony.

(b) Any person who violates the provisions of subsection (a) of this Code section is guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine not to exceed \$500.00 for each burial object, sacred object, or object of cultural patrimony involved in such violation.

HISTORY: Code 1981, §12-3-622, enacted by Ga. L. 1992, p. 1790, §2.

2018 Georgia Code

Title 50 - State Government, Chapter 18 - State Printing and Documents, Article 4 - Inspection of Public Records, § 50-18-72. When public disclosure not required

<https://law.justia.com/codes/georgia/2018/title-50/chapter-18/article-4/section-50-18-72/>

The universal citation: GA Code §50-18-72 (2018)

(a) Public disclosure shall not be required for records that are:

(1) Specifically required by federal statute or regulation to be kept confidential;

(13) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Board of Regents of the University System of Georgia when the owner or donor of such records wishes to place restrictions on access to the records. No restriction on access, however, may extend more than 75 years from the date of donation or sale. This exemption shall not apply to any records prepared in the course of the operation of state or local governments of the State of Georgia;

(14) Records that contain information from the Department of Natural Resources inventory and register relating to the location and character of a historic property or of historic properties as those terms are defined in Code Sections 12-3-50.1 and 12-3-50.2 if the Department of Natural Resources through its Division of Historic Preservation determines that disclosure will create a substantial risk of harm, theft, or destruction to the property or properties or the area or place where the property or properties are located;

Note: Records are exempt if they relate to the location and character of a historic property.

HAWAII CAVE PROTECTION STATUTES

2011 Hawaii Code

Division 1. Government, Title 1. General Provisions, 6D. Protection of Caves,

<https://law.justia.com/codes/hawaii/2011/division1/title1/chapter6d/>

- 6D-1 Definitions
- 6D-2 Prohibitions
- 6D-3 Pollution
- 6D-4 Disturbance of native organisms
- 6D-5 Sale
- 6D-6 Commercial entry
- 6D-7 Access
- 6D-8 Burial discovery
- 6D-9 Liability
- 6D-10 Confidentiality
- 6D-11 General administrative penalties
- 6D-12 Criminal penalties
- 6D-13 Penalties cumulative

The universal citation: HI Rev Stat §6D-1 -13 (2011 through Reg Sess.)

§6D-1 Definitions.

As used in this chapter:

- “Board” means the board of land and natural resources.
- “Cave” means any naturally occurring void, cavity, recess, or system of interconnected passages large enough for human entry, occurring beneath the surface of the earth or within a cliff or ledge, including the cave resources therein, whether or not an entrance exists or is natural or artificial, and that is of archaeological, geological, biological, or cultural significance. The term includes such forms as a lava tube, natural pit, sinkhole, underwater cave, or other feature that is an extension of the entrance.
- “Cave life” means any living native plant, animal, fungus, or microorganism occurring naturally in caves or in cave entrances or entrance pits.
- “Cave resource” means any material or substance occurring in caves, such as native animal life, native plant life, evidence of past human use over fifty years old, and tangible and intangible attributes associated with cultural traditions over fifty years old, paleontological deposits, sediments, minerals, speleogens, and speleothems. This includes historic properties as defined in Chapter 6E.
- “Commercial entry” means an activity undertaken to exhibit a cave for which compensation is received by any person for goods, services, or both, rendered to customers or participants in that use or activity. Commercial entry includes activities whose base of operations are outside the boundaries of the premises or provide transportation to or from the premises. Any person receiving compensation in conjunction with a use or activity who seeks to qualify as noncommercial shall have the burden of establishing to the satisfaction of the department that the fee or charge is strictly a sharing of actual expenses of the use or activity. A not-for-profit organization that charges only a nominal fee to cover administrative costs and conducts a use or activity at a frequency or magnitude that does not significantly contribute to the degradation of the cave and its resources is not conducting a commercial entry.

- “Construction context” means all permitted land-altering activities necessary to construct any and all manner of improvements on the surface of a property including but not limited to foundations, basements, roads, and buildings. The term also means all permitted land-altering activities necessary to construct subsurface tunnels for highways and utilities.
- “Department” means the department of land and natural resources.
- “Educational purposes” means entrance into a cave by faculty or staff and students of recognized educational institutions for the purpose of education relating to some aspect of the cave, including but not restricted to cave geology, mineralogy, hydrology, biology, archaeology, paleontology, management, and hazards.
- “Gate” means any structure or device located to limit, control, or prohibit access to, or entry to, any portion of a cave.
- “Owner” means the persons who hold title to or are in possession of the land on or under which a cave is located, or the persons’ lessee or agent. The term also includes an agency that holds title to, manages, or controls public land on or under which a cave is located.
- “Paleontological deposit” means any remains or fossils of life forms or surface debris that are over fifty years of age and provide a record of past climates and biota.
- “Person” shall be as defined in §1-19.
- “Scientific purposes” means research, or exploration, or both, conducted by persons affiliated with recognized scientific organizations with the intent to advance knowledge and to publish the results of exploration or research in an appropriate medium.
- “Speleogen” means relief features on the walls, ceiling, or floor of any cave.
- “Speleothem” means any secondary natural mineral formation or deposit occurring in a cave, including any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or other sediment. [L 2002, Chapter 241, part of §2]

§6D-2 Prohibitions.

- (a) It shall be unlawful for any person to intentionally, knowingly, or recklessly break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave, or the cave resources within the cave, whether attached or broken, including speleothems, speleogens, and sedimentary deposits, without the owner's written permission being first obtained.
- (b) It shall be unlawful for any person to break, force, tamper with, or otherwise disturb a gate to any cave, even though entrance thereto may not be gained, without the owner's permission being first obtained.
- (c) It shall be unlawful for any person to remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this chapter.
- (d) It shall be unlawful for any person to take, appropriate, excavate, injure, destroy, or alter any paleontological deposit, which may be found in a cave without the owner's written permission being first obtained.
- (e) This section shall not apply to caves inadvertently encountered within the normal course of a construction context; provided that any cave protection measures imposed through the environmental review process under chapter 343 or any land use permit conditions shall be followed. [L 2002, c 241, part of §2]

§6D-3 Pollution.

- (a) It shall be unlawful for any person to store, dump, dispose of, or otherwise place any refuse, garbage, dead animals, sewage, litter, or toxic substances in any cave or cave entrance; provided that:
- (1) Any cesspool or leach field that is otherwise legal and existing on June 28, 2002 shall continue to be lawful as a nonconforming use or facility;
 - (2) The nonconforming use or facility shall not be expanded or reconstructed; and
 - (3) New septic systems may be installed in proximity to caves; provided they use solid tanks and surface leach fields so as not to permit sewage to flow into the cave and otherwise conform to existing laws and regulations.

(b) It shall be unlawful to intentionally, knowingly, or recklessly burn within a cave or cave entrance any material that produces any smoke, engine exhaust, or gas substantially harmful to any naturally occurring organisms in any cave; provided that this shall not apply to caves encountered within the normal course of a construction context. [L 2002, Chapter 241, part of §2]

Revision Note: “June 28, 2002” substituted for “the effective date of this section”.

§6D-4 Disturbance of native organisms.

(a) It shall be unlawful for any person to intentionally, knowingly, or recklessly remove, kill, or substantially harm any native or endemic organisms within any cave except as provided by a scientific permit obtained from the appropriate agency. This is not intended to restrict normal fishing and gathering in accordance with existing laws.

(b) This section shall not apply to caves encountered within the normal course of a construction context; provided that any cave protection mitigative measures disclosed through environmental review under chapter 343 and land use permitting processes shall be adhered to.

(c) This section shall not in any way prohibit or constrain surface activities on the land above a cave. [L 2002, Chapter 241, part of §2]

§6D-5 Sale.

It shall be unlawful for any person to sell or offer for sale speleothems and speleogens removed from caves. [L 2002, Chapter 241, part of §2]

§6D-6 Commercial entry.

(a) Any person allowing or establishing commercial entry to a cave shall obtain from the board a permit to open the cave for public entry. The department shall charge a reasonable permit processing fee and adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section.

(b) Any person that receives compensation in conjunction with a use or activity and seeks to be excluded from the permit requirement under subsection (a) shall have the burden of establishing to the satisfaction of the department that its use or activity does not constitute a commercial entry under this chapter.

(c) Commercial entry to caves shall be limited to operations in place at the time of the passage of this Act; provided the operations are in compliance with all applicable state and county statutes, ordinances, and rules. No new operations may be established until the adoption of rules by the department to implement this section.

(d) Any person allowing commercial entry at the time of the passage of this Act shall file a declaration of the person's use with the department within sixty days of the enactment of this Act. Existing operations, as recognized by the department through the declaration, within one year of the adoption of rules by the department, shall conform to the rules and all applicable state and county statutes, ordinances, and rules. [L 2002, Chapter 241, part of §2] Note: The effective date of Act 241 is June 28, 2002.

§6D-7 Access.

No person may enter or traverse a cave, or any segment thereof, without the property owner's prior written consent. [L 2002, Chapter 241, part of §2]

§6D-8 Burial discovery.

Anyone traversing a cave who discovers a burial site shall immediately cease their activity and leave the cave. The discovery shall be reported as soon as possible to the department. The department shall follow the procedures described in section 6E-43.6. [L 2002, Chapter 241, part of §2]

§6D-9 Liability.

- (a) An owner of a cave who either directly or indirectly invites or permits without charge any person to use the cave for educational, native Hawaiian cultural, or scientific purposes does not:
- (1) Extend any assurance that the premises are safe for any purpose;
 - (2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;
 - (3) Assume responsibility for, or incur liability for, any injury to person or property caused by an act of omission or commission of those persons; or
 - (4) Assume responsibility for, or incur liability for, any injury to any person or persons who enter the premises in response to an injured educational, native Hawaiian cultural, or scientific user.
- (b) Nothing in this section shall be construed to:
- (1) Create a duty of care or ground of liability for injury to persons or property; or
 - (2) Relieve any person using the cave of another for educational, native Hawaiian cultural, or scientific purposes from any obligation which the person may have in the absence of this section to exercise care in the person's use of that cave and in the person's activities therein, or from the legal consequences of failure to employ such care; or
 - (3) Limit the effect of Chapter 520.
- (c) Nothing in this section limits in any way any liability which otherwise exists:
- (1) For willful or malicious failure to guard or warn against a dangerous condition, use, or structure which the owner knowingly creates or perpetuates and for willful or malicious failure to guard or warn against a dangerous activity which the owner knowingly pursues or perpetuates; and
 - (2) For injury suffered in any case where the owner of a cave charges a fee to any person who enters or uses the cave for educational, native Hawaiian cultural, or scientific purposes, except that in the case of land leased to the State or a political subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section. [L 2002, Chapter 241, part of §2]

§6D-10 Confidentiality.

- (a) Where the department determines in consultation with the owner that dissemination of knowledge of cave location or resources could be detrimental to their protection, then the government information on the cave location and sensitive resources shall be kept confidential.
- (b) Notwithstanding subsection (a), where an owner still believes that dissemination of knowledge [of] cave location or resources could be detrimental to their protection, then the department shall keep all government information on the cave location and sensitive cave resources confidential.
[L 2002, Chapter 241, part of §2]

§6D-11 General administrative penalties.

- (a) Except as otherwise provided by law, the board, or its authorized representative by proper delegation, with respect to a violation of this chapter or any rule adopted or permit issued in accordance with this chapter, may:
- (1) Set, pursuant to subsection (b), charge, and collect administrative fines or bring legal action to recover administrative fees and costs, as documented by receipts or affidavit, including attorneys' fees and costs; or
 - (2) Bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, payment for damages, or for the cost to correct damages, resulting from violation of this chapter or any rule adopted, or permit issued in accordance with this chapter.
- (b) Administrative fines shall be as follows:
- (1) For a first violation, a fine of not more than \$10,000 for each separate offense;
 - (2) For a second violation within five years of a previous violation, a fine of not more than \$15,000; and
 - (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$30,000. [L 2002, Chapter 241, part of §2]

§6D-12 Criminal penalties.

(a) In addition to any other penalties, any person who intentionally, knowingly, or recklessly violates this chapter, any rule adopted pursuant to this chapter, or the terms and conditions of any permit issued in accordance with this chapter shall be guilty of a petty misdemeanor and shall be fined not less than:

- (1) \$1,000 for a first offense; and
- (2) \$1,500 for any subsequent offense.

(b) Intentional, knowing, or reckless damage, destruction, removal, taking, sale, or illegal possession of each specimen of cave resource shall be subject to a fine of not less than:

- (1) \$1,000 for a first offense; and
- (2) \$1,500 for any subsequent offense.

Each day of continued violation under this chapter shall constitute a distinct and separate offense for which the violator may be punished. Equipment used by the violator in the course or furtherance of the violation shall be subject to seizure and disposition by the State without compensation to its owner or owners. Penalties under this section shall not limit the imposition of penalties pursuant to chapter 6E.

(c) The fines specified in this section shall not be suspended or waived. [L 2002, c 241, part of §2]

§6D-13 Penalties cumulative.

(a) Any criminal action against a person for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter or any rule adopted pursuant to this chapter shall not be deemed to preclude the State from pursuing any criminal action against the person.

(b) Penalties under this section shall not limit the imposition of penalties pursuant to chapter 6E. [L 2002, Chapter 241, part of §2]

HAWAII ARCHAEOLOGY STATUTES

2016 Hawaii Revised Statutes

Title 1. General Provisions, 6E. Historic Preservation

<https://law.justia.com/codes/hawaii/2016/title-1/chapter-6e/section-6e-17/>

The universal citation: HI Rev Stat § 6E-17 (2016)

§6E-17 Archaeological data survey database.

(a) There is established a Hawaii archaeological data survey database designated as a program of the State of Hawaii Museum of Natural and Cultural History. The database shall be online and accessible to the public through the Internet. The information within the database may include information relating to the collections of the Bernice Pauahi Bishop Museum, publicly available materials, and materials from private entities or organizations. The database may include archaeological information such as reports, photographs, drawings, maps, and archived documents. The database may also include compilations of collections information from public and private repositories including:

- (1) A description of the types and amounts of materials and associated documentation in each collection;
- (2) A listing of the owner or owners of all materials and associated documentation in each collection;
- (3) A general assessment of the condition of the components of each collection; and
- (4) Other relevant information pertaining to each collection.

The data survey database shall be developed and maintained by the State of Hawaii Museum of Natural and Cultural History, in consultation with the state historic preservation division and other appropriate state and federal agencies and private organizations.

(b) The archaeological data survey shall not include any information required to remain confidential under federal, state, or county laws, rules, or regulations.

(c) The State of Hawaii Museum of Natural and Cultural History, in consultation with the office of Hawaiian affairs and the state historic preservation division, may temporarily or permanently withhold from the database any information due to a valid threat of destruction or loss of the information, or if disclosure may frustrate the legitimate and necessary function of protecting a valuable archaeological site or artifact. The entities shall determine what information shall be withheld from the data survey; provided that prior consultation is sought with any affected state or federal governmental agencies, or private individuals or organizations. [L 2008, Chapter 161, §1]

6E-43 Prehistoric and historic burial sites.

(a) At any site, other than a known, maintained, actively used cemetery where human skeletal remains are discovered or are known to be buried and appear to be over fifty years old, the remains and their associated burial goods shall not be moved without the department's approval.

(b) All burial sites are significant and shall be preserved in place until compliance with this section is met, except as provided in §6E-43.6. The appropriate island burial council shall determine whether preservation in place or relocation of previously identified native Hawaiian burial sites is warranted, following criteria which shall include recognition that burial sites of high preservation value, such as areas with a concentration of skeletal remains, or prehistoric or historic burials associated with important individuals and events, or areas that are within a context of historic properties, or have known lineal descendants, shall receive greater consideration for preservation in place. The criteria shall be developed by the department in consultation with the councils, office of Hawaiian affairs, representatives of development and large property owner interests, and appropriate Hawaiian organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei, through rules adopted pursuant to chapter 91. A council's determination shall be rendered within forty-five days of referral by the department unless otherwise extended by agreement between the landowner and the department.

(c) Council determinations may be administratively appealed to a panel composed of three council chairpersons and three members from the board of land and natural resources as a contested case pursuant to chapter 91. In addition to the six members, the chairperson of the board of land and natural resources shall preside over the contested case and vote only in the event of a tie.

(d) Within ninety days following the final determination, a preservation or mitigation plan shall be approved by the department in consultation with any lineal descendants, the respective council, other appropriate Hawaiian organizations, and any affected property owner.

(e) Should the burial site prove to be other than Hawaiian, the department, within thirty days shall determine whether preservation in place or relocation is warranted, and within an additional ninety days a preservation or mitigation plan shall be approved by the department in consultation with any lineal descendants, appropriate ethnic organizations, and any affected property owner.

§6E-61 Biological survey; designation.

A Hawaii biological survey is established and designated as a program of the State of Hawaii museum of natural and cultural history. The survey shall consist of an ongoing natural history inventory of the Hawaiian archipelago to locate, identify, evaluate, and maintain the reference collections of all native and non-native species of flora and fauna within the State for a wide range of uses. The survey shall coordinate with and complement the work of the Hawaii heritage program, established by chapter 195, which manages data on rare native plants, animals, and natural communities throughout the State. To expand the use, control, and knowledge of biological species, the survey shall also be conducted in coordination with the existing databases of the department of agriculture, the department of land and natural resources, the University of Hawaii, and other appropriate organizations. [L 1992, Chapter 111, §2]

Hawaii Administrative Rules Title 13 Department of Land and Natural Resources Subtitle 13 Historic Preservation Division Chapter 300 Rules of Practice and Procedure Relating To Burial Sites And Human Remains

<https://files.hawaii.gov/dlnr/shpd/rules/300.pdf>

Forty-five pages of Administrative Rules Pertaining to Historic Preservation in Hawaii.

IDAHO CAVE PROTECTION STATUTES

2016 Idaho Statutes

Title 18 - Crimes and Punishments, Chapter 70 - Trespass and Malicious Injuries to Property,

<https://law.justia.com/codes/idaho/2016/title-18/chapter-70/section-18-7035/>

The universal citation: ID Code §18-7035 (2016)

§18-7035. Damaging caves or caverns unlawful – Penalty.

It shall be unlawful for any person, without prior permission of the federal, state or private landowner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm any natural material found in any **cave or cavern**, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions, or other similar crystalline mineral formations or otherwise; to kill, harm or in any manner or degree disturb any plant or animal life found therein; to otherwise disturb or alter the natural conditions of such cave or cavern through the disposal therein of any solid or liquid materials such as refuse, food, containers or fuel of any nature, whether or not malice is intended; to disturb, excavate, remove, displace, mar or harm any archaeological artifacts found within a cave or cavern including petroglyphs, projectile points, human remains, rock or wood carvings or otherwise, pottery, basketry or any handwoven articles of any nature, or any pieces, fragments or parts of any such articles; or to break, force, tamper with, remove of [or] otherwise disturb a lock, gate, door, or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained. For purposes of this section, “cave” means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter. Any person violating the provisions of this section shall be guilty of a misdemeanor.

History: [§18-7035, added 1982, Chapter 283, §1, p. 717.]

§18-113. Punishment for Misdemeanor.

(1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to one thousand dollars (\$1,000). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.

History: [§18-113, added 1972, Chapter 336, §1, p. 848; am. 1994, Chapter 141, §1, p. 315; am. 2005, Chapter 359, §1, p. 1133.]

IDAHO ARCHAEOLOGY STATUTES

2016 Idaho Statutes

Title 67 - State Government and State Affairs, Chapter 41 - State Historical Society

<https://law.justia.com/codes/idaho/2016/title-67/chapter-41/section-67-4119/>

§67-4119. Purpose -- Protection of archaeological and vertebrate paleontological sites and resources.

The purpose of this act is to protect archaeological and vertebrate paleontological sites and resources on public lands in the state of Idaho and to ensure their safety and availability for scientific research.

§67-4120 - PERMITS FOR EXCAVATION.

A permit shall first be obtained from the board of trustees of the Idaho State Historical Society before any excavation in or on any prehistoric site, ruins, pictographs, petroglyphs, or any other ancient marking or writing, or in or on any archaeological or vertebrate paleontological deposit or site on any public lands in Idaho. Such permits shall be issued only to applicants who are qualified by experience or professional training to conduct such excavations in an approved scientific manner. Said trustees may appoint any such professionally qualified advisors as, in their opinion, may be needed to advise them upon the granting of said permits.

§Section 67-4121 - REGULATIONS.

The board of trustees of the Idaho State Historical Society is hereby authorized and empowered to promulgate and to enforce such regulations as it may deem needful to protect the prehistoric ruins and relics and archaeological and vertebrate paleontological sites and deposits on any public land in Idaho. No person shall remove from the state of Idaho any part of any such ruins, pictographs, petroglyphs, relics, deposits, objects, specimens, or artifacts recovered from any such archaeological or vertebrate paleontological site or deposit without first obtaining the consent of the board of trustees of the Idaho State Historical Society. Said board of trustees may require, as a condition to such consent, that such portion of such relics, ruins, pictographs, petroglyphs, objects, specimens, artifacts, or deposits as said board of trustees shall require, shall become or remain the property of the state of Idaho. Nothing in this section shall be construed to interfere with the administrative management of relics, ruins, pictographs, petroglyphs, deposits, objects, specimens, or artifacts which have been recovered from any such sites or deposits and which are the property of any agency or institution of the government of the state of Idaho. History: [§67-4121, added 1963, Chapter 181, §3, p. 539.]

§67-4122. Penalties.

Any person violating this act shall be guilty of a misdemeanor and, upon conviction thereof, shall, in addition to any other penalties imposed, forfeit to the state of Idaho all articles and materials he acquired from or discovered on such archaeological or vertebrate paleontological sites.

<https://law.justia.com/codes/idaho/2016/title-74/chapter-1/section-74-108/>

§74-108. Exemptions from disclosure -- Archaeological, endangered species, libraries, licensing exams.

The following records are exempt from disclosure:

- (1) Records, maps, or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.
- (2) Archaeological and geologic records concerning exploratory drilling, logging, mining, and other excavation, when such records are required to be filed by statute for the time provided by statute.

ILLINOIS CAVE PROTECTION STATUTES

2019 Illinois Compiled Statutes

Chapter 525 – Conservation, 525 ILCS 5 - Cave Protection Act.

<https://law.justia.com/codes/illinois/2019/chapter-525/act-525-ilcs-5/>

The universal citation: Illinois Combined Statutes: 525 ILCS 5/1

525 ILCS 5/1 (from Chapter 96 1/2, par. 9501) §1.

This Act shall be known and may be cited as the Cave Protection Act. (Source: P.A. 84-140.)

525 ILCS 5/2 (from Chapter 96 1/2, par. 9502) §2.

As used in this Act, the following terms have the following meanings, unless the context otherwise requires:

- “Cave” means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge which is large enough to permit a person to enter, including natural subsurface water and drainage systems, but not including any mine, tunnel or other manmade excavation.
- “Cave resource” means any cave and its contents, together with associated topographic and hydrological features.
- “Commercial cave” means any cave utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.
- “Cultural resource” means any historic or prehistoric human remains, artifacts, constructions, or evidence thereof.
- “Department” means the Department of Natural Resources.
- “Director” means the Director of the Department.
- “Gate” means any structure or device located to limit or prohibit access or entry into any cave.
- “Natural resource” means any material occurring naturally in caves including, but not limited to, animal life, whether vertebrate or invertebrate, plant life, paleontological deposits, sediments, minerals, speleogens, speleothems, water and other natural resources.
- “Owner” means a person who owns title to land where a cave is located.
- “Person” means any individual, partnership, firm, association, trust, corporation or other legal entity.
- “Sinkhole” means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley, or sink.
- “Speleogen” means the surrounding natural material or bedrock in which a cave is formed, including walls, floors and ceiling and similar related structural and geological components.
- “Speleothem” means a natural mineral formation or deposit occurring in a cave.

(Source: P.A. 89-445, eff. 2-7-96.)

525 ILCS 5/3 (from Chapter 96 1/2, par. 9503) §3.

The Department may take special actions as necessary, consistent with the purposes of this Act, including but not limited to:

- (1) employment of cave resources management personnel;
- (2) appointment of volunteer cave management and administrative personnel;
- (3) providing cave owners with technical assistance and management advice;
- (4) entering into volunteer management agreements with individual persons, members and associations of the caving community;
- (5) initiating a comprehensive inventory of cave resources;

- (6) adopt rules in accordance with the Illinois Administrative Procedure Act to further this Act;
- (7) issuance of grants from appropriated funds. (Source: P.A. 84-140.)

525 ILCS 5/4 (from Chapter 96 1/2, par. 9504) §4.

The Director may also appoint an advisory council composed of individuals, members of organized caving groups or the scientific community for the purpose of developing regulations pursuant to this Act, reviewing management plans for cave resources on public land, or to otherwise provide advice and assistance as deemed necessary by the Department in furthering the purposes of this Act.
(Source: P.A. 84-140.)

525 ILCS 5/5 (from Chapter 96 1/2, par. 9505) §5.

Owners of land shall not be liable for injuries, mental harm or death sustained by persons using their land, including but not limited to cave resources, for recreational, educational, or scientific purposes. By granting permission for entry or use, the owner does not thereby:

- (a) extend any assurance that the premises are safe for such purposes, or
- (b) constitute to the permittee the legal status of an invitee or licensee to whom a duty of care is owed, or
- (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a permittee except as provided in this Section.

This Act shall not limit the liability which otherwise exists for (1) willful or malicious failure to guard or warn against a dangerous condition, use or natural structure; or (2) failure to guard or warn against a dangerous manmade structure, fixture or activity; or (3) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration.

Nothing in this Section creates a duty of care or ground of liability for injury to person or property.
(Source: P.A. 84-140.)

525 ILCS 5/6 (from Chapter 96 1/2, par. 9506) §6.

It shall be unlawful for any person, without the express written permission of the land owner, to:

- (a) Willfully or knowingly break, break off, crack, carve upon, write, burn, mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens and sedimentary deposits.
- (b) Break, force, tamper with, or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
- (c) Remove, deface or tamper with a sign stating that a cave is posted or citing provisions of this Act.
- (d) Store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animal, sewage, or toxic substance harmful to cave life or humans in any cave or sinkhole.
- (e) Burn within any cave or sinkhole any material which produces any smoke or gas which is harmful to any organism in any cave. This Section shall specifically exempt acetylene gas emissions created by carbide lamps used as a source of light by persons using the cave.
- (f) Kill, injure, disturb or otherwise interfere with any cave life, including any cave roosting bat, or interfere with or obstruct the free movement of any cave resource into or out of any cave, or enter any cave with the intention of killing, injuring, disturbing or interfering with life forms therein.
- (g) Remove any natural or cultural resources found within any cave.

(Source: P.A. 91-357, eff. 7-29-99.)

2019 Illinois Compiled Statutes
Chapter 730 – Corrections

<https://law.justia.com/codes/illinois/2019/chapter-730/act-730-ilcs-5/chapter-v/>

The universal citation: Illinois Combined Statutes: 730 ILCS 5/5-4.5-55

730 ILCS 5/5-4.5-55 Class A Misdemeanors; Sentence.

For a Class A misdemeanor:

- (a) Term. The sentence of imprisonment shall be a determinate sentence of less than one year.
- (b) Periodic Imprisonment. A sentence of periodic imprisonment shall be for a definite term of less than one year, except as otherwise provided in §5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).
- (c) Impact Incarceration. See §5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.
- (d) Probation; Conditional Discharge. Except as provided in §§ 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in §5-6-3 (730 ILCS 5/5-6-3).
- (e) Fine. Unless otherwise specified by law, the minimum fine is \$75. A fine not to exceed \$2,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Chapter V, Art. 9) for imposition of additional amounts and determination of amounts and payment. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine.

ILLINOIS ARCHAEOLOGY STATUTES

2019 Illinois Compiled Statutes

Chapter 20 - Executive Branch, 20 ILCS 3435/ - Archaeological and Paleontological Resources Protection Act (20 ILCS 3435/.01) (from Ch. 127, par. 133c.01)

<https://law.justia.com/codes/illinois/2019/chapter-20/act-20-ilcs-3435/>

The universal citation: Illinois Combined Statutes: 20 ILCS 3435

20 ILCS 3435/.01 § .01.

This Act shall be known and may be cited as the "Archaeological and Paleontological Resources Protection Act". (Source: P.A. 86-459; 86-707.)

20 ILCS 3435/.02 (from Ch. 127, par. 133c.02) § .02.

For purposes of this Act:

(a) "Archaeological resource" means any significant material remains or localities of past human life or activities on public land, including but not limited to artifacts, historic and prehistoric human skeletal remains, mounds, earthworks, shipwrecks, forts, village sites or mines.

(b) "Disturb" includes defacing, mutilating, injuring, exposing, removing, destroying, desecrating or molesting in any way.

(c) "Paleontological resource" means any significant fossil or material remains on public lands including traces or impressions of animals or plants that occur as part of the geological record that are known and are included in the files maintained by the Illinois State Museum under Section 10.

(d) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representative appointed by order of any court, the federal and State governments, including State universities created by statute or any city, town, county or other political subdivision of this State.

(e) "Public land" means any land owned, but does not include land leased as lessee, by the State of Illinois or its agencies, a State university created by statute, a municipality or a unit of local government. (Source: P.A. 86-459; 86-707.)

(20 ILCS 3435/1) (from Chapter 127, par. 133c1) § 1.

The State of Illinois reserves to itself the exclusive right and privilege of regulating, exploring, excavating or surveying, through the Department of Natural Resources, all archaeological and paleontological resources found upon or within any public lands. (Source: P.A. 100-695, eff. 8-3-18.)

20 ILCS 3435/2 (from Chapter 127, par. 133c2) §2.

Any deed hereafter given by the owner of public land may contain a clause reserving to the State a property right in any archaeological and paleontological resources or portion thereof and also reserving the right to explore and excavate for the same. (Source: P.A. 86-459; 86-707.)

20 ILCS 3435/3 (from Chapter 127, par. 133c3) §3.

(a) It is unlawful for any person, either by himself or through an agent, to explore, excavate or collect any of the archaeological or paleontological resources protected by this Act, unless such person obtains a permit issued by the Department of Natural Resources.

(b) It is unlawful for any person, either by himself or through an agent, to knowingly disturb any archaeological

or paleontological resource protected under this Act.

(c) It is unlawful for any person, either by himself or through an agent, to offer any object for sale or exchange with the knowledge that it has been previously collected or excavated in violation of this Act.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/3.1) (from Chapter 127, par. 133c3.1) §3.1.

The State's Attorney of the county in which a violation of Section 3 is alleged to have occurred, or the Attorney General, may be requested by the Director of Natural Resources to initiate criminal prosecutions or to seek civil damages, injunctive relief and any other appropriate relief. The Department of Natural Resources shall cooperate with the State's Attorney or the Attorney General. Persons aware of any violation of this Act shall contact the Department of Natural Resources. (Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/3.2) (from Chapter 127, par. 133c3.2) §3.2.

The Department of Natural Resources is authorized to offer a reward of up to \$2,000 for information leading to the arrest and conviction of persons who violate Section 3. (Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/5) (from Chapter 127, par. 133c5) §5.

Any violation of §3 not involving the disturbance of human skeletal remains is a Class A misdemeanor and the violator shall be subject to imprisonment and a fine not in excess of \$5,000; any subsequent violation is a Class 4 felony. Any violation of Section 3 involving disturbance of human skeletal remains is a Class 4 felony. Each disturbance of an archaeological site or a paleontological site shall constitute a single offense. Persons convicted of a violation of Section 3 shall also be liable for civil damages to be assessed by the land managing agency and the Department of Natural Resources. Civil damages may include:

- (a) forfeiture of any and all equipment used in acquiring the protected material;
- (b) any and all costs incurred in cleaning, restoring, analyzing, accessioning, and curating the recovered materials;
- (c) any and all costs associated with restoring the land to its original contour;
- (d) any and all costs associated with recovery of data and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the archaeological or paleontological site;
- (e) any and all costs associated with the determination and collection of the civil damages.

When civil damages are recovered through the Attorney General, the proceeds shall be deposited into the Historic Sites Fund; when civil damages are recovered through the State's Attorney, the proceeds shall be deposited into the county fund designated by the county board. (Source: P.A. 100-695, eff. 8-3-18.)

20 ILCS 3435/6 (from Chapter Resources, in consultation with the various State agencies owning or managing land for the use of the State of Illinois)

(a) Shall develop regulations whereby permits may be issued for exploration or excavation of archaeological and paleontological resources. These permits shall be issued by the Department of Natural Resources after consultation with the head of the land managing agency.

(b) Permits to any person or entity other than the State of Illinois shall be issued in accordance with regulations which shall be promulgated by the Department of Natural Resources.

(c) Each permit shall specify all terms and conditions under which the investigation shall be carried out, including, but not limited to, location and nature of the investigation and plans for analysis and publication of the results. Upon completion of the project, the permit holder shall report its results to the Department of Natural Resources. (Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/7) (from Chapter 127, par. 133c7) §7.

All materials and associated records remain the property of the State and are managed by the Illinois State Museum. The Illinois State Museum, in consultation with the Department of Natural Resources, is authorized to establish long-term curation agreements with universities, museums and other organizations. (Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/8) (from Chapter 127, par. 133c8) §8.

(a) The Illinois State Museum shall be exempt from the permit requirements established by this Act for lands under its direct management but shall register that exploration with the Department of Natural Resources; such registration shall include the information required under subsection (c) of Section 6.

(b) Any agency or department of the State of Illinois which has on its staff a professional archaeologist or paleontologist who meets the minimum qualifications established in Section 9 and which has in effect a memorandum of agreement with the Department of Natural Resources for the protection, preservation and management of archaeological and paleontological resources shall be exempt from the permit requirements established by this Act.

(c) Activities reviewed by the Department of Natural Resources pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) shall be exempt from these permitting requirements.

(d) Where a local government's activities are funded in whole or in part by a State agency and the funded activities are supervised or controlled by the State agency, the local government shall be exempt from the permit requirements established by this Act to the same extent that the State agency is exempt. The State agency shall be responsible for undertaking or causing to be undertaken any steps necessary to comply with this Act for those local government actions so exempted. (Source: P.A. 100-695, eff. 8-3-18.)

20 ILCS 3435/9 (from Chapter 127, par. 133c9) §9.

The Department of Natural Resources shall, through rulemaking, establish minimum standards of education and experience for an archaeologist or paleontologist to qualify as a professional for the purpose of conducting activities for which a permit is required. (Source: P.A. 100-695, eff. 8-3-18.)

20 ILCS 3435/10 (from Chapter 127, par. 133c10) §10.

The Illinois State Museum, in cooperation with the Department of Natural Resources, shall develop and maintain files containing information on known archaeological and paleontological sites in the State, whether on State controlled or privately owned property. The Department of Natural Resources shall ensure the safety of those sites by promulgating regulations limiting access to those files, as necessary. (Source: P.A. 100-695, eff. 8-3-18.)

20 ILCS 3435/11 (from Chapter 127, par. 133c11) §11.

The Department of Natural Resources, in consultation with other State agencies and Departments that own or control land, shall promulgate such regulations as may be necessary to carry out the purposes of this Act. (Source: P.A. 100-695, eff. 8-3-18.)

INDIANA CAVE PROTECTION STATUTES

2012 Indiana Code

Title 35. Criminal Law and Procedure, Article 43. Offenses Against Property, Chapter 1. Arson, Mischief, and Tampering, Article 43. Offenses Against Property

<https://law.justia.com/codes/indiana/2012/title35/article43/chapter1/>

The universal citation: IN Code §35-43-1-3 (2012)

§35-43-1-3 Unlawful acts relating to caves; offense

As used in this section:

- “Cave” means any naturally occurring subterranean cavity, including a cavern, pit, pothole, sinkhole, well, grotto, and tunnel whether or not it has a natural entrance.
- “Owner” means the person who holds title to or is in possession of the land on or under which a cave is located, or his lessee, or agent.
- “Scientific purposes” means exploration and research conducted by persons affiliated with recognized scientific organizations with the intent to advance knowledge and with the intent to publish the results of said exploration or research in an appropriate medium.

(b) A person who knowingly and without the express consent of the cave owner:

- (1) disfigures, destroys, or removes any stalagmite, stalactite, or other naturally occurring mineral deposit or formation, or archeological or paleontological artifact in a cave, for other than scientific purposes;
- (2) breaks any lock, gate, fence, or other structure designed to control or prevent access to a cave;
- (3) deposits trash, rubbish, chemicals, or other litter in a cave; or
- (4) destroys, injures, removes, or harasses any cave-dwelling animal for other than scientific purposes; commits a Class A misdemeanor.

As added by P.L.177-1983, §2.

2017 Indiana Code

Title 35. Criminal Law and Procedure, Article 50. Sentences, Chapter 3. Sentences for Misdemeanors, 35-50-3-2. Class A misdemeanor

<https://law.justia.com/codes/indiana/2017/title-35/article-50/chapter-3/section-35-50-3-2/>

The universal citation: IN Code §35-50-3-2 (2017)

§35-50-3-2 Class A misdemeanor.

A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000).

As added by Acts 1976, P.L.148, §8. Amended by Acts 1977, P.L.340, §124.

2017 Indiana Code

TITLE 14. Natural and Cultural Resources, Article 22. Fish and Wildlife, Chapter 10. Wildlife Regulation, 14-22-10-2.5. Restrictions on landowner liability to hunters, fishers, and trappers

<https://law.justia.com/codes/indiana/2017/title-14/article-22/chapter-10/section-14-22-10-2.5/>

The universal citation: IN Code §14-22-10-2.5 (2017)

§14-22-10-2.5 Restrictions on landowner liability to hunters, fishers, and trappers

- (a) A person who goes upon or through the premises, including caves, of another:
- (1) with or without permission; and
 - (2) either:
 - (A) without the payment of monetary consideration; or
 - (B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government;
- for the purpose of hunting, fishing, trapping, or preparing to hunt, fish, or trap, does not have an assurance that the premises are safe for that purpose.
- (b) The owner of the premises does not:
- (1) assume responsibility; or
 - (2) incur liability;
- for an injury to a person or property caused by an act or failure to act of other persons using the premises.
- (c) This section does not affect Indiana case law on the liability of owners or possessors of premises with respect to the following:
- (1) Business invitees in commercial establishments.
 - (2) The attractive nuisance doctrine.
- (d) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant. As added by P.L.75-1998, §3.

INDIANA ARCHAEOLOGY STATUTES

2018 Indiana Code

Title 14. Natural and Cultural Resources, Article 21. Historic Preservation and Archeology, Chapter 1. Division of Historic Preservation and Archeology

<https://law.justia.com/codes/indiana/2018/title-14/article-21/chapter-1/>

Long and detailed Chapter. Suggest you use the link to review it.

§14-21-1-26 Disturbing ground to discover artifacts, burial objects, or human remains; penalty

- (a) A person who disturbs the ground for the purpose of discovering, uncovering, or moving artifacts, burial objects, or human remains must do so in accordance with a plan approved by the department under section 25 of this chapter or under IC 14-3-3.4-14 (before its repeal).
- (b) A person who recklessly, knowingly, or intentionally violates this section commits the following:
- (1) A Class A misdemeanor if the violation does not involve disturbing human remains.
 - (2) A Level 6 felony if the violation involves disturbing human remains.

[Pre-1995 Recodification Citation: 14-3-3.4-15.]

As added by P.L.1-1995, §14. Amended by P.L.26-2008, §7; P.L.158-2013, §200.

<https://law.justia.com/codes/indiana/2018/title-14/article-21/chapter-1/section-14-21-1-32/>

§14-21-1-32 Confidential archeological site information

- (a) Subject to subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:
- (1) risk harm to the historic or archeological site;
 - (2) cause a significant invasion of privacy; or
 - (3) impede the use of a traditional religious site by practitioners.
- (b) The division may not disclose to the public reports and information required to be confidential under federal law.
- (c) If the director of the division determines that reports and information should be confidential under subsection (a), the director of the department, in consultation with the director of the division, shall determine who may have access to the confidential reports and information.

2018 Indiana Code

Title 35. Criminal Law and Procedure, Article 43. Offenses Against Property, Chapter 1. Arson, Mischief, and Tampering, §35-43-1-6. Altering historic property

<https://law.justia.com/codes/indiana/2018/title-35/article-43/chapter-1/section-35-43-1-6/>

The universal citation: IN Code §35-43-1-6 (2018)

§35-43-1-6 Altering historic property

A person who knowingly or intentionally alters, without a permit, historic property located on property owned or leased by the state commits a Class B misdemeanor.

2017 Indiana Code

Title 35. Criminal Law and Procedure, Article 50. Sentences, Chapter 3. Sentences for Misdemeanors, 35-50-3-3. Class B Misdemeanor

<https://law.justia.com/codes/indiana/2017/title-35/article-50/chapter-3/section-35-50-3-3/>

The universal citation: IN Code §35-50-3-3 (2017)

§35-50-3-3 Class B misdemeanor

A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000).

As added by Acts 1976, P.L.148, §8. Amended by Acts 1977, P.L.340, §125.

IOWA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

IOWA ARCHAEOLOGY STATUTES

2018 Iowa Code

Title VII - Education and Cultural Affairs, Chapter 263B - State Archaeologist

<https://law.justia.com/codes/iowa/2018/title-vii/chapter-263b/section-263b.7/>

The universal citation: IA Code §263B.7 (2018)

§263B.7 Ancient remains.

The state archaeologist has the primary responsibility for investigating, preserving, and reintering discoveries of ancient human remains. For the purposes of this section, ancient human remains are those remains found within the state which are more than one hundred fifty years old. The state archaeologist shall make arrangements for the services of a forensic osteologist in studying and interpreting ancient burials and may designate other qualified archaeologists to assist the state archaeologist in recovering physical and cultural information about the ancient burials. The state archaeologist shall file with the Iowa department of public health a written report containing both physical and cultural information regarding the remains at the conclusion of each investigation.

[C77, 79, 81, §305A.7] 91 Acts, Chapter 97, §41; C93, §263B.7

§263B.8 Cemetery for ancient remains.

The state archaeologist shall establish, with the approval of the executive council [Governor, Secretary of State, State Auditor, State Treasurer, Secretary of Agriculture], a cemetery on existing state lands for the reburial of ancient human remains found in the state. The cemetery shall not be open to the public. The state archaeologist in co-operation with the department of natural resources shall be responsible for coordinating interment in the cemetery.

[C77, 79, 81, §305A.8] C93, §263B.8

§263B.9 Authority to deny permission to disinter human remains.

The state archaeologist shall have the authority to deny permission to disinter human remains that the state archaeologist determines have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

[C79, 81, §305A.9]C93, §263B.9

§263B.10 - Confidentiality of archaeological locations and information.

The state archaeologist shall comply with the requirements of section 22.7, subsection 20, regarding information pertaining to the nature and location of archaeological resources or sites. The state archaeologist shall consult with other public officers serving as lawful custodians of archaeological information to determine whether the information should be confidential or be released.

86 Acts, Chapter 1228, §2; C87, §305A.10; C93, §263B.10

§716.5 Criminal mischief in the third degree.

A person commits criminal mischief in the third degree [aggravated misdemeanor] who does either of the following:

1. Intentionally disinters human remains from a burial site without lawful authority.
2. Intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

§5231.316(6) Discovery of Human Remains.

Any person discovering human remains shall notify the county or state medical examiner or a city, county, or state law enforcement agency as soon as is reasonably possible unless the person knows or has good reason to believe that such notice has already been given or the discovery occurs in a cemetery. If there is reason to believe that interment may have occurred more than one hundred fifty years earlier, the governmental subdivision notified shall also notify the state archaeologist. A person who does not provide notice required pursuant to this subsection commits a serious misdemeanor.

2019 Iowa Code

Title XVI - Criminal Law and Procedure, Chapter 903 – Misdemeanors

<https://law.justia.com/codes/iowa/2019/title-xvi/chapter-903/section-903-1/>

The universal citation: IA Code §903.1 (2019)

§903.1 Maximum sentence for misdemeanants.

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:
 - a. For a simple misdemeanor, there shall be a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.
 - b. For a serious misdemeanor, there shall be a fine of at least three hundred fifteen dollars but not to exceed one thousand eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.
2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least six hundred twenty-five dollars but not to exceed six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

The Office of State Archaeologist (OSA) was organized in 1959 to provide for the location, recovery, restoration, and preservation of archaeological materials for the state, and coordinate these activities with other state agencies. The OSA publishes both educational and scientific reports related to these duties and responsibilities

The Iowa Administrative Code, 04/08/2020, Archaeologist [685] lists rules and procedures. See:

<https://www.legis.iowa.gov/law/administrativeRules/rules?agency=685&chapter=1&pubDate=04-08-2020>

KANSAS DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

Under the Land and Recreational Area Act, an owner of agricultural land may operate under statutory protection from liability for ordinary negligence whether or not a fee is charged for recreational use of the land, but an owner of nonagricultural land operates under this statutory protection only if a fee is not charged. “Recreational purpose” includes, but is not limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

KANSAS ARCHAEOLOGY STATUTES

Article 27 – State Historical Society

<https://law.justia.com/codes/kansas/2012/chapter75/article27/section75-2726/>

The universal citation: KS Stat §75-2726 (2012)

§75-2726. Acquisition of historic property for purposes of historic preservation.

- (a) The state of Kansas shall not acquire or make a commitment to acquire by gift, lease, purchase or other means any historic property for purposes of historic preservation of such property unless such property is listed on the national register of historic places and, in any case, until an application for acquisition of historic property is filed with the secretary of the state historical society and the state historic sites board of review has reviewed such application and submitted a report and findings in regard to the acquisition of such property to the governor and the legislature in accordance with this section.
- (b) An application for acquisition of historic property shall be filed with the secretary of the state historical society on forms prepared by the secretary of the state historical society and shall contain such information concerning such historic property as the secretary of the state historical society may require. Each such application for acquisition of any historic property shall be signed by at least 1,000 of the qualified electors of this state and at least 25% of the number of the electors signing the application shall be also qualified electors of the county where the historic property is located.
- (c) Upon the receipt of such application, the secretary of the state historical society shall notify the chairperson of the state historic sites board of review that an application has been received. The state historic sites board of review shall meet to conduct fact-finding hearings and otherwise investigate the application for acquisition of historic property. The state historic sites board of review shall make a report and findings on the factors established in subsection (e). If, prior to the time the state historic sites board of review makes a report and findings, changes have occurred to the property that have destroyed, removed, reduced or otherwise irreparably altered those features, characteristics, elements, materials or values that made the property historically important, the board may direct a cessation of the investigation and research efforts on that property and shall notify the individual or group submitting the petition, the governor and the legislature of the reasons for cessation of the investigation.
- (d) If an application for acquisition of historic property previously proposed for acquisition and previously investigated by the state historic sites board of review is filed with the secretary of the state historical society, the state historic sites board of review may in its discretion decide whether or not to conduct a new investigation of the historic property.
- (e) Upon review of an application for acquisition of historic property, the state historic sites board of review shall make findings on the following factors:
- (1) Whether the historic property has sufficient historical significance, educational value, and general public interest to justify acquisition;
 - (2) what the costs of acquisition, restoration, development, operation, and maintenance of the historic property will be for at least five fiscal years subsequent to the proposed date of acquisition;

- (3) whether the historic property will generate financial revenues in the future and an estimate of the amount of such revenues for at least five fiscal years subsequent to the proposed date of acquisition of the historic property;
 - (4) whether there exists sufficient local financial assistance to support a partnership of the state, local governments and private sources for the development and ongoing maintenance and operation of the historic property and the degree of assurance that such local financial assistance is committed for these purposes;
 - (5) whether the historic property is duplicative of other historic property operated by the state historical society;
 - (6) whether the historic property retains an original appearance, setting and materials which are adequate to interpret its significance;
 - (7) whether the historic property is accessible or can be made accessible to visitors by customary means of transportation and the costs involved in making the historic property accessible;
 - (8) whether the historic property has access to utilities and other services required for its preservation and operation and the costs involved in obtaining such access;
 - (9) whether the historic property illustrates, interprets, or is identified with an important aspect of Kansas history or prehistory; and
 - (10) such other factors or information as the state historic sites board of review deems relevant.
- (f) Upon the completion of its investigation of the application for acquisition of historic property, the state historic sites board of review shall report its findings to the governor and to the legislature. Such report shall be made not later than one year subsequent to the receipt by the secretary of the state historical society of the application for acquisition of historic property.
- (g) As used in this section, the terms “historic preservation” and “historic property” shall have the meanings ascribed to such terms in K.S.A. 75-2716 and amendments thereto.

History: L. 1982, Chapter 330, §1; L. 1987, Chapter 333, §1; L. 1988, Chapter 338, §1; L. 1991, Chapter 258, §1; July 1

§75-2748. Prohibited acts; criminal and civil penalties.

- (a) On and after January 1, 1990, no person shall, unless such person holds a permit issued by the board to do so or is exempt pursuant to subsection (b):
- (1) Willfully disturb an unmarked burial site;
 - (2) knowingly possess human skeletal remains known to have been from an unmarked burial site, or goods interred with such remains;
 - (3) display human skeletal remains known to have been from an unmarked burial site, or goods interred with such remains;
 - (4) sell, trade or give away human skeletal remains known to have been from an unmarked burial site, or goods interred with such remains; or
 - (5) throw away or discard human skeletal remains known to have been from an unmarked burial site, or goods interred with such remains.
- (b) Subsection (a)(2) shall not apply to possession of human skeletal remains or burial goods by the state historical society or institutions of higher education represented on the Kansas antiquities commission pursuant to K.S.A. 74-5402, and amendments thereto, but the board, in consultation with interested parties, shall review the collections of such society and institutions and report to the legislature on or before January 13, 1992, any recommendations it has concerning human skeletal remains and burial goods which are part of such collections and are from unmarked burial sites. Subsections (a)(1) through (5) shall not apply to:
- (1) Disinterment, possession, display, transfer, reinterment or disposition of human skeletal remains, or goods interred with such remains, which are determined by a coroner to be remains described by K.S.A. 22a-231, and amendments thereto; and
 - (2) private collections of burial goods acquired prior to January 1, 1990.
- (c) Violation of this section is a crime punishable:

- (1) Upon conviction of a first offense, by a fine of not more than \$10,000, if the commercial and archeological value of the remains and goods involved and all costs related to their restoration and repair is \$5,000 or less;
 - (2) upon conviction of a first offense, by a fine of not more than \$20,000, if the commercial and archeological value of the remains and goods involved and all costs related to their restoration and repair is more than \$5,000; and
 - (3) upon conviction of the second or a subsequent offense, by a fine of not more than \$100,000.
- (d) In addition to or in lieu of any penalty imposed pursuant to subsection (c), the board, upon a finding that a person has violated any provision of this section or any term of a permit issued under this act, may impose on such person a civil fine of not more than \$2,000 for each violation. Imposition of any such fine shall be only upon notice and a hearing conducted in accordance with the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

History: L. 1989, Chapter 234, § 8; L. 2010, Chapter 17, § 196; July 1.

§74-5403. Certain acts prohibited without authorization.

- (a) Except as provided by subsection (b), no individual, institution or corporation shall excavate in, remove material from, vandalize or deface any site or area described in K.S.A. 74-5401 and amendments thereto, on lands belonging to or controlled by the state of Kansas or any agency thereof, or to any county or municipality in the state, or on lands in which a qualified agency is conducting scientific archeological investigations, without specific authorization pursuant to a permit granted under K.S.A. 74-5404, and amendments thereto.
- (b) If, in the opinion of the commission or the commission's designee, any survey, excavation or construction is necessary to prevent the immediate threat to the life or health of persons near a site or area described in K.S.A. 74-5401, and amendments thereto, the commission or the commission's designee may authorize such survey, excavation or construction without issuing a permit under K.S.A. 74-5404, and amendments thereto.

History: L. 1967, Chapter 433, § 3; L. 1999, Chapter 121, § 1; July 1.

2012 Kansas Statutes

Chapter 75 State Departments; Public Officers and Employees, Article 27 State Historical Society

<https://law.justia.com/codes/kansas/2012/chapter75/article27/section75-2746/>

The universal citation: KS Stat § 75-2746 (2012)

75-2746. Registry.

- (a) Each unmarked burial site located in this state which becomes known to the board shall be entered on the registry established under K.S.A. 75-2745. The board shall identify, to the extent possible, the cultural or personal identity of the deceased person or persons interred at the site and shall notify each landowner on whose property a registered unmarked burial site is located.
- (b) The registry of unmarked burial sites shall be confidential and shall not be open to inspection except as provided by rules and regulations of the board consistent with the purposes of this act.

KENTUCKY CAVE PROTECTION STATUTES

Kentucky Cave Protection Law (1988) Chapter 168 (Hb 733) An Act Relating to Cave Protection Be It Enacted by The General Assembly of The Commonwealth of Kentucky: A New Section of KRS Chapter 433 Is Created to Read as Follows:

2013 Kentucky Revised Statutes Chapter 433 - Offenses Against Property by Force

<https://law.justia.com/codes/kentucky/2013/chapter-433/section-433.871/>

The universal citation: KY Rev Stat §433.871-433.885 (2013)

§433.871 Definitions.

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- (1) “Cave” means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term “cave” includes or is synonymous with “cavern.”
- (2) “Commercial cave” means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.
- (3) “Gate” means any structure or device situated so as to limit or prohibit access or entry to any cave.
- (4) “Person” or “persons” means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- (5) “Owner” means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.
- (6) “Speleothem” means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helictite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.
- (7) “Speleogen” means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork, and pendants.
- (8) “Material” means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.
- (9) “Cave life” means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.
- (10) “Troglotic” means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.
- (11) “Trogliphilic” means or refers to any form of cave life which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §1, effective July 15, 1988.

§433.873 Wrongful disturbance or damage to cave surfaces or material found therein.

(1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to willfully and knowingly:

(a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, notwithstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.

(b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(c) Place any gate or other obstruction which may restrict the movement of air or animals through such device.

(d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter. (e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.

(2) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §2, effective July 15, 1988.

§433.875 Unlawful dumping, disposal or burning within cave.

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave. It shall also be unlawful to burn within a cave any material which produces any smoke or gas which is harmful to any naturally occurring organisms in the cave, except acetylene gas produced by carbide lamps.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §3, effective July 15, 1988

§433.877 Unlawful removal or disturbance of naturally occurring organisms in cave.

(1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state nongame biologist.

(2) It shall also be unlawful to collect any form of troglobitic or troglomorphic cave life for commercial sale, whether or not a profit is gained by such sale.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §4, effective July 15, 1988.

§433.879 Excavation permits -- Requirements -- Supervision by state archaeologist and Kentucky Heritage Council.

(1) In addition to the written permission of the owner required by KRS 433.873(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric, or historic feature of any cave. The state archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.

(2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky Heritage Council and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.

(3) A person applying for a permit pursuant to this section shall:

- (a) Have knowledge of archaeology, paleontology, or history as qualified in subsection (1) of this section;
- (b) Provide a detailed statement to the state archaeologist giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;
- (c) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;
- (d) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and
- (e) Carry the permit while exercising the privileges granted.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §5, effective July 15, 1988.

§433.881 Unlawful sale of speleothems.

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale. Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §6, effective July 15, 1988.

§433.883 Cave owner or his agent not to be held liable.

(1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.

(2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §7, effective July 15, 1988.

§433.885 Penalties.

(1) Any violation of KRS 433.873 to 433.877 or 433.879(1) shall be punished as a Class A misdemeanor. (2) Any violation of KRS 433.879(3) or 433.881 shall be punished as a Class B misdemeanor.

NOTE: A Class A Misdemeanor is a fine of \$ 500.00 and a Class B Misdemeanor is a fine of \$250.00.

Effective: July 15, 1988 History: Created 1988 Ky. Acts Chapter 168, §8, effective July 15, 1988

KENTUCKY ARCHAEOLOGY STATUTES

2013 Kentucky Revised Statutes

Chapter 164 - State Universities and Colleges -- Regional Education – Archaeology

<https://law.justia.com/codes/kentucky/2013/chapter-164/section-164.710/>

The universal citation: KY Rev Stat §164.705 – 164.735 (2013)

§164.710 Definitions for KRS §164.705 to §164.735.

As used in KRS 164.705 to 164.735, unless the context otherwise requires:

(1) “Archaeological site” means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers.

(2) “Object of antiquity” means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers.

(3) “Department” means the Department of Anthropology of the University of Kentucky.

History: Created 1962 Ky. Acts Chapter 278, §2.

§164.715 Prohibition.

No person shall willfully injure, destroy, or deface any archaeological site or object of antiquity situated on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth. History: Created 1962 Ky. Acts Chapter 278, §3

§164.720 Permit required to excavate.

(1) No person shall explore, excavate, appropriate or remove from land owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the Department of Anthropology upon the recommendation of the agency owning or having control of the land upon which the same is situated.

(2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.

(3) Each permit issued by the department under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the department shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the department at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with its terms. History: Created 1962 Ky. Acts Chapter 278, §4.

§164.725 Authority to mark locations.

The department may designate archaeological sites and objects of antiquity and cause to be posted at the locations thereof appropriate signs or markers. History: Created 1962 Ky. Acts Chapter 278, §5.

§164.730 Report discovery.

Any person who discovers an archaeological site or object of antiquity in the course of construction work or otherwise shall report such discovery to the department. History: Created 1962 Ky. Acts Chap. 278, §6.

§164.735 Authority to contract with private owner.

The department may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The department may acquire, with any funds available to it for such purpose, title to any real estate upon which is located an archaeological site or object of antiquity which the department determines it is important to be preserved. History: Created 1962 Ky. Acts Chapter 278, §7

<https://law.justia.com/codes/kentucky/2013/chapter-164/section-164.990/>

§164.990 Penalties.

- (1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 is guilty of a Class D felony, and in addition thereto shall forfeit to the state all equipment used in committing the offense for which such person is convicted.
- (2) Any person who violates the provisions of KRS 164.980 shall be guilty of a Class B misdemeanor.
- (3) Any person who violates KRS 164.377 shall be guilty of a Class A misdemeanor.
- (4) Any person who knowingly violates the provisions of KRS 164.376, or who knowingly induces another, directly or indirectly, to violate the provisions of KRS 164.376, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500).

2013 Kentucky Revised Statutes

Chapter 61 - General Provisions as To Offices and Officers -- Social Security for Public Employees – Employee’s Retirement System, §61.878 Certain public records exempted from inspection except on order of court -- Restriction of state employees to inspect personnel files prohibited.

<https://law.justia.com/codes/kentucky/2013/chapter-61/section-61.878/>

The universal citation: KY Rev Stat §61.878 (2013)

§61.878 Certain public records exempted from inspection except on order of court -- Restriction of state employees to inspect personnel files prohibited.

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
 - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute.

Effective: June 25, 2013 History: Amended 2013 Ky. Acts Chapter 32, §3, effective June 25, 2013. -- Created 1976 Ky. Acts Chapter 273, §5.

LOUISIANA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

LOUISIANA ARCHAEOLOGY STATUTES

2017 Louisiana Laws

Revised Statutes, Title 41 - Public Lands, RS 41:1601 - Archaeological Resources

<https://law.justia.com/codes/louisiana/2017/code-revisedstatutes/title-41/rs-41-1601/>

The universal citation: LA Rev Stat § 41:1601- 41:1615 (2017)

§1601. Declaration of public policy

It is hereby declared to be the public policy of the state of Louisiana to protect and preserve prehistoric and historic properties, artifacts, treasure troves, and objects of antiquity which have historical value or which are of interest to the public, including but not limited to abandoned prehistoric or historic settlements, sites, properties, sunken or abandoned ships, or other objects, or any part thereof relating to the history, government, and culture of the state. Acts 1989, No. 291, §1.

§1602. Louisiana Archaeological Survey and Antiquities Commission

A. There is hereby created the Louisiana Archaeological Survey and Antiquities Commission which shall be referred to as the “commission” for the purposes of this Chapter. The purpose of the commission shall be to promote the goals and objectives of the Department of Culture, Recreation and Tourism and to act in an advisory capacity to that department and its secretary in their administration of this Chapter and in matters relating to antiquities, archaeology, and other cultural resources. Acts 1989, No. 291, §1.

§1603. Division of archaeology; state archaeologist

A. There is hereby created the division of archaeology, which shall be referred to as the “division” for purposes of this Chapter. The division shall be located within the office of cultural development of the Department of Culture, Recreation and Tourism.

B. There is hereby created the position of state archaeologist. The state archaeologist shall hold, at a minimum, a master's degree in anthropology or a related field with a concentration in archaeology and shall have demonstrated exceptional ability and interest in the protection and preservation of archaeological treasures for the benefit of the citizens of this state. The state archaeologist shall function as director of the division. Acts 1989, No. 291, §1; Acts 2012, No. 589, §1.

§1604. Responsibilities of the division

The division shall initiate and promulgate a program in archaeology, which shall include but not be limited to the activities delineated in this Section. In carrying out this responsibility, the division shall:

(1) Promulgate reasonable rules and regulations concerning the recovery and study of historic and prehistoric archaeological remains which in any way relate to the inhabitants, prehistory, history, government, or culture, in, on, or under any of the lands belonging to the state of Louisiana, including the tidelands, submerged lands, and the bed of the sea within the jurisdiction of the state of Louisiana. These remains shall include but shall not be limited to:

(a) All prehistoric and historic American Indian or aboriginal campsites, dwellings, habitation sites, burial grounds, and archaeological sites of every character;

- (b) All historic sites, objects, and buildings;
 - (c) All sunken or abandoned ships and wrecks of the sea or rivers, or any part of the content thereof;
 - (d) All treasure embedded in the earth or underwater; and
 - (e) All maps, records, documents, books, artifacts, and implements of culture which relate to such archaeological remains.
- (2) Maintain the state archaeological site files, including but not limited to site records, field notes, maps, photographs, and reports.
- (3) Function as legal custodian for all archaeological artifacts and objects of antiquity which have been recovered from state lands or donated from private lands, except those donated to the Louisiana State Museum or the office of state parks. The repository of all artifacts under the control of the division shall take into consideration the public nature and research value of these objects and insure that they are accessible to maximum public exhibit consistent with their preservation.
- (4) Implement a program of activities that will make available to the public information about the historic and prehistoric resources of the state. This shall include but shall not be limited to press releases, newsletters, booklets, exhibits, audio-visual programs, and teaching materials.
- (5) Serve as the archaeological advisory source for all state agencies by assisting them in evaluating any potential impact of their projects on archaeological resources.
- (6) Administer those portions of the National Historic Preservation Act relative to archaeology.
- (7) Advise the secretary of the Department of Culture, Recreation and Tourism and the state historic preservation officer on matters affecting archaeology.
- (8) Administer an archaeological grants program.
- (9) Implement for the state the Abandoned Shipwreck Act. Acts 1989, No. 291, §1.

§1605. Archaeological finds on state land; state property

A. All sunken or abandoned pre-twentieth century ships and wrecks of the sea and any part of the contents thereof and all archaeological treasure located in, on or under the surface of lands belonging to the state of Louisiana, including its tidelands, submerged lands and beds of its rivers, and the sea within the jurisdiction of this state are hereby declared to be the sole property of the state of Louisiana, under the administration and protection of the secretary of the Department of Culture, Recreation and Tourism, hereinafter in this Chapter referred to as the "secretary".

B. It shall be unlawful for any agency, political subdivision, group, or person to take, alter, damage, destroy, or excavate on state-owned lands as herein described without first obtaining a permit or contract from the secretary. Permits shall be issued for purely scientific and educational projects and only when all recovered materials are to remain the property of the state and when there is to be no compensation to the permittee based on the value of the recovered remains. Contracts shall be entered into for recovery of materials when compensation is to be made to the contract holder based on the value of the recovered remains. Acts 1989, No. 291, §1.

§1606. Permits for recovery

The secretary, with the advice of the division, may issue a permit to any governmental agency, political subdivision, group, or person for the recovery of archaeological materials, treasure, sunken or abandoned ships and wrecks of the sea, or parts thereof or their contents, which are determined to be located on state-owned lands, or on private land if the written consent of the owner thereof is first obtained. All such permits shall specifically provide for the location, nature of, and time period for such operations and shall only be issued to qualified entities after the development of a research design. The division shall advise the secretary on the issuance of any such permit. Acts 1989, No. 291, §1.

§1607. Contracts for recovery

A. The secretary, with the advice of the division, may enter into a contract with any governmental agency, political subdivision, group, or person for the recovery of archaeological materials, treasure, sunken or abandoned ships and wrecks of the sea, or parts thereof or their contents, which are determined to be located on

state-owned lands, or on private land if the written consent of the owner thereof is first obtained. Such contracts shall be approved by the attorney general and may provide for fair compensation to the salvager, and owner of the private land where applicable, in terms of a percentage of the reasonable cash value of the objects recovered or at the discretion of the secretary, with the advice of the division, of a fair share of the objects recovered.

B. The amount constituting a fair share shall be determined by the secretary, taking into consideration the circumstances of each operation, and the reasonable cash value may be determined by contractual agreement after appraisal by qualified experts or by representatives of the contracting parties. Each contract shall provide for the termination of any right of the salvager thereunder upon the violation of any of the terms thereof. Superior title to all objects recovered from state lands shall be retained by the state of Louisiana unless and until released by the secretary. Acts 1989, No. 291, §1.

§1608. Grants and fees

A. The division shall be authorized to accept gifts, grants, devices, and bequests of money, securities, or property.

B. The division shall be authorized to assess fees for technical services which it provides to public or private entities or persons, which fees shall be based upon the cost of operation of the division, including but not limited to its curation of artifacts, development and publication of technical materials, and conduct of workshops and seminars. Such fees shall be assessed pursuant to rules and regulations adopted in accordance with the Administrative Procedure Act; the division may also provide in such rules for exemptions from or reductions in such fees for certain entities or persons. Acts 1989, No. 291, §1.

§1609. Access to information

Records of the division which specify the specific location of archaeological sites, including but not limited to the state archaeological site files, shall not be public information. Access to such records shall be restricted to individuals who have a legitimate research or management need as determined by the division. Acts 1989, No. 291, §1.

§1610. Prohibited excavations

A. No person, not being the owner thereof, shall without the consent of the owner enter or attempt to enter upon the lands of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any sites or artifacts addressed by R.S. 41:1604(1).

B.(1) No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on state lands unless such activity is approved by the agency with ownership responsibilities over the lands and is authorized under a permit issued pursuant to R.S. 41:1606.

(2) No person may sell, purchase, exchange, transport, or receive or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from state lands in violation of Paragraph (1) of this Subsection.

(3) Any person who knowingly violates or counsels, procures, solicits, or employs any other person to violate any prohibition contained in Paragraph (1) or (2) of this Subsection shall, upon conviction, be fined not more than ten thousand dollars or imprisoned not more than one year, or both. However, if the commercial value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of five hundred dollars, such person shall be fined not more than twenty thousand dollars or imprisoned not more than two years, or both. In the case of a second or subsequent violation, upon conviction, such person shall be fined not more than one hundred thousand dollars, or imprisoned not more than five years, or both.

(4) All archaeological resources collected, transferred, or sold in violation of this Subsection shall be forfeited to the state.

(5) All vehicles and equipment of any person that were used in connection with the violation of this Subsection may be forfeited to the state.

(6) Nothing contained in this Subsection shall apply to any person with respect to any archaeological resource that was in the lawful possession of such person prior to June 26, 2001.

(7) For the purpose of this Subsection, “archaeological resource” shall mean any material remains of past human life or activities that are of archaeological interest which shall include but not be limited to pottery, basketry, bottles, weapon projectiles, tools, structures or portions of structures, human skeletal remains, Civil War artifacts, or any portion or piece of the foregoing items.

Acts 1989, No. 291, §1; Acts 2001, No. 938, §1, eff. June 26, 2001.

§1611. Public cooperation; private lands

Every individual is encouraged, prior to knowingly disfiguring, removing, excavating, damaging, taking, digging into, or destroying any prehistoric or historic archaeological site, American Indian or aboriginal campsites, mounds, artifacts, burials, ruins, historic structures, or other archaeological remains located in or under any private lands within this state, to notify the division at least ninety days in advance and to allow professional supervision of same by the division or its agents. Acts 1989, No. 291, §1.

§1613. State cooperation

The chief administrative officers of all state agencies are authorized and directed to cooperate with and assist the division, the secretary, and the attorney general in carrying out the purposes and intent of this Chapter. All state and local law enforcement agencies and officers are authorized and directed to assist in enforcing this Chapter and in carrying out the intent hereof. Acts 1989, No. 291, §1.

§1614. Penalties

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than thirty days, or by both. Each day of continued violation constitute a distinct and separate offense. Acts 1989, No. 291, §1.

MAINE CAVE PROTECTION STATUTES

Maine Cave Protection Act (2001) This bill establishes the Maine Cave Protection Act. It requires a person to receive consent prior to excavating in a cave and to undertake investigations and explorations in a manner that will not impede the recovery of historic and scientific information. The bill also limits the liability of cave owners and classifies the defacing or damaging of a cave as a Class E crime.

Be it enacted by the People of the State of Maine as follows: Sec. 1. 12 MRSA Chapter 201-A, Sub- Chapter I-A is enacted to read: **MAINE CAVE PROTECTION ACT**

2010 Maine Code

Title 12: Conservation, Chapter 201-A: Geology and Natural Resources, Subchapter 1-A: Maine Cave Protection Act

<https://law.justia.com/codes/maine/2010/title12/chapter201a/section544i/>

The universal citation: 12 ME Rev Stat § 544-I – 544-N (2010 through 124th Legislature)

§544-I. Short title

This subchapter may be known and cited as the “Maine Cave Protection Act.” [2001, Chapter 113, §1 (NEW).] SECTION HISTORY. 2001, Chapter 113, §1 (NEW).

§544-J. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words have the following meanings. [2001, Chapter 113, §1 (NEW).]

1. Cave. “Cave” means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge that is large enough to permit a person to enter. “Cave” includes natural subsurface water and drainage systems, but does not include any mine, tunnel, or other artificial excavation. [2001, Chapter 113, §1 (NEW) .]
2. Cave life. “Cave life” means any life-form normally found in a cave. [2001, Chapter 113, §1 (NEW) .]
3. Natural material. “Natural material” means stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion or other similar crystalline mineral formation found in any cave. [2001, Chapter 113, §1 (NEW) .]
4. Owner. “Owner” means a person who owns title to land where a cave is located. [2001, Chapter 113, §1 (NEW) .]

SECTION HISTORY 2001, Chapter 113, §1 (NEW).

§544-K. Prior written consent of owner

A person must obtain the prior written permission of the owner to excavate or remove an archaeological, paleontological, prehistoric, or historic feature of a cave. [2001, Chapter 113, §1 (NEW).] SECTION HISTORY. 2001, Chapter 113, §1 (NEW).

§544-L. Field investigations, explorations, and recovery operations

All field investigations, explorations and recovery operations in a cave must ensure that the ability to recover and preserve historic, scientific, archaeological, and educational information is not impeded. The excavation or removal of an artifact, object, specimen or material from a cave on state-controlled land, as those terms are defined in Title 27, section 373-A, is subject to the provisions governing excavation and removal of state-owned

objects and specimens under Title 27, chapter 13. [2001, Chapter 113, §1 (NEW).] SECTION HISTORY 2001, Chapter 113, §1 (NEW).

§544-M. Liability of owners

Recreational caving is a recreational or harvesting activity for the purposes of limited liability of landowners under Title 14, section 159-A. [2001, Chapter 113, §1 (NEW).]
SECTION HISTORY 2001, Chapter 113, §1 (NEW).

§544-N. Prohibited acts

1. Defacing or damaging cave prohibited. A person may not deface or damage a cave. A person defaces or damages a cave if the person, without the prior written permission of the owner:
 - A. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms any natural material found in a cave; [2001, Chapter 113, §1 (NEW).]
 - B. Kills, harms, or disturbs plant or animal life found in a cave, except for safety reasons; [2001, Chapter 113, §1 (NEW).]
 - C. Disturbs or alters the natural condition of a cave or takes into a cave any aerosol or other container containing paints, dyes, or other coloring agents; [2001, Chapter 113, §1 (NEW).]
 - D. Stores, dumps, litters, disposes of, or otherwise places any refuse, garbage, dead animal, sewage or toxic substance harmful to cave life or humans in a cave; [2001, Chapter 113, §1 (NEW).]
 - E. Burns within a cave any material that produces smoke or gas that is harmful to any organism in the cave; or [2001, Chapter 113, §1 (NEW).]
 - F. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door, sign or other structure or obstruction designed to prevent entrance to a cave, whether or not entrance is gained. [2001, Chapter 113, §1 (NEW).]
2. Forfeiture. A person who violates the provisions of this subchapter commits a civil violation for which a forfeiture of up to \$1,000 may be adjudged. [2001, Chapter 113, §1 (NEW) .]
3. Damages may be collected by landowner. A person who intentionally defaces or damages a cave on private land in violation of subsection 1 is liable to the owner of that land for actual damages recoverable through a civil action. [2001, Chapter 113, §1 (NEW) .]

MAINE ARCHAEOLOGY STATUTES

2019 Maine Revised Statutes

Title 27: Libraries, History, Culture and Art, Chapter 13: Archaeology, Subchapter 2: State-Owned Objects and Specimens

<https://law.justia.com/codes/maine/2019/title-27/chapter-13/subchapter-2/section-375/>

The universal citation: 27 ME Rev Stat § 371 - § 378 (2019)

27 §375. Unlawful excavation

1. Definition of unlawful excavation. "Unlawful excavation" means unauthorized excavation at a protected site, unless:

A. A demonstrable emergency situation existed relating to the survival of the protected site; and [PL 2013, Chapter 89, §5 (AMD).]

B. An excavation permit is immediately applied for in accordance with section 374. [PL 1981, Chapter 55, §7 (NEW).] [PL 2013, Chapter 89, §5 (AMD).]

2. Penalty. A violation of this chapter is a Class E crime for which a fine of not less than \$250 must be adjudged. The unlawful excavation for any one day constitutes a separate violation. The court also may order the defendant to pay an amount equal to the reasonable cost of a proper archaeological excavation had the area that was unlawfully excavated been properly excavated. The Director of the Maine Historic Preservation Commission, in the name of the people of this State through the Attorney General, may in addition to other remedies provided bring an action for an injunction seeking one or more of the following remedies:

A. To restrain a violation of this chapter; or [PL 1999, Chapter 748, §2 (AMD).]

B. To enjoin future unlawful excavation. [PL 1999, Chapter 748, §2 (AMD).]

C. [PL 1999, Chapter 748, §2 (Repealed).] [PL 2019, Chapter 113, Pt. C, §69 (AMD).]

3. Prosecution. The Attorney General, upon receiving notification of a violation of this section from the Director of the Maine Historic Preservation Commission, is authorized to file a complaint against the person named in the District Court or the Superior Court of the district or county in which the person resides, or in the district or county in which the violation occurred. [PL 1989, Chapter 171, §2 (AMD).]

§377. Protection of site location information

In order to protect the site or protected site from unlawful excavation or harm, any information in the possession of the Maine Historic Preservation Commission, the State Museum, the Bureau of Parks and Lands, other state agencies or the University of Maine System about the location or other attributes of any site or protected site may be designated by the Maine Historic Preservation Commission or State Museum as confidential and exempt from Title 1, Chapter 13.

Such data must be made available for the purpose of archaeological research. The directors of the Maine Historic Preservation Commission and the State Museum shall jointly adopt rules establishing standards and procedures for obtaining the data, and may impose reasonable requirements on its use, including requirements of confidentiality. The directors of the Maine Historic Preservation Commission and the State Museum shall establish procedures for reviewing no less frequently than once every 10 years information designated as confidential under this section in order to determine whether continued confidentiality is necessary and, if not, to remove the confidentiality designation. [PL 2013, Chapter 89, §7 (AMD); PL 2013, Chapter 405, Pt. A, §24 (REV).]

MARYLAND CAVE PROTECTION STATUTES

2013 Maryland Code

Natural Resources, §5-1401 – Definitions

<https://law.justia.com/codes/maryland/2013/article-gnr/section-5-1401/>

The universal citation: MD Nat Res Code § 5-1401-1406 (2013)

§5-1401 Definitions

- (a) In this subtitle the following terms have the meanings indicated.
- (b) “Cave” means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems. The word “cave” includes or is synonymous with cavern, sinkhole, grotto, and rock shelter.
- (c) “Cave life” means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting, herein, those animals and species covered by any of the game laws of this State.
- (d) “Commercial cave” means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.
- (e) “Gate” means any structure or device located to limit or prohibit access or entry to any cave.
- (f) “Owner” means a person who has the right of access (or possession) to the cave.
- (g) “Person or persons” means any individual, partnership, firm, association, trust, or corporation.
- (h) “Sinkhole” means a natural depression in a land surface communicating with a subterranean passage or drainage system.
- (i) “Speleogen” means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.
- (j) “Speleothem” means a natural secondary mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helectites, anthodites, gypsum flowers, needles, angel’s hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

§5-1402 - Prohibitions regarding use of caves

- (a) (1) A person may not, without express, prior, written permission of an owner, willfully or knowingly:
 - (i) Break, break-off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein whether attached or broken, including speleothems, speleogens, and sedimentary deposits;
 - (ii) Disturb or alter in any manner the natural condition of any cave; or
 - (iii) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
- (a)(2) However, the entering or remaining in a cave by itself shall not constitute a violation of this section.
- (b) A person may not dispose of, dump, store, or otherwise introduce into any cave, sinkhole, or subterranean drainage system any litter, refuse, dead animals, sewage, trash, garbage, or any chemical or biological contaminant which is potentially dangerous to man or any form of cave life.
- (c) Unless otherwise established by the Secretary and clearly posted at the cave entrance, caves having access within the boundaries of public properties shall be open for recreational purposes.
- (d) Any person violating any provision of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500, and in addition thereto, may be imprisoned for not less than ten days nor more than six months.

§5-1403 - Sale of speleothems

A person may not sell or offer for sale any speleothems in this State, or to export them for sale outside the State. A person who violates any of the provisions of this section is guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500 and in addition may be imprisoned for not less than ten days nor more than six months.

§5-1404 - Disturbing cave life; scientific collecting permits; gates; violation; penalties

(a) A person may not remove, disfigure, kill, harm, disturb, keep, restrain, or in any manner alter the natural condition or environment of any cave life.

(b) Notwithstanding the provisions of subsection (a) of this section, scientific collecting permits may be obtained from the Secretary.

(c) Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, water, insects, bats, and aquatic fauna.

(d) A person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 and in addition thereto may be imprisoned for not less than 15 days nor more than 6 months.

§5-1405 - Disturbing paleontological sites

(a) A person may not excavate, remove, destroy, injure, deface, or in any manner disturb any paleontological site or any part thereof, including saltpeter workings, fossils, bones, or any other paleontological features which may be found in any cave.

(b) Notwithstanding the provisions of subsection (a) of this section, a permit to excavate or remove paleontological features may be obtained from the Secretary. The permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable, but this does not preclude persons from working under the direct supervision of the person holding the permit.

(c) A person applying for a permit shall:

(1) Have knowledge of paleontology.

(2) Provide a detailed statement to the Secretary giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.

(3) Provide data and results of any completed excavation, study, or collection at the first of each calendar year.

(4) Obtain the prior written permission of the Secretary if the site of the proposed excavation is on State-owned lands and prior written permission of the owner if the site of the proposed excavation is on privately owned land.

(5) Carry the permit while exercising the privileges granted.

(d) A person who violates any provision of subsection (a) of this section is guilty of a misdemeanor, and upon conviction shall be fined not less than \$100 nor more than \$500 and may be imprisoned for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (b) of this section is guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$100 nor more than \$500, and the permit shall be revoked.

§5-1406 - Liability of cave owner

(a) An owner of a cave or the owner's authorized agents acting within the scope of their authority shall have the immunity from liability described under § 5-804(b) of the Courts and Judicial Proceedings Article.

(b) An owner of a commercial cave shall have the immunity from liability described under § 5-804(c) of the Courts and Judicial Proceedings Article.

MARYLAND ARCHAEOLOGY STATUTES

2013 Maryland Code

State Finance and Procurement, §5A-343 – Caves

<https://law.justia.com/codes/maryland/2013/article-gsf/section-5a-343-346/>

The universal citation: MD State Fin & Pro Code § 5A-343 – 346 (2013)

§5A-343 – Caves

(a) In general. --

(1) This section applies to all archaeological, prehistoric, and historic features found in any cave, including:

- (i) all or any part of any burial grounds, historic or prehistoric ruins, and archaeological sites; and
- (ii) relics, inscriptions, saltpeter workings, fossils, bones, and remains of historical human activity.

(2) Without a permit issued under this section, a person may not excavate, remove, destroy, injure, deface, or disturb features found in a cave.

(b) Permits for caves on State land. -- In accordance with §§5A-341 and 5A-342 of this subtitle, an individual trained in archaeology may apply for and be issued a permit to excavate or remove features described in subsection (a) of this section from or in a cave on land that the State owns or controls by rights under a lease, option contract, or purchase contract.

(c) Permits for caves on privately owned land. --

(1) An individual may apply for a permit to excavate or remove archaeological, prehistoric, and historic features from a cave on privately owned land.

(2) An applicant for a permit shall:

- (i) be trained in archaeology;
- (ii) give the Trust a detailed statement of the purposes and objectives of the proposed excavation or removal;
- (iii) agree to provide the Trust with information from and results of any excavation, study, or collection in accordance with the terms of the permit;
- (iv) obtain the prior written consent of the owner of the land on which the excavation or removal will be conducted; and
- (v) agree to carry the permit while conducting the excavation or removal authorized by the permit.

(3) A permit may be issued for a maximum term of 2 years and may be renewed.

(4) A permit is not transferable, but a person working under the direct supervision of the permit holder need not obtain a separate permit.

(d) Ownership of objects or materials found in cave on privately owned land. -- Any object or material of archaeological, prehistoric, or historic value or interest found in a cave on privately owned land is the property of the owner of the land.

(e) Immunity of owner. -- If a person uses a cave for recreational or scientific purposes with the prior consent of and without a charge by the owner and sustains an injury, the owner and an authorized agent of the owner acting within the scope of the agent's authority are not liable for the injury.

(f) Enforcement. -- The Director and the Director's designee may enforce the provisions of this part relating to archaeological historic property found in caves in the same manner as provided in §5A-341(i) of this subtitle for submerged archaeological historic property.

§5A-344 – Hearings

(a) Right to hearing. -- If the Director or the Director's designee takes any enforcement action under this subtitle against a permit holder, the permit holder shall be given an opportunity for a hearing before the Secretary.

(b) Application of contested case provisions. -- Subject to subsection (c) of this section, notice shall be given, and the hearing shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) Specific notice requirements. -- The Director or the Director's designee shall provide notice that a hearing will be held within 30 days after the enforcement action unless a different period is agreed to by the parties.

§5A-345 - Archaeological historic property on privately owned land

(a) Optional State protection. -- The provisions of this subtitle that protect property on land under State control if it is submerged archaeological historic property, terrestrial archaeological historic property, or archaeological historic property in a cave may apply to similar historic property on privately owned land if:

- (1) the owner asks the Trust in writing to apply the provisions to the property; and
- (2) the Trust determines that the property is eligible for the Maryland Register of Historic Properties and deserves protection.

(b) Use of privately owned land. -- Unless the State controls privately owned land by rights under a lease, option contract, or purchase contract, this subtitle does not:

- (1) limit the use of the land by the owner or the owner's guest; or
- (2) require the owner or guest to hold a permit before conducting any activity on the land.

§5A-346 - Prohibited acts; penalties

(a) In general. --

(1) A person who violates §5A-339, §5A-341, §5A-342, or §5A-343 of this subtitle, or a regulation adopted under any of those sections is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$ 1,000 or both.

(2) If a person is found guilty of a violation under paragraph (1) of this subsection, the court:

- (i) may impose costs against the person; and
 - (ii) on request by the Trust, may revoke any permit issued to the person under §5A-340, §5A-341, §5A-342, or §5A-343 of this subtitle.
- (3) Each day on which a violation occurs is a separate violation.

(b) Violations of permits. --

(1) A person who violates any term of a permit issued under §5A-341 of this subtitle for use of a submerged archaeological historic property for commercial salvage or other income-producing purpose is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 10,000 or both.

(2) If a person is found guilty of a violation under paragraph (1) of this subsection, the court:

- (i) may impose costs against the person; and
 - (ii) on request by the Trust, may revoke the person's permit.
- (3) Each day on which a violation occurs is a separate violation.

(c) Appropriation of materials and recorded information. -- Materials and recorded information obtained in violation of §5A-339, §5A-341, §5A-342, or §5A-343 of this subtitle are subject to appropriation by the State and will be managed, cared for, and administered by the Trust.

**2015 Maryland Code
General Provisions, Title 4 - Public Information Act, Subtitle 3 - Denials of Inspection, Part IV -
Denial of Part of Public Record**

<https://law.justia.com/codes/maryland/2015/article-ggp/title-4/subtitle-3/part-iv/section-4-350/>

The universal citation: MD Gen Provisions Code § 4-350 (2015)

§4-350 - Site-specific locations of certain plants, animals, or property

(a) In general. -- A custodian may deny inspection of a public record that contains information concerning the site-specific location of an endangered or threatened species of plant or animal, a species of plant or animal in need of conservation, a cave, or a historic property as defined in § 5A-301 of the State Finance and Procurement Article.

(b) Circumstances under which denial prohibited. -- A custodian may not deny inspection of a public record described in subsection (a) of this section if requested by:

- (1) the owner of the land on which the resource is located; or
- (2) any entity that is authorized to take the land through the right of eminent domain.

MASSACHUSETTS DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

MASSACHUSETTS ARCHAEOLOGY STATUTES

2016 Massachusetts General Laws

Part I Administration of The Government, Title II Executive and Administrative Officers of the Commonwealth, Chapter 9 Department of the State Secretary

<https://law.justia.com/codes/massachusetts/2016/part-i/title-ii/chapter-9/section-26a/>

The universal citation: MA Gen L Chapter 9 §§26A-27 (2016)

§26A. It shall be the duty of the state archeologist to:

- (1) Compile and maintain an inventory of historical and archeological sites and specimens, which inventory shall not be a public record.
- (2) Conduct surveys and field investigations relative to the recovery and preservation of scientific, historical, or archeological information regarding specimens or sites, and analyze and publish said information. In the event that the site being investigated is an American Indian burial site, the survey and investigation shall be conducted in conjunction with the commission on Indian affairs.
- (3) Recommend such sites within the commonwealth or its political subdivisions as the state archeologist deems necessary for the protection of historical or archeological resources to be considered for state archeological landmarks or for the execution of preservation or conservation restrictions.
- (4) Issue permits for exploration or field investigations of archeological or historical sites pursuant to §27C, notifying any applicant for such permit whether the permit has been granted or denied within sixty days from receipt of his application.
- (5) Notify the commission on Indian affairs, established pursuant to the provisions of §38 Chapter 7, the discovery of and existence of an information pertaining to all American Indian burial sites in the commonwealth. Records of such sites shall not be made available to the public.
- (6) Conduct, within a reasonable time, site evaluations, including limited subsurface testing, in accordance with generally accepted scientific and archaeological standards, of unmarked, human burial and skeletal remains suspected of being one hundred years old or more upon receiving notification pursuant to §6B of Chapter 38, to determine the nature and extent of the site, and the cultural or biological character of the site and remains.
- (7) Arrange for the disposition of non-native, human remains, suspected of being one hundred years old or more after conducting a site evaluation pursuant to Paragraph 6 §26A. The state archeologist shall consult with the site's owner and other interested persons to determine whether prudent and feasible alternatives exist to avoid, minimize, or mitigate harm to the burial site. The final plan or agreement which shall be in writing, may include provisions for preservation in situ; the conducting of additional scientific and archeological research and investigation; and, with the consent of the site's owner, the execution of a preservation restriction pursuant to §32 Chapter 184. If no prudent and feasible alternative is agreed to, the state archeologist or his or her designee may excavate the site and recover the remains in accordance with generally accepted scientific and archeological standards. The state archeologist shall determine whether a skeletal analysis of the remains shall be conducted. If he determines that such analysis shall be made after the completion of the said analysis, the state archeologist shall determine whether the remains shall be deposited in a curatorial facility or reinterred in accordance with the provisions of §43M of Chapter 114. It shall be the responsibility of the person, whose proposed action necessitates the removal of skeletal remains, to conduct and bear the financial costs of said skeletal analysis and reinterment.

The commission by written notice to the state secretary shall recommend the reservation from sale of any land owned by the commonwealth or a political subdivision, including any forfeited to a city or town for the nonpayment of taxes, on which sites or specimens are located or may be found, as designated by the state archeologist; provided, however, that the reservation of such lands from sale shall be confined to the actual location of the site or specimens. When said sites or specimens have been explored, excavated, or otherwise examined to the extent desired by the state archeologist he shall file with the state secretary a statement that there is no longer cause for reserving such land from sale.

All agencies of the commonwealth or of any political subdivision thereof shall cooperate fully with the state archeologist in the preservation, protection, excavation and evaluation of specimens and sites.

Section 26B Definitions applicable to Secs. 26A, 26C, and 27 to 27C inclusive:--

- "Adverse effect", (1) the destruction or alteration of all or part of a site, (2) the isolation or alteration of a site's surrounding environment, (3) the introduction of visual, audible or atmospheric elements that are out of character with the site or alter its setting, (4) the neglect of a site resulting in deterioration or destruction, or (5) the transfer or sale of the site without adequate conditions or restrictions regarding preservation, maintenance or use.
- "Effect", any change in the integrity of the location, design, setting, material, workmanship, feeling or association of the site.
- "Field investigation", the study of the traces of human culture or other remains at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or the entrance onto a site with that intent.
- "License", a permit determination, order or other action, including the issuance of a lease, license, permit, certificate, variance, approval, or other entitlement for use, granted to any person, firm, or corporation, including trusts, voluntary association or other forms of business organizations by a state body for a project but shall not include a general entitlement to a person to carry on a trade or profession or to operate mechanical equipment which does not depend upon the location of such trade or operation.
- "Project", action, activity, program, construction, or land modification, including, but not limited to, a building or structure, either directly undertaken by a state body, or which, if undertaken by a private person, in whole or in part seeks the provision of financial assistance by a state body or, in whole or in part requires the issuance of a license by a state body.
- "Site", any building, structure, district or area including those underground, that is one hundred and fifty years old or more and significant in the history, archeology, architecture or culture of the nation, the commonwealth or its communities as determined by the commission.
- "Specimens", all relics, artifacts, remains, objects, or any other evidence of a historical, prehistorical, archeological, anthropological or paleontological nature fifty years old or more which may be found below or on the surface of the earth, and which have scientific, historical or archeological value, including but not limited to objects of antiquity, aboriginal, colonial or industrial relics, and archeological or paleontological samples.
- "State body", any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth established to serve a public purpose.

Section 26C State register of historic places

The commission shall establish and maintain a state register of historic places, known as the state register. The state register shall contain the following properties:

- (1) all districts, sites, buildings, or objects determined eligible for listing or listed in the National Register of Historic Places;
- (2) all local historic districts established pursuant to Chapter 40C or a special law;
- (3) all landmarks designated under local ordinance or by-law;

- (4) all structures and sites subject to a preservation easement approved or held by the commission pursuant to section thirty-two of chapter one hundred and eighty-four;
- (5) all historical or archeological landmarks certified pursuant to section twenty-seven and
- (6) all districts, structures, buildings, and sites listed in the state register of historic places pursuant to §26D.

The commission shall periodically update the state register.

Section 27 Certification of historic or archeological landmarks; standards for care and management; alteration of landmarks; field investigation of sites

The commission may request the chairman to examine certain sites and structures in the commonwealth and to make recommendations concerning their historical significance. Any such site or structure deemed by the commission to be of substantial historical significance to the commonwealth may, with the written consent of the person or persons claiming ownership, and such others having recorded interests as the commission shall deem necessary, be certified by the commission as an historic landmark and a list of such certified historic landmarks shall be maintained and published annually by the state secretary. In the case of landmarks owned by the commonwealth, such consent may be given by the governor. In the case of landmarks owned by a city such consent may be given by its manager or, if there is no manager, its mayor, with the approval of its city council, and in the case of landmarks owned by a town, by its selectmen. No such certification shall take effect until a notice of such certification has been recorded in the registry of deeds in the county where such certified landmark is situated.

The commission may establish standards for the care and management of such certified landmarks and may withdraw such certification for failure to maintain such standards provided that a notice of such withdrawal is recorded as aforesaid.

No certified historic landmark shall be altered in such a manner as would seriously impair its historical values without permission of the commission, except that persons having recorded interests who have not given written consent to the certification and those claiming under them shall not be required to obtain such permission. Before granting such permission, the commission shall hold a public hearing. The commission may grant such permission or may withhold permission for any period up to one year during which time the commission shall consult with civic groups, public agencies and interested citizens to ascertain what action, if any, ought to be taken to preserve such landmark, and shall make recommendations for its preservation to the commonwealth or its political subdivisions, to historical societies or to other interested civic organizations. The superior court shall have jurisdiction in equity to enforce the provisions of this section and, on petition of any party in interest, may alter, amend, or revoke the order of the commission.

The commission may request the state archeologist to examine certain sites in the commonwealth and to make recommendations concerning their archeological significance. Any such site deemed by the commission to be of substantial archeological significance to the commonwealth may, with the written consent of the person or persons claiming ownership, and such others having recorded interests as the commission shall deem necessary, be certified by the commission as an archeological landmark.

In the case of landmarks owned by the commonwealth, such consent may be given by the governor. In the case of landmarks owned by a city, such consent may be given by its manager or, if there is no manager, its mayor, with the approval of its city council, and in the case of landmarks owned by a town, by its selectmen. No such certification shall take effect until a notice of such certification has been recorded in the registry of deeds in the county where such certified landmark is situated.

The commission may establish standards for the care and management of such certified landmarks and may withdraw such certification for failure to maintain such standards provided that a notice of such withdrawal is recorded as aforesaid. No person, corporation or municipality shall conduct a field investigation, as defined in

section twenty-six A, of any site so certified without first obtaining a permit from the state archeologist, according to the provisions of §27C. The superior court shall have jurisdiction in equity to enforce the provisions of this section and, on petition of any party in interest, may alter, amend, or revoke the order of the commission.

Section 27C Projects; notice; adverse effect; review

<https://law.justia.com/codes/massachusetts/2016/part-i/title-ii/chapter-9/section-27c/>

The universal citation: MA Gen L Chapter 9 § 27C (2016)

§27C. As early as possible in the planning process of a project undertaken by a state body, or prior to a state body's funding or licensing, in whole or in part, a private project, the state body undertaking, funding or licensing such project shall notify the commission of such project and the commission shall, within thirty days of receipt of such notice, determine whether such project will have any adverse effect, direct or indirect, on any property listed in the state register of historic places. If the commission does not make a determination within thirty days, the state body or the proponent may proceed with the project. Upon a determination of adverse effect, the commission, the state agency and, in the case of a private project, the project proponent shall immediately consult to discuss ways to eliminate, minimize or mitigate the adverse effects; provided, however, that such property was included in the inventory of the historic assets of the commonwealth prior to the thirtieth day following the submission of an application for building, demolition, special permit, or the submission of a plan under the provisions of §§81O, 81 P, or 81S of Chapter 41, or the application for the required state permits for the project. The state body undertaking the project or the private entity proposing the project shall adopt all prudent and feasible means to eliminate, minimize, or mitigate the adverse effects. The commission's review shall not be limited to the subject matter of the license but shall extend to the entire project whether licensed or funded in whole or in part. The commission shall have the authority to promulgate rules and regulations necessary to implement the provisions of this section. This section shall be interpreted and administered so as to eliminate, minimize, or mitigate adverse effects to properties listed in the state register of historic places.

Any person, corporation, agency or authority of the commonwealth or any of its political subdivisions supervising any survey, excavation or construction on any lands of the commonwealth, its agencies or political subdivisions shall report to the state archeologist the existence of any archeological, paleontological or historical site or object discovered in the course of such survey, excavation or construction, and shall take all reasonable steps to secure its preservation. No person, corporation, agency or authority of the commonwealth or any of its political subdivisions shall conduct field investigation activities on any land owned or controlled by the commonwealth, its agencies or political subdivisions or on any historic or archeological landmarks or on any lands restricted by §31 Chapter 184 of the General Laws without first securing a permit from the state archeologist. The state archeologist shall issue permits for exploration and field investigation to be undertaken on said lands, with the consent of the owner or agency in charge of said lands, to those persons or institutions which he deems to be qualified to conduct such activity, and subject to such rules and regulations as the commission may prescribe; provided, however, that any such activity shall be conducted with the objective of disseminating the knowledge gained by it; provided further, that a summary report of such activity, containing relevant maps, documents, drawings and photographs be submitted to the commission; and provided further, that all specimens collected through such activity shall be the permanent property of the commonwealth. The commission may make arrangements for the disposition or display of any such specimens in appropriate institutions located within the commonwealth. Information reported to the state archeologist pursuant to this section shall be regarded as confidential.

Any person, corporation, agency or authority of the commonwealth or any of its political subdivisions who shall conduct field investigations on any land owned or controlled by the commonwealth, its agencies, or any political subdivisions thereof or in which the commonwealth has an interest, without first obtaining a permit therefor as provided in this section, or any person, corporation or municipality who shall appropriate, deface, destroy or otherwise alter any site, specimen or landmark except in the course of activities authorized under said

permit, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 five hundred dollars or by imprisonment for not more than six months, or both. All specimens, objects and materials collected or excavated in violation of this section shall be forfeited to the commonwealth.

Any person, corporation, agency or authority of the commonwealth or any of its political subdivisions who shall reproduce, retouch, rework or forge any archeological, paleontological or historical object, or falsely label, describe, identify or offer for sale or exchange any object, with intent to represent said object as an original and genuine archeological, paleontological or historical specimen, or any person who shall offer for sale or exchange any object with knowledge that it has been previously collected or excavated in violation of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 five hundred dollars or by imprisonment for not more than six months or both. The superior court shall have jurisdiction in equity to enforce the provisions of this section and, on the petition of any party in interest, may alter, amend, or revoke any order of the commission or state archeologist.

The commission may adopt any rules and regulations necessary to implement the provisions of this section.

Any person, corporation, agency or authority of the commonwealth or any of its political subdivisions who shall discover unmarked human burial or skeletal remains suspected of being one hundred years of more pursuant to §6C of Chapter 38, shall immediately cease any activity, including but not limited to, construction and agricultural activity, which would deface, alter, destroy or otherwise impair the integrity of the site until such time as the state archeologist has completed a site evaluation pursuant to Paragraph 6 of §26A of Chapter 9 of the General Laws and until disposition of the remains has been agreed upon pursuant to either §38A of Chapter 7 or pursuant to Paragraph 7 of §26A of Chapter 9.

MICHIGAN DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

MICHIGAN ARCHAEOLOGY STATUTES

After the Michigan Governor signs a bill into law, it is assigned a public act number and then added to the Michigan Compiled Laws (MCL). The MCL is a collection of all state laws currently in force through a particular publication date. The MCL is organized into three levels: chapters, acts, and sections. The MCL is comprised of 830 chapters that address various subjects. Within each chapter is one or more public acts. The Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended is found in Chapter 324

2019 Michigan Compiled Laws

Chapter 324 - Natural Resources and Environmental Protection

Act 451 of 1994 Natural Resources and Environmental Protection Act

AN ACT to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1996, Act 434, Imd. Eff. Dec. 2, 1996 ;-- Am. 2005, Act 116, Imd. Eff. Sept. 22, 2005 ;-- Am. 2013, Act 22, Imd. Eff. May 8, 2013

<https://law.justia.com/codes/michigan/2019/chapter-324/statute-act-451-of-1994/article-2-i/division-451-1994-iii-4/division-451-1994-iii-4-2/division-451-1994-iii-4-2-aboriginal-records-and-antiquities-and-abandoned-property/division-451-1994-iii-4-2-aboriginal-records-and-antiquities-and-abandoned-property-761/>

451-1994-III-4-2 Aboriginal Records and Antiquities and Abandoned Property §§324.76101 - 324.76118

- §324.76101 Definitions.
- §324.76102 Aboriginal Records and Antiquities; Right to Explore, Survey, Excavate, and Regulate Reserved to State; Possessory Right or Title to Abandoned Property.
- §324.76104 Deed; Clause Reserving to State Property and Exploration Rights in Aboriginal Antiquities; Exceptions; Waiver.
- §324.76105 Permit for Exploration or Excavation of Aboriginal Remain; Exception.
- §324.76106 Removal of Relics or Records of Antiquity; Consent of Landowner Required.
- §324.76107 Permit to Recover, Alter, or Destroy Abandoned Property; Recovered Property as Property of Department of History, Arts, and Libraries; Prohibitions as to Human Body or Remains; Violation; Penalty; Prior Convictions.
- §324.76108 Recovery of Abandoned Property Without Permit; Report; Availability of Recovered Property for Inspection; Release of Property.
- §324.76109 Recovery of Abandoned Property; Permit; Scope; Application; Filing, Form, and Contents; Additional Information or Documents; Approval or Disapproval of Application; Conditions; Payment of Salvage Costs; Recovery of Cargo Outside Great Lakes Bottomlands Preserves; Administrative Review; Conduct of Hearing; Combined Appeals; Joint Decision and Order; Duration of Permit; Issuance of New Permit; Transfer or Assignment of Permit.
- §324.76114 Suspension or Revocation of Permit; Grounds; Hearing; Civil Action.
- §324.76116 Violation as Misdemeanor; Penalty.

- §324.76117 Attaching, Proceeding Against, or Confiscating Equipment or Apparatus; Procedure; Disposition of Proceeds.

We recommend viewing the above link, as the law is very long and detailed.

2019 Michigan Compiled Laws

Chapter 750 - Michigan Penal Code

Act 328 of 1931 The Michigan Penal Code (§§ 750.1 - 750.568)

This portion of the law does not prevent representatives of scientific institutions from disinterment of prehistoric persons for scientific purposes assuming they get written consent from the land they excavate.

<https://law.justia.com/codes/michigan/2019/chapter-750/statute-act-328-of-1931/division-328-1931-lvi/section-750-387/>

§750.387 - A person who is not the burial right owner or contractually able to control the area, shall not willfully destroy, mutilate, deface, injure, or remove a tomb, monument, gravestone, or other structure or thing placed or designed for a memorial of the dead. Also, to do the same for a fence, railing, curb, or other thing intended for the protection of the above places. It is also prohibited to destroy, mutilate, remove, cut, break, or injure any tree, shrub, or plant, placed or being within such an enclosure.

The penalty is more severe based on the amount of damage caused. Repeat offenders are also eligible for increased punishment.

2019 Michigan Compiled Laws

Chapter 15 - Public Officers and Employees, Act 442 of 1976 Freedom of Information Act

(§§15.231 - 15.246)

<https://law.justia.com/codes/michigan/2019/chapter-15/statute-act-442-of-1976/section-15-243/>

The universal citation: MI Comp L § 15.243-1o (2019)

15.243 Exemptions from disclosure; public body as school district, intermediate school district, or public-school academy; withholding of information required by law or in possession of executive office. §13.

(1) A public body may exempt from disclosure as a public record under this act any of the following:

- (o) Information that would reveal the exact location of archaeological sites. The department of natural resources may promulgate rules in accordance with the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

MINNESOTA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

MINNESOTA ARCHAEOLOGY STATUTES

2019 Minnesota Statutes

Chapters 138 - 140 — State History, Chapter 138 — Historical Societies; Sites; Archives; Archaeology; Folklife

<https://law.justia.com/codes/minnesota/2019/chapters-138-140/chapter-138/>

The universal citation: MN Statute §§138.31-72 (2019)

Sections 138.31 to 138.42 may be cited as the “**Minnesota Field Archaeology Act of 1963.**”

Field Archaeology

- §138.31 — Definitions.
- §138.32 — Legislative Intent.
- §138.33 — Unlicensed Field Archaeology Prohibited.
- §138.34 — Administration of The Act.
- §138.35 — State Archaeologist.
- §138.36 — Licenses.
- §138.37 — Ownership, Custody and Use of Objects and Data.
- §138.38 — Reports of State Archaeologist.
- §138.39 — Rules.
- §138.40 — Cooperation of State Agencies; Development Plans.
- §138.41 — Penalties.
- §138.42 — Title.

§138.32 Legislative Intent.

The state of Minnesota reserves to itself the exclusive right and privilege of field archaeology on state sites, in order to protect and preserve archaeological and scientific information, matter, and objects.

It is a declaration and statement of legislative intent that field archaeology on privately owned lands should be discouraged except in accordance with both the provisions and spirit of §§ 138.31 to 138.42; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the state archaeologist. History: 1963 Chapter 5 §2

§138.35 State Archaeologist.

Subdivision 1. Appointment.

The state archaeologist shall be a qualified professional archaeologist appointed by the commissioner of administration in consultation with the Executive Council of the Minnesota Historical Society, the Indian Affairs Council, and other interested parties to perform the duties in §§138.31 to 138.42.

Subdivision. 1a. Administrative support; staff.

The commissioner of administration shall provide the state archaeologist with necessary administrative services. State agencies shall provide the state archaeologist upon request with advisory staff services on matters relating to the duties and jurisdiction of the state archaeologist. The state archaeologist shall hire staff and maintain offices as necessary to perform the duties in §§ 138.31 to 138.42.

Subdivision 1b. Contracts; volunteers; grants and gifts. The state archaeologist may contract with the federal government, local governmental units, other states, the university and other educational institutions, and private persons or organizations as necessary in the performance of the duties in §§138.31 to 138.42. Contracts made under this section for professional services shall not be subject to Chapter 16C, as it relates to competitive bidding. The state archaeologist may recruit, train, and accept, without regard to personnel laws or rules, the services of individuals as volunteers for or in aid of performance of the state archaeologist's duties, and may provide for the incidental expenses of volunteers, such as transportation, lodging, and subsistence. The state archaeologist may apply for, receive, and expend grants and gifts of money consistent with the powers and duties in §§ 138.31 to 138.42. Any money so received is appropriated for the purpose for which it was granted.

Subdivision 2. Duties of state archaeologist.

The duties of the state archaeologist shall include the following:

- (1) to sponsor, engage in, and direct fundamental research into the archaeology of this state and to encourage and coordinate archaeological research and investigation undertaken within the state;
- (2) to cooperate with other agencies of the state which may have authority in areas where state sites are located, or which may have the responsibility for marking state sites, or arranging for their being viewed by the public;
- (3) to protect to the extent possible and to encourage the preservation of archaeological sites located on privately owned property;
- (4) to retrieve and protect objects of archaeological significance discovered by field archaeology on state sites or discovered during the course of any public construction or demolition work and, to the extent possible, those discovered during the course of any other construction or demolition work;
- (5) to obtain for the state other objects of archaeological significance, and data relating thereto;
- (6) to cooperate with the historical society, the university, and other custodians to preserve objects of archaeological significance, together with the data relating thereto;
- (7) to disseminate archaeological facts through the publication of reports of archaeological research conducted within the state;
- (8) to approve licensing of qualified professional archaeologists to engage in field archaeology on state sites, as provided in section 138.36; and
- (9) to otherwise carry out and enforce §§138.31 to 138.42.

History: 1963 Chapter 5 §5; 1978 Chapter 717 §3; 1986 Chapter 323 § 1; 1994 Chapter 632 Article 4 §49; 1996 Chapter 452 § 31; 1997 Chapter 202 Article 2 §38; 1998 Chapter 386 Article 2 §55; 1999 Chapter 91 §1,2

§138.41 Penalties.

Subdivision 1. Willful violations.

Whoever willfully violates section 138.33, or willfully defaces, injures, destroys, displaces, or removes any object or data belonging to the state, or willfully interferes with evidence or work on any state site or other site for which a license has been issued, or willfully violates any other provision of §§ 138.31 to 138.42, or the rules adopted by the commissioner is guilty of a gross misdemeanor.

Subdivision 2. Other penalties.

The director of the Minnesota Historical Society may suspend or revoke the license of any licensee, or refuse another license, or initially refuse a license to any person who has violated a provision of §§ 138.31 to 138.42, whether the violation is willful or not. Also, the director may refuse to name a school or a scientific institution as the custodian of objects or data under any license or agreement whatever, if that school or scientific institution has failed in its duty to care for and preserve objects or data belonging to the state or has failed to make such objects or data conveniently available to students of archaeology.

History: 1963 Chapter 5 §11; 1971 Chapter 23 §12; 1971 Chapter 48 §5; 1985 Chapter 248 §70; 2002 Chapter 298 §7

2019 Minnesota Statutes

Chapters 300 - 323A - Business, Social, And Charitable Organizations, Chapter 307 - Private Cemeteries

<https://law.justia.com/codes/minnesota/2019/chapters-300-323a/chapter-307/section-307-08/>

The universal citation: MN Stat §307.08 (2019)

§307.08 Damages; Illegal Molestation of Human Remains; Burials; Cemeteries; Penalty; Authentication.

Subdivision 1. Legislative intent; scope.

It is a declaration and statement of legislative intent that all human burials, human remains, and human burial grounds shall be accorded equal treatment and respect for human dignity without reference to their ethnic origins, cultural backgrounds, or religious affiliations. The provisions of this section shall apply to all human burials, human remains, or human burial grounds found on or in all public or private lands or waters in Minnesota.

Subdivision 2. Felony; gross misdemeanor.

(a) A person who intentionally, willfully, and knowingly does any of the following is guilty of a felony:

- (1) destroys, mutilates, or injures human burials or human burial grounds; or
- (2) without the consent of the appropriate authority, disturbs human burial grounds or removes human remains.

(b) A person who, without the consent of the appropriate authority and the landowner, intentionally, willfully, and knowingly does any of the following is guilty of a gross misdemeanor:

- (1) removes any tombstone, monument, or structure placed in any public or private cemetery or authenticated human burial ground; or
- (2) removes any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of a public or private cemetery or authenticated human burial ground; or
- (3) discharges any firearms upon or over the grounds of any public or private cemetery or authenticated burial ground.

Subdivision 11. Burial sites data.

Burial sites locational and related data maintained by the Office of the State Archaeologist and accessible through the office's "Unplatted Burial Sites and Earthworks in Minnesota" website are security information for purposes of §13.37. Persons who gain access to the data maintained on the site are subject to liability under §13.08 and the penalty established by §13.09 if they improperly use or further disseminate the data.

MISSISSIPPI DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

MISSISSIPPI ARCHAEOLOGY STATUTES

2013 Mississippi Code

Title 39 - Libraries, Arts, Archives and History, Chapter 7 - Antiquities

<https://law.justia.com/codes/mississippi/2013/title-39/chapter-7/>

The universal citation: MS Code §39-7-29-35 (2013)

§ 39-7-29 - Defacing of American Indian or aboriginal markings or carvings

No person shall intentionally and knowingly deface any American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere which pertain to early American Indian or aboriginal habitation of the country.

§ 39-7-31 - Entry upon land of another to deface, remove or destroy archeological relics or sites

No person, not being the owner thereof, and without the written consent of the owner, proprietor, lessee, or person in charge thereof, shall enter or attempt to enter upon the lands of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archaeological site, American Indian or aboriginal remains located in, on or under any private lands within the State of Mississippi. No person without a permit from the board, and without written permission of the landowner, shall intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any prehistoric or historic American Indian or aboriginal burial.

§ 39-7-33 - Disfigurement, removal, destruction, etc., of historical structure or artifact

It shall be unlawful for any person, not being the owner thereof, and without lawful authority, to willfully injure, disfigure, remove or destroy any historical structure, monument, marker, medallion, or artifact.

§ 39-7-35 - Penalties for violations of chapter; finder's fee for arrest and conviction of violator

(1) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$ 500.00) and not more than five thousand dollars (\$ 5,000.00), or by confinement in jail for not more than thirty (30) days, or by both such fine and confinement. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense for which the offender may be punished.

(2) The board at its discretion may grant a "finder's fee," not to exceed five hundred dollars (\$ 500.00), for the arrest and conviction of any person in violation of this chapter.

2016 Mississippi Code

Title 39 - Libraries, Arts, Archives and History, Chapter 7 - Antiquities

<https://law.justia.com/codes/mississippi/2016/title-39/chapter-7/section-39-7-41/>

The universal citation: MS Code §39-7-41 (2016)

§ 39-7-41. Certain archaeological records exempt from requirement of public access

Records in the possession of the Mississippi Department of Archives and History or any other public body as defined in paragraph (a) of Section 25-61-3 which contain information about the location of any specific archaeological site and which in the opinion of any such agency possessing such records would, upon the disclosure thereof, create a substantial risk of damage or destruction to the historical value of such archaeological site or create a substantial risk of damage or destruction to private property rights, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

MISSOURI CAVE PROTECTION STATUTES

The Cave Resources Act protects Missouri caves by prohibiting vandalism. It offers protection to the surface of a cave as well as the natural materials it contains, such as stalactites, stalagmites, cave life, and paleontological (fossil) remains. It recognizes the value of caves by establishing specific penalties for vandalism, but at the same time maintains the right of private cave owners to manage or use their caves as they see fit.

It also provides cave owners legal authority to protect their caves from trespassers. The law helps to protect the quality of Missouri's groundwater supplies by establishing specific legal protection to anyone whose well supply or spring has been polluted by someone using a cave for sewage disposal or other pollution causing purposes. Since its establishment, the Cave Resources Act has been used successfully to prosecute violators who have committed acts of vandalism and trespass.

2013 Missouri Revised Statutes

Title XXXVIII Crimes and Punishment; Peace Officers and Public Defenders, Chapter 578 Miscellaneous Offenses, Section 578.200 Citation of law.

<https://law.justia.com/codes/missouri/2013/title-xxxviii/chapter-578/>

The universal citation: MO Rev Stat §578.200 (2013)

§578.200 Citation of law.

Sections 578.200 to 578.225 shall be known and may be cited as the “Cave Resources Act”.
(L. 1980 H.B. 1192 §1) Effective 1-1-81

§578.205 Definitions.

When used in §§578.200 to 578.225, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

- (1) “Cave or cavern”, any naturally occurring subterranean cavity enterable by man including, without limitation, a pit, pothole, natural well, grotto and tunnel, whether or not the opening has a natural entrance;
- (2) “Cave system”, the caves in a given area related to each other hydrologically, whether continuous or discontinuous from a single opening;
- (3) “Show cave”, any cave or cavern wherein trails have been created and some type of lighting provided by the owner or operator for purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is generally collected for entry;
- (4) “Sinkhole”, a hollow place or depression in the ground in which drainage may collect with an opening therefrom into an underground channel or cave including any subsurface opening that might be bridged by a formation of silt, gravel, humus or any other material through which percolation into the channel or cave may occur. (L. 1980 H.B. 1192 §2) Effective 1-1-81

§578.210 Entering, attempt to enter, defacing without permission, prohibited.

1. A person, without the prior written permission of the owner or if a corporation is the owner, of an officer of the corporation, lessee, or if the cavern is located on public land, the superintendent thereof shall not willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm the surfaces of any cave or any natural material therein including, without limitation, stalactites, stalagmites, helictites, anthodites, gypsum flowers, or needles, cave pearls, flowstone, draperies, rimstone, spathites, columns or similar crystalline mineral formation, including the host rock thereof.

2. A person shall not, without the permission required in subsection 1 of this section, break, force, tamper with, remove or otherwise disturb a lock, gate, door or other structure designed to prevent entrance to a cave or cavern. A person violates this subsection whether or not entrance to the cave or cavern is achieved. (L. 1980 H.B. 1192 §3)

§578.215 Cave or subsurface waters, placing structures or substances in violation of clean water law, prohibited, exceptions.

1. A person shall not purposely introduce into any cave, cave system, sinkhole or subsurface waters of the state any substance or structure that will or could violate any provision of the Missouri clean water law as set forth in chapter 204, or any water quality standard or effluent limitation promulgated pursuant thereto.
2. The provisions of subsection 1 of this section do not apply where natural subsurface drainage systems including, without limitation, caves, cave systems, sinkholes, fissures and related openings are used for purposes of storm water drainage, artificial recharge of aquifers, and irrigation return flow, and where modifications of natural drainage systems are made for purposes of improving natural drainage relationships.
3. No additional appropriations may be made for the enforcement of §§578.200 to 578.225.
(L. 1980 H.B. 1192 § 4) Effective 1-1-81

§578.220 Exceptions, certain mining operations.

§§ 578.200 to 578.225 shall not apply to vertical or horizontal underground mining operations.
(L. 1980 H.B. 1192 § 5) Effective 1-1-81

§578.225 Violations, penalty.

Any person who violates any provision of sections 578.200 to 578.225 is guilty of a class A misdemeanor. (L. 1980 H.B. 1192 § 6) Effective 1-1-81

2019 Missouri Revised Statutes

**Title XXXVIII - Crimes and Punishment; Peace Officers and Public Defenders
Chapter 569 - Arson, Burglary, Trespass, and Related Offenses**

<https://law.justia.com/codes/missouri/2019/title-xxxviii/chapter-569/section-569-135/>

The universal citation: MO Rev Stat §569.135 (2019) Effective 01 Jan 2017, see footnote

§ 569.135 Unlawfully entering or defacing a cave or cavern — penalty.

1. Unless a person has the prior written permission of an owner, officer, lessee, or superintendent of a cave or cavern, such person commits the offense of unlawfully entering or defacing a cave or cavern if he or she:
 - (1) Willfully or knowingly breaks, breaks off, cracks, carves upon, writes or otherwise marks upon, or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars, or harms the surfaces of any cave or any natural material therein including, without limitation, stalactites, stalagmites, helictites, anthodites, gypsum flowers, or needles, cave pearls, flowstone, draperies, rimstone, spathites, columns or similar crystalline mineral formation, including the host rock thereof; or
 - (2) Breaks, forces, tampers with, removes, or otherwise disturbs a lock, gate, door or other structure designed to prevent entrance to a cave or cavern. A person violates this subsection whether or not entrance to the cave or cavern is achieved.
2. No additional appropriations may be made for the enforcement of this section.
3. The provisions of this section do not apply to vertical or horizontal underground mining operations.
4. The offense of unlawfully entering or defacing a cave or cavern is a class A misdemeanor.

Footnote: (L. 1980 H.B. 1192 § 3, A.L. 2014 S.B. 491)

2018 Missouri Revised Statutes

Title XVIII - Labor and Industrial Relations, Chapter 293 - Mining Regulations

Section 293.620 Caves, inspection, to provide map — inspection fees.

<https://law.justia.com/codes/missouri/2018/title-xviii/chapter-293/section-293.620/>

The universal citation: MO Rev Stat §293.620 (2018) Effective 28 Aug 1959

§ 293.620 Caves, inspection, to provide map — inspection fees.

1. The division of mine inspection, in addition to other duties provided by law, is authorized and directed to inspect at least once a year all caves in the state held open to the public, to make rules and regulations providing for the necessary precautions to secure the health and safety of the visiting public and employees in any such cave in this state, to require every cave owner, operator or agent of any cave held open to the visiting public to provide necessary safety guard rails, bridges, ladders, entrances, platforms, walkways, safety barriers, rails, paths and other safety measures, in and about any such cave before it may be opened to the public, and to file a complete and true plan map of such cave with the division of mine inspection and a copy at the office of the entrance of the cave.

2. Every cave owner, operator or agent of any cave held open to the public shall, before opening the cave to the visiting public, send written notification to the division and pay an annual inspection fee of thirty-five dollars payable to the state treasurer and to be collected by the department of revenue and deposited in the state treasury to the credit of the state mine inspection fund. When the owner, operator or agent of any cave in this state, held open to the visiting public, shall have complied with all the necessary requirements of the division of mine inspection and shall have paid the inspection fee herein mentioned, he shall be provided with a certificate of inspection furnished by the division of mine inspection showing that the cave has been duly inspected and approved and such certificate shall be conspicuously displayed at or near the main entrance to the cave. (L. 1959 S.B. 188 § 66)

2019 Missouri Revised Statutes

Title XXXVIII - Crimes and Punishment; Peace Officers and Public Defenders

Chapter 569 - Arson, Burglary, Trespass, and Related Offenses

<https://law.justia.com/codes/missouri/2019/title-xxxviii/chapter-569/section-569-137/>

The universal citation: MO Rev Stat §569.137 (2019) Effective 01 Jan 2017, see footnote

§569.137 Polluting cave or subsurface waters — penalty.

1. As used in this section, the following terms mean:

(1) "Cave system", the caves in a given area related to each other hydrologically, whether continuous or discontinuous from a single opening;

(2) "Sinkhole", a hollow place or depression in the ground in which drainage may collect with an opening therefrom into an underground channel or cave including any subsurface opening that might be bridged by a formation of silt, gravel, humus, or any other material through which percolation into the channel or cave may occur.

2. A person commits the offense of polluting cave or subsurface waters if he or she purposely introduces into any cave, cave system, sinkhole or subsurface waters of the state any substance or structure that will or could violate any provision of the Missouri clean water law as set forth in chapter 644, or any water quality standard or effluent limitation promulgated pursuant thereto.

3. The provisions of this section do not apply:

- (1) Where natural subsurface drainage systems including, without limitation, caves, cave systems, sinkholes, fissures and related openings are used for purposes of storm water drainage, artificial recharge of aquifers, and irrigation return flow, and where modifications of natural drainage systems are made for purposes of improving natural drainage relationships; or
 - (2) To vertical or horizontal underground mining operations.
4. No additional appropriations may be made for the enforcement of this section.
 5. The offense of polluting cave or subsurface waters is a class A misdemeanor.

Footnote:

(L. 1980 H.B. 1192 § 4, A.L. 2014 S.B. 491) Transferred 2014; formerly 578.215; Effective 1-01-17

Chapter 558 - Imprisonment

The universal citation: MO Rev Stat §558.002 (2019) or § 558.011 (2019)

Section 558.002 Fines for felonies.

1. Except as otherwise provided for an offense outside this code, a person who has been convicted of an offense may be sentenced to pay a fine which does not exceed:
 - (2) For a class A misdemeanor, two thousand dollars;

558.011. Sentence of imprisonment, terms — conditional release.

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:
 - (6) For a class A misdemeanor, a term not to exceed one year;

2017 Missouri Revised Statutes

Title XXXVI Statutory Actions and Torts, Chapter 537 Torts and Actions for Damages, Section 537.345 Definitions for §§537.345 to 537.347 and §537.351.

<https://law.justia.com/codes/missouri/2017/title-xxxvi/chapter-537/section-537.345/>

The universal citation: MO Rev Stat §537.345 (2017) Effective 28 Aug 2012.

§537.345. Definitions for §§537.345 to 537.347 and 537.351. As used in §§537.345 to 537.347, and §537.351, the following terms mean:

- (1) "Charge", the admission price or fee asked by an owner of land or an invitation or permission without price or fee to use land for recreational purposes when such invitation or permission is given for the purpose of sales promotion, advertising or public goodwill in fostering business purposes;
- (2) "Land", all real property, land and water, and all structures, fixtures, equipment, and machinery thereon;
- (3) "Owner", any individual, legal entity or governmental agency that has any ownership or security interest whatever or lease or right of possession in land;
- (4) "Recreational use", hunting, fishing, camping, picnicking, biking, nature study, winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;
- (5) "Trespasser", any person who enters on the property of another without permission and without an invitation, express or implied regardless of whether actual notice of trespass was given, or the land was posted in accordance with the provisions of §§569.140 and 569.145.

(L. 1983 S.B. 162 § 1, A.L. 2012 S.B. 628)

Section 537.346 Landowner owes no duty of care to persons entering without fee to keep land safe for recreational use.

Landowner owes no duty of care to persons entering without fee to keep land safe for recreational use, except as provided in §§537.345 to 537.348, and §537.351, an owner of land owes no duty of care to any person who enters on the land without charge to keep his land safe for recreational use or to give any general or specific warning with respect to any natural or artificial condition, structure, or personal property thereon.

Section 537.347 Landowner directly or indirectly invites or permits persons on land for recreation, effect.

Except as provided in §§537.345 to 537.348, an owner of land who directly or indirectly invites or permits any person to enter his or her land for recreational use, without charge, whether or not the land is posted, or who directly or indirectly invites or permits any person to enter his or her land for recreational use in compliance with a state-administered recreational access program, does not thereby:

- (1) Extend any assurance that the premises are safe for any purpose;
- (2) Confer upon such person the status of an invitee, or any other status requiring of the owner a duty of special or reasonable care;
- (3) Assume responsibility for or incur liability for any injury to such person or property caused by any natural or artificial condition, structure or personal property on the premises; or
- (4) Assume responsibility for any damage or injury to any other person or property caused by an act or omission of such person.

(L. 1983 S.B. 612 § 3, A.L. 2006 H.B. 1617 & 1374)

MISSOURI ARCHAEOLOGY STATUTES

UNMARKED HUMAN BURIAL SITES

<https://law.justia.com/codes/missouri/2019/title-xii/chapter-194/>

- §194.400 Definitions. (8/28/2018)
- §194.405 Scope of law. (8/28/1987)
- §194.406 Unmarked human burials, knowledge, or discovery — notice to local law enforcement officer or state historic preservation officer — jurisdiction, how determined. (8/28/1987)
- §194.407 State historic preservation officer, jurisdiction of unmarked human burials, duties — general archaeological investigation, when — professional archaeologist, advise state historic preservation officer, when. (8/28/1987)
- §194.408 State historic preservation officer, reinternment, duties — consultation with advisory council on historic preservation, when — conformity with federal law. (8/28/2018)
- §194.410 Human burial sites — knowingly disturb, penalty — appropriation for sale, penalty. (1/1/2017)

We recommend viewing the above link, as the law is very long and detailed

2018 Missouri Revised Statutes

Title XXXIX - Conduct of Public Business, Chapter 610 - Governmental Bodies and Records, Section 610.021 Closed meetings and closed records authorized when, exceptions.

The universal citation: MO Rev Stat §610.021 (2018) Effective 28 Aug 2018

Section 610.021-14 Closed meetings and closed records authorized when, exceptions.

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records, and votes, to the extent they relate to the following:

- (14) Records which are protected from disclosure by law;

Exceptions to open records law if provided by statute; Missouri Cultural Resource Inventory website contains information on various information resources available, some of which are restricted.

MONTANA CAVE PROTECTION STATUTES

019 Montana Code Annotated

Title 23. Parks, Recreation, Sports, and Gambling, Chapter 2. Recreation

Part 9. Cave Conservation Act

<https://law.justia.com/codes/montana/2019/title-23/chapter-2/part-9/>

The universal citation: MT Code §23-2-901 - 908 (2019)

§23-2-901. Short title.

This part may be cited as “**The Montana Cave Conservation Act**”.

History: En. §1, Chapter 264, L. 1993.

§23-2-902. Definitions

As used in this part, the following definitions apply:

- (1) “Cave” means any geologically formed void or cavity beneath the surface of the earth or within a cliff or ledge, including but not limited to natural subsurface water and drainage systems, whether or not a natural entrance is present. The term does not include a mine, tunnel, aqueduct, or human-made excavation but does include any natural structure that is commonly known as a cavern, sinkhole, pit, grotto, or rock shelter and that communicates with a subterranean passage or drainage system.
- (2) “Cave life” means any life form that occurs in, uses, visits, or inhabits a cave.
- (3) “Gate” means a structure or device located to limit or prohibit access or entry to a cave.
- (4) “Material” means all or part of any archaeological, cultural, paleontological, biological, or historical item or artifact found in a cave, including but not limited to any petroglyph, pictograph, pottery, basketwork, fossil, human remains, or animal remains.
- (5) “Owner” means any person or public or private agency that has the right to possession of a cave.
- (6) “Person” means an individual, partnership, firm, association, trust, corporation, or other legal entity.
- (7) “Speleogen” means the surrounding natural earth or bedrock in which a cave is formed, including but not limited to clastic sediments, walls, floors, ceiling, and other related structural and geological features.
- (8) “Speleothem” means a natural mineral formation or deposit occurring in a cave, including but not limited to formations known as stalagmite, stalactite, helictite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, rimstone dam, column, palette, and flowstone. A speleothem is commonly composed of calcite, gypsum, epsomite, aragonite, celestite, or other similar mineral. History: En. §2, Chapter 264, L. 1993.

§23-2-903. Vandalism of cave unlawful.

- (1) Except as provided in subsection (2), a person may not purposely or knowingly:
 - (a) carve, write, mark upon, break, crack, burn, or remove or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or material found in a cave, whether attached or broken, including speleothems, speleogens, and sedimentary deposits;
 - (b) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to a cave;
 - (c) remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this part;
or
 - (d) disturb or alter in any way the natural condition of a cave.

(2) The provisions of subsection (1) do not apply to a cave owner or the owner's authorized agent, officer, employee, or designated representative who undertakes work to improve or control physical access to the cave.
History: En. §3, Chapter 264, L. 1993.

§23-2-904. Disturbance of cave life unlawful.

A person may not purposely or knowingly remove, kill, harm, or otherwise interfere with cave life, except for health or safety reasons or when the act is a minimal disturbance or for removal of organisms for recognized scientific inquiry. Gates at the entrance or at any point within a cave must be of open construction to allow unimpeded passage of air, insects, bats, and other cave life.

History: En. §4, Chapter 264, L. 1993.

§23-2-905. Pollution of and burning harmful substances in cave unlawful.

(1) A person may not purposely or knowingly store, dump, litter, dispose of, or otherwise place in a cave any refuse, garbage, dead animal, sewage, or toxic substance harmful to cave life or human life.

(2) A person may not burn in a cave any substance that produces smoke or gas that is or may be harmful to cave life. The use of a carbide lamp that produces acetylene gas is permitted.

History: En. §5, Chapter 264, L. 1993.

§23-2-906. Sale of speleothems and speleogens unlawful.

A person may not sell, offer for sale, or export for sale any speleothem or speleogen.

History: En. §6, Chapter 264, L. 1993.

§23-2-907. Conditions of owner liability.

The liability of the owner of a cave or the owner's authorized agent, officer, employee, or designated representative acting within the scope of authority is restricted pursuant to 70-16-302.

History: En. §7, Chapter 264, L. 1993.

§23-2-908. Penalty.

A person convicted of violating any provision of this part is subject to a fine of not less than \$500 or more than \$2,000, imprisonment in the county jail for not more than 60 days, or both.

History: En. §9, Chapter 264, L. 1993.

MONTANA ARCHAEOLOGY STATUTES

2019 Montana Code Annotated

Title 22. Libraries, Arts, and Antiquities, Chapter 3. Antiquities

Part 8. Human Skeletal Remains and Burial Site Protection

<https://law.justia.com/codes/montana/2019/title-22/chapter-3/part-8/>

The universal citation: MT Code §22-3-801-811(2019)

- §22-3-801. Short title
- §22-3-802. Legislative findings and intent
- §22-3-803. Definitions
- §22-3-804. Board -- composition -- rights -- responsibilities
- §22-3-805. Discovery -- reporting requirements -- field review
- §22-3-806. Scientific analysis -- permit required
- §22-3-807. Nondisclosure of records
- §22-3-808. Prohibited acts -- penalties
- §22-3-809. Civil penalty and damages actions
- §22-3-810. Closure of board meetings
- §22-3-811. Disposition of fees, grants, and donations

§22-3-808. Prohibited acts -- penalties.

(1) After July 1, 1991, unless authorized under this part or by the descendants, tribe, cultural group, or other person, group, or entity to which the board gives control of the human skeletal remains or burial materials under 22-3-805, a person may not:

- (a) purposely or knowingly pilfer, disturb, destroy, or permit pilferage, disturbance, or destruction of a marked, unmarked, unrecorded, registered, or unregistered grave or burial ground or of burial material;
- (b) for commercial use, knowingly possess, buy, sell, transport, barter, or display human skeletal remains or burial material acquired in violation of this part; or
- (c) purposely or knowingly disclose information knowing that it is highly probable that the disclosure will lead to pilferage, disturbance, or destruction of a burial site.

(2) A person convicted under the provisions of subsection (1)(a) may be fined an amount not to exceed \$1,000, be imprisoned in the county jail for not more than 6 months, or both. A person convicted of a subsequent violation of subsection (1)(a) may be fined an amount not to exceed \$20,000, be imprisoned for not more than 5 years, or both.

(3) A person convicted under the provisions of subsection (1)(b) may be fined an amount not to exceed \$50,000, be imprisoned for not more than 20 years, or both.

(4) A person convicted under the provisions of subsection (1)(c) may be fined an amount not to exceed \$500, be imprisoned for not more than 6 months, or both. A person convicted of a subsequent violation of subsection (1)(c) may be fined an amount not to exceed \$10,000, be imprisoned for not more than 5 years, or both.

(5) A person who knowingly fails to give notice as required by 22-3-805(1) may be fined an amount not less than \$100 or more than \$500.

(6) A person who violates a provision of this section or any term or condition of a permit issued under 22-3-806 is subject to a civil penalty not to exceed \$2,000 for the first violation and not to exceed \$10,000 for a subsequent violation. History: En. §8, Chapter 748, L. 1991.

§22-3-809. Civil penalty and damages actions.

(1) This part does not preclude civil actions for damages.

(2) The board may bring an action under 22-3-808 for a civil penalty.
History: En. §9, Chapter 748, L. 1991.

2019 Montana Code Annotated

Title 22. Libraries, Arts, and Antiquities, Chapter 3. Antiquities, Part 4. Antiquities

<https://law.justia.com/codes/montana/2019/title-22/chapter-3/part-4/section-22-3-435/>

The universal citation: MT Code §22-3-435 (2019)

§22-3-435. Report of discovered heritage properties or paleontological remains.

Any person conducting activities, including survey, excavation, or construction, who discovers on any lands owned by the state any heritage property or paleontological remains as defined in §22-3-421 or who finds that an operation licensed or otherwise entitled by the state may damage heritage properties or paleontological remains on any lands owned by the state shall promptly report to the historic preservation officer the discovery of such findings and shall take all reasonable steps to ensure preservation of the heritage property or paleontological remains. History: En. §12, Chapter 563, L. 1979.

2019 Montana Code Annotated

Title 22. Libraries, Arts, and Antiquities, Chapter 3. Antiquities, Part 1. Historical Society

<https://law.justia.com/codes/montana/2019/title-22/chapter-3/part-1/>

Details for the Historical Society are listed here.

<https://law.justia.com/codes/montana/2019/title-22/chapter-3/part-8/section-22-3-807/>

§22-3-807. Nondisclosure of records

<https://law.justia.com/codes/montana/2019/title-22/chapter-3/part-8/section-22-3-807/>

The universal citation: MT Code §22-3-807 (2019)

§ 22-3-807. Nondisclosure of records.

(1) The state historic preservation officer, in consultation with the board, shall maintain burial site records that are separate and distinct from those in the cultural resource registry and that are necessary to administer this part.

(2) Burial site records are confidential and available only to criminal justice agencies or to federal, state, and tribal personnel or their appointed representatives legally charged with administering laws protecting cultural resources.

(3) Statistical information compiled from burial site records must be made available to the general public. Any information concerning burial site records that is released to a criminal justice agency is confidential criminal justice information, as defined in §44-5-103, and is subject to dissemination pursuant to §44-5-303.

NEBRASKA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

NEBRASKA ARCHAEOLOGY STATUTES

2015 Nebraska Revised Statutes Chapter 82 - State Culture and History

<https://law.justia.com/codes/nebraska/2015/chapter-82/statute-82-118/>

The universal citation: NE Code §82-118 (2015)

§82-118.Nebraska State Historical Society; statewide historic survey; acceptance of federal act.

The State of Nebraska hereby assents to the provisions of an Act of Congress entitled An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes, approved October 15, 1966, Public Law 89-665, 89th Congress, as amended as of January 1, 1993.

The Nebraska State Historical Society shall perform all such acts as may be necessary on behalf of the State of Nebraska to conduct, coordinate, and carry out the purposes and objectives of such Act of Congress, as amended as of January 1, 1993, for and within the State of Nebraska. The society shall carry out a comprehensive statewide historic survey in accordance with criteria established by the Secretary of the Interior for the preservation, acquisition, and development of such property as provided in the Act of Congress, as amended as of January 1, 1993, and may transfer funds made available to the state to other state agencies, local governments, other public bodies, private organizations, and individuals for the acquisition of title or interests in and for the development of any district, site, building, structure, or object that is significant in American history, architecture, archeology, and culture, or property used in connection therewith, and for its development in order to assure the preservation for public benefit of any such historic properties in compliance with such Act of Congress, as amended as of January 1, 1993, and with rules and regulations promulgated by the Secretary of the Interior for the administration of such Act of Congress, as amended as of January 1, 1993.

For these purposes the society may inspect the projects and examine the records of those projects eligible for grants and establish such rules and regulations relating thereto as may be necessary.

Source: Laws 1967, Chapter 596, §1, p. 2032; Laws 1978, LB 628, §1; Laws 1981, LB 407, §1; Laws 1993, LB 682, §1.

2015 Nebraska Revised Statutes Chapter 82 - State Culture and History

<https://law.justia.com/codes/nebraska/2015/chapter-82/>

The universal citation: NE Code §§82-501 – 510 (2015)

§82-501. Act, how cited. §§ 82-501 to 82-510 shall be known and may be cited as the Nebraska Archaeological Resources Preservation Act.

Source: Laws 2005, LB 211, §1.

Nebraska Archaeological Resources Preservation Act sections are:

- §82-501 Act, how cited.
- §82-502 Legislative findings and declarations.
- §82-503 Terms, defined.
- §82-504 State Archeology Office; created; powers; State Archaeologist; qualifications.
- §82-505 State or state-funded undertaking; notice required; exemption from act; act, how construed.
- §82-506 Funds, property, and services; acceptance and use.
- §82-507 Public land; prohibited acts; penalty; temporary restraining order or injunction.
- §82-508 Archaeological resource or archaeological site; prohibited acts; penalty.
- §82-509 Matching funds authorized.
- §82-510 State Archaeology Cash Fund; created; use; investment.

**2015 Nebraska Revised Statutes
Chapter 82 - State Culture and History.**

<https://law.justia.com/codes/nebraska/2015/chapter-82/statute-82-504/>

§82-504.State Archeology Office; created; powers; State Archaeologist; qualifications.

(1) There is hereby established the State Archaeology Office which shall be a division within the Nebraska State Historical Society. The purpose of the office shall be to coordinate and encourage appropriate archaeological undertakings and to preserve archaeological resources. The State Archaeology Office may adopt and promulgate rules and regulations to carry out the purposes of the Nebraska Archaeological Resources Preservation Act.

(2) The State Archaeology Office shall be headed by the State Archaeologist. The State Archaeologist shall be a graduate of a recognized college or university with a graduate degree in archaeology or anthropology and shall have sufficient practical experience and knowledge of archaeology to carry out the purposes of the act.

§82-507 Public land; prohibited acts; penalty; temporary restraining order or injunction.

(1) Any person who knowingly and willfully appropriates, excavates, injures, or destroys any archaeological resource on public land without written permission from the State Archaeology Office is guilty of a Class III misdemeanor.

(2) When the State Archaeology Office has cause to believe that a person has engaged in or is engaging in any unlawful conduct prescribed in this section, it may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Nebraska rules of civil procedure prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof.

Source: Laws 2005, LB 211, §7.

§82-508 Archaeological resource or archaeological site; prohibited acts; penalty.

No person shall enter or attempt to enter upon the lands of another without permission and intentionally appropriate, excavate, injure, or destroy any archaeological resource or any archaeological site. Any person committing such act is guilty of a Class III misdemeanor.

**2012 Nebraska Revised Statutes
Chapter 28 - Crimes and Punishments**

28-106. Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

- Class III misdemeanor: Maximum — three months imprisonment, or five hundred dollars fine, or both. Minimum — none

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services

**2012 Nebraska Revised Statutes
Chapter 84 - State Officers**

<https://law.justia.com/codes/nebraska/2012/chapter-84/statute-84-712.05>

The universal citation: NE Code §84-712.05 (2012)

§84-712.05. Records which may be withheld from the public; enumerated - Part 13.

Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act.

NEVADA CAVE PROTECTION STATUTES

2010 Nevada Code

Title 15 Crimes and Punishments, Chapter 206 Malicious Mischief

<https://law.justia.com/codes/nevada/2010/title15/chapter206/nrs206-330.html>

The universal citation: NV Rev Stat §206.330 (2019)

NRS §206.330 Placing graffiti on or otherwise defacing property: Fines and penalties; parent or guardian responsible for fines and penalties if person violating section is under the age of 18 years; suspension of driver's license.

1. Unless a greater criminal penalty is provided by a specific statute, **a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:**
 - (a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.
 - (b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.
 - (c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.
2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is \$5,000 or more.
3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:
 - (a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.
 - (b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.
 - (c) For the third and each subsequent offense, pay a fine of \$1,000 and perform 200 hours of community service.The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.
4. The parent or legal guardian of a person under the age of 18 years who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.
5. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.
6. The Department of Motor Vehicles:
 - (a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.
 - (b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any

information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

7. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to another statute for the same conduct.

8. As used in this section:

(a) “Impairment” means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) “Value of the loss” means the cost of repairing, restoring, or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

(Added to NRS by 1995, §736; A 1997, §37; 2001, §2582; 2003, §1019; 2007, §2297)

2019 Nevada Revised Statutes Chapter 381 - State Museums

<https://law.justia.com/codes/nevada/2019/chapter-381/statute-381-195/>

The universal citation: NV Rev Stat § 381.195 (2019)

NRS §381.195 – Definitions. As used in NRS §381.195 to 381.227, inclusive:

1. “Historic” means from the middle of the 18th century until 50 years before the current year.

2. “Historic site” means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs, and burials.

3. “Museum Director” means the Museum Director of the Nevada State Museum.

4. “Prehistoric” means before the middle of the 18th century.

5. “Prehistoric site” means any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, **habitation caves, rock shelters, natural caves,** burial ground, or sites of religious or cultural importance to an Indian tribe.

(Added to NRS by 1959, §290; A 1960, §98; 1977, §1207; 1979, §977; 1985, §516; 2001, §932; 2005, §568; 2015, §300; 2017, §3538)

NRS §381.196 - Requirement; exception; regulations.

1. A person shall not excavate a site on private lands located within this State that the person knows is a prehistoric Indian burial site unless the person first obtains a permit issued by the Museum Director.

2. A person is not required to obtain a permit pursuant to subsection 1 to engage in a lawful activity on private lands, including, without limitation, construction, mining, mineral exploration, logging, farming, ranching or a federally authorized activity conducted in compliance with the National Historic Preservation Act, 54 U.S.C. §§ 300100 et seq., if that activity is engaged in exclusively for purposes other than the excavation of a prehistoric Indian burial site.

3. The Museum Director shall adopt regulations governing a permit issued pursuant to subsection 1. The regulations must, without limitation:

(a) Set forth the process for obtaining and renewing a permit required pursuant to subsection 1;

(b) Set forth the qualifications of an applicant for such a permit;

(c) Require notice to and consultation with the applicable Indian tribes throughout the permitting process in the manner provided by NRS §381.0066;

(d) Provide for the enforcement of the provisions of this section, including, without limitation, the examination of the permit of a person claiming privileges pursuant to this section; and

(e) Fully protect the constitutional rights of property owners.

4. Any regulations adopted pursuant to this section must be developed in consultation with Indian tribes and incorporate the values, beliefs and traditions of the Indian tribes as determined and conveyed by the members of the Indian tribes during the consultation with the Museum Director.

5. As used in this section, "Indian burial site" has the meaning ascribed to it in NRS §383.150.
(Added to NRS by 2017, §3536)

NRS §381.197 - Requirement; exceptions; applicability of penalties.

Except for action taken under an agreement with the Office of Historic Preservation of the State Department of Conservation and Natural Resources pursuant to NRS §383.430, and except as otherwise provided in this section, a person shall not investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object therefrom unless the person is the holder of a valid and current permit issued pursuant to the provisions of NRS §§381.195 to 381.227, inclusive. Conduct that would otherwise constitute a violation of this section is not a violation of this section if it is also a violation of NRS §383.435.
(Added to NRS by 1959, §290; A 2005, §569; 2011, §2981)

NRS §381.223 - Seizure and forfeiture of object of antiquity taken without permit to investigate, explore or excavate historic or prehistoric site on federal or state lands; procedure for notice to and consultation with Indian tribes and repatriation of seized prehistoric native Indian human remains and funerary objects upon request.

1. Any object of antiquity taken, or collection made, on historic or prehistoric sites covered by NRS §381.197 without a permit must be seized by the proper law enforcement officers, who shall notify the Museum Director of the action and deposit the object or collection with the Museum Director for safekeeping. Upon receipt of any item seized pursuant to this section the Museum Director shall notify the Office of Historic Preservation. Except as otherwise provided in subsection 2, any object or collection so taken must be forfeited to the State for exhibition or other use within the State as determined by the Museum Director.

2. If an object of antiquity or collection seized pursuant to subsection 1 is prehistoric native Indian human remains or a funerary object, the Museum Director shall:

(a) Provide notice to and consult with each applicable Indian tribe in accordance with NRS 381.0066;

(b) Determine which Indian tribe has the closest cultural affiliation to the prehistoric native Indian human remains or funerary object in accordance with NRS §381.0067; and

(c) Return the prehistoric native Indian human remains or funerary object to the closest culturally affiliated Indian tribe in accordance with the repatriation process adopted pursuant to NRS 381.0069, if a request for repatriation is made.

(Added to NRS by 1959, §292; A 1977, §1209, §1360; 1993, §1588; 2001, §934; 2017, §3542)

NRS §381.225 - Acts of vandalism unlawful; penalty.

1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.

2. Unless a greater penalty is provided in NRS §206.125 or §206.330, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS §193.155.

(Added to NRS by 1959, §291; A 1989, §899, §2000; 2011, §1600)

NRS §381.227 - Penalty.

Unless a greater penalty is provided by a specific statute and except as otherwise provided in NRS §381.225, any person violating any of the provisions of NRS §§381.195 to 381.227, inclusive, is guilty of a misdemeanor.
(Added to NRS by 1959, §292; A 1967, §563; 1989, §2001; 2005, §569; 2017, §3542)

NEVADA ARCHAEOLOGY STATUTES

<https://law.justia.com/codes/nevada/2017/chapter-381/>

PRESERVATION OF PREHISTORIC AND HISTORIC SITES

General Provisions

NRS 381.195 - Definitions.

NRS 381.1955 - Museum Director may designate state agency as agent to issue permits; compliance of agent with certain provisions; oversight of agent.

NRS 381.1957 - Collection of certain minerals and artifacts and photography not prohibited.

Permit to Excavate Prehistoric Indian Burial Site on Private Lands

NRS 381.196 - Requirement; exception; regulations.

Permit to Investigate, Explore or Excavate Historic or Prehistoric Site on Federal or State Lands

NRS 381.197 - Requirement; exceptions; applicability of penalties.

NRS 381.199 - Applicant required to secure state and federal permits.

NRS 381.203 - Qualifications of applicant; contents of application; regulations.

NRS 381.205 - Notice to certain officers when granted.

NRS 381.207 - Percentage of articles, implements and materials found or discovered and retained in possession by certain holders to be given to state institutions and political subdivisions; procedure for notice to and consultation with Indian tribes and repatriation of found or discovered prehistoric native Indian human remains and funerary objects upon request.

NRS 381.209 - Limitations and conditions.

NRS 381.211 - Renewal.

NRS 381.213 - Conditions for voiding.

NRS 381.215 - Report of holder to Museum Director; duties of Museum Director regarding prehistoric native Indian human remains and funerary objects; exception.

NRS 381.217 - Collections of petrified wood authorized; limitations.

Enforcement; Penalties

NRS 381.221 - Enforcement by Division of State Parks, sheriffs and other peace officers.

NRS 381.223 - Seizure and forfeiture of object of antiquity taken without permit to investigate, explore or excavate historic or prehistoric site on federal or state lands; procedure for notice to and consultation with Indian tribes and repatriation of seized prehistoric native Indian human remains and funerary objects upon request.

NRS 381.225 - Acts of vandalism unlawful; penalty.

NRS 381.227 - Penalty.

Nevada Historical Society

NRS 381.245 - Preservation of old and obsolete property and public records from Division of State Library, Archives and Public Records.

NRS 381.255 - State publications to be donated for deposit in Society's collections.

PROTECTION OF INDIAN BURIAL SITES AND HISTORIC AND PREHISTORIC SITES

<https://law.justia.com/codes/nevada/2017/chapter-383/>

Protection of Indian Burial Sites

NRS 383.150 - Definitions.

NRS 383.160 - Duties of Office of Historic Preservation.

NRS 383.170 - Procedure upon discovery of Indian burial site; permissible excavation; treatment of prehistoric native Indian human remains and funerary objects; exceptions.

NRS 383.180 - Prohibited acts; penalties; exceptions.

NRS 383.190 - Civil remedy.

Protection of Historic and Prehistoric Sites

NRS 383.400 - Definitions.

NRS 383.405 - "Historic site" defined.

NRS 383.410 - "Political subdivision" defined.

NRS 383.415 - "Prehistoric site" defined.

NRS 383.420 - "State agency" defined.

NRS 383.425 - "State land" defined.

NRS 383.430 - Office of Historic Preservation authorized to enter into agreement with state agency, political subdivision or Indian tribe regarding acquisition of land from Federal Government; requirements of agreement; submission of information to Office required for changes to use of land or new project on land.

NRS 383.435 - Prohibited acts; penalties; exceptions; civil remedy.

These statutes are detailed and if interested, we suggest you review them.

NEW HAMPSHIRE DOES NOT HAVE A SPECIFIC CAVE PROTECTION STATUTES

NEW HAMPSHIRE ARCHAEOLOGY STATUTES

2015 New Hampshire Revised Statutes

Title XIX - Public Recreation, Chapter 227-C - Historic Preservation

<https://law.justia.com/codes/new-hampshire/2015/title-xix/chapter-227-c/>

The universal citation: NH Rev Stat §227-C:1 (2015)

§227-C:1 Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless a contrary meaning shall appear in the context:

I. "Commissioner" means the commissioner of the department of cultural resources or his designee.

II. "Council" means the state historical resources council.

III. "Department" means the department of cultural resources.

IV. "Field investigation" means the search for, identification of, and evaluation of historic resources, and the study of the traces of human culture at any land or underwater historic property, by means of inspection, surveying, digging, excavating, or removing surface or subsurface objects, or going onto a site with that intent.

V. "Historic preservation" means the research, excavation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology, or culture of this state, its communities, or the nation.

VI. "Historic property" means any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this state, its communities, or the nation.

VII. "Historic resource" means:

(a) Any historic property which has been listed in the New Hampshire state register of historic places or has been determined eligible for the New Hampshire state register of historic places by the division of historical resources or which has been listed in the National Register of Historic Places or has been determined by the keeper of the register to be eligible for the National Register using the criteria for evaluation in 36 C.F.R. section 60.4;

(b) Any object, or group of objects, located in or associated with an historic property or that enhances an understanding and appreciation of New Hampshire history;

(c) Skeletal remains of humans that would not be subject to the provisions of RSA 611-B and which fall under the provisions of RSA 227-C:8, VI; skeletal remains of other vertebrate animals; and other fossils within a cultural context that constitutes, or may constitute, the whole or part of an historic property;

(d) Any object, or group of objects, and the district, area, or site they define, which may yield significant data but whose value and significance has yet to be determined by the division of historical resources; or

(e) Any significant data that may be used to answer research questions about an historic property, and events and processes of the human past, provided by the fields of archeology, history, architecture and such supplemental sciences as ethnography, paleoecology, and related sciences.

VII-a. "Human remains" or "remains" means any part of the body of deceased human being in any stage of decomposition, together with any artifacts or other materials known or reliably assumed to have been on or interred with the deceased human being.

VIII. "Office" means the state historic preservation office, also known as the division of historical resources, department of cultural resources.

VIII-a. "Skeletal analyst" means the member of the professional staff or another professional person designated by the director of the division of historical resources with the approval of the commissioner having:

(a) A postgraduate degree in a field involving the study of the human skeleton such as skeletal biology,

forensic osteology, or other relevant aspects of physical anthropology or medicine;

(b) A minimum of one year's experience in conducting laboratory reconstruction and analysis of skeletal remains, including the differentiation of the physical characteristics denoting cultural or biological affinity; and

(c) Designed and executed a skeletal analysis, and presented the written results and interpretations of such analysis.

IX. "State archeologist" means the member of the professional staff designated by the director of the division of historical resources with the approval of the commissioner to develop, supervise and coordinate activities necessary to discharge and integrate the powers and duties of the office in the field of archeology as mandated by federal and state laws and procedures.

IX-a. "State curator" means the member of the professional staff, designated by the director of the division of historical resources with the approval of the commissioner, charged with the identification, evaluation, protection, and interpretation of objects of historic significance.

X. "Unmarked human burial" means any interment of human remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

Source. 1974, 32:1. 1981, 90:2; 504:1. 1983, 422:3. 1985, 345:3. 1986, 80:2-4. 1988, 201:1, 2. 1990, 73:1. 1998, 363:3. 2007, 324:12, eff. Sept. 14, 2007. 2012, 58:1, eff. July 13, 2012.

§227-C:11 Confidentiality of Archeological Site Location Information.

Information which may identify the location of any archeological site on state land, or under state waters, shall be treated with confidentiality so as to protect the resource from unauthorized field investigations and vandalism. Toward this end, state agencies, departments, commissions, institutions and political subdivisions, permittees and private landowners with preservation and conservation agreements shall consult with the commissioner before any disclosure of information to insure that the disclosure would not create a risk to the historic resource or that it is done in a manner to minimize the risk. Such information is exempt from all laws providing rights to public access.

Disclosure for the public record for tax assessment, transfer, sale or other consideration of the property shall receive careful consideration to minimize the risk to the resource.

Source. 1981, 504:5. 1985, 345:3.

New Hampshire Division of Historical Resources Department of Natural and Cultural Resources

<https://www.nh.gov/nhdhr/review/documents/archaeologicalstandardsandguidelines.pdf>

Standards and Guidelines for Archaeological Investigations in New Hampshire is a 74-page document which should be reviewed prior to any archaeological investigation.

NEW JERSEY DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES

NEW JERSEY ARCHAEOLOGY STATUTES

2013 New Jersey Revised Statutes

Title 13 - Conservation and Development--Parks and Reservations, Section 13:1L-1 - Short title

The universal citation: NJ Rev Stat §13:1L-1 (2013)

§13:1L-1. Short title

This act shall be known and may be cited as the “**State Park and Forestry Resources Act.**”

L.1983, Chapter 324, §1, eff. Sept. 1, 1983.

<https://law.justia.com/codes/new-jersey/2013/title-13/section-13-11-10/>

The universal citation: NJ Rev Stat §13:1L-10 (2013)

§13:1L-10 Destruction of park property, archaeological findings, sites prohibited.

10. a. (1) Except as may be provided pursuant to subsection c. or subsection d. of this section, no person may alter, deface, destroy, disturb, or remove any State park or forest property, whether man-made or natural, or any animal, or any archaeological findings on State park or forest property or which are held by the department pursuant to the provisions of P.L.1983, Chapter 324 (C. §13:1L-1 et seq.), without the written permission of the department. As used in this section, “archaeological findings” shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological, or anthropological nature.

10. a. (2) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating in a State park or forest property without the written permission of the department.

10. b. No person may litter or abandon any material on State park or forest property held pursuant to the provisions of P.L.1983, Chapter 324 (C. §13:1L-1 et seq.).

10. c. The department shall provide for exceptions to the prohibitions concerning archaeological findings set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any State park or forest property.

10. d. No provision of this section shall be construed to restrict or affect in any way fishing, hunting, trapping, or other such activities or related activities otherwise authorized or permitted on State park or forest property by the Department of Environmental Protection.

10. e. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

L.1983, Chapter324, §10; amended 2004, Chapter 170, §2.

§13:1L-23 Injunctive relief; penalties.

<https://law.justia.com/codes/new-jersey/2013/title-13/section-13-11-23/>

The universal citation: NJ Rev Stat §13:1L-23 (2013)

§13:1L-23 Injunctive relief; penalties.

23. a. If a person violates any provision of P.L.1983, Chapter 324 (C. §13:1L-1 et seq.), or any rule, regulation, or order adopted or issued pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner.

23. b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of section 10 of P.L.1983, Chapter 324 (C. §13:1L-10) shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense.

Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, in addition to any penalty provided pursuant to subsection a. of this section, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the department to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

23. c. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

23. d. A person who violates any provision of P.L.1983, Chapter 324 (C. §13:1L-1 et seq.), or any rule, regulation, or order adopted or issued pursuant thereto, shall be liable to a civil penalty of not less than \$50 nor more than \$1,500, plus restitution if applicable, for each offense, except as otherwise provided under subsection b. of this section, to be collected in a civil action by a summary proceeding under the “Penalty Enforcement Law of 1999,” P.L.1999, Chapter 274 (C. §2A:58-10 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested, except that any violation involving any vehicle or off-road vehicle shall be subject to the provisions of sections 33 and 34 of P.L.2009, Chapter 275 (C. §39:3C-33 and C.39:3C-34). The Superior Court and municipal courts shall have jurisdiction to hear and determine violations of P.L.1983, Chapter 324 (C. §13:1L-1 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. If the violation results in pecuniary gain to the violator, or the violator willfully or wantonly causes injury or damage to property, including but not limited to natural resources, the violator shall be liable to an additional civil penalty equal to three times the value of the pecuniary gain or injury or damage to property.

23. e. Penalties assessed pursuant to this section shall be in addition to any other civil or criminal penalties that may be applicable pursuant to law.

As used in subsection d., “vehicle” and “off-road vehicle” have the meanings prescribed for those respective terms in section 32 of P.L.2009, c.275 (C. §39:3C-32).

2013 New Jersey Revised Statutes

Title 40 - Municipalities and Counties, Section 40:10D-1 - Findings, Declarations Relative to Protection of Archaeological Findings, Sites.

<https://law.justia.com/codes/new-jersey/2013/title-40/section-40-10d-1/>

The universal citation: NJ Rev Stat §40:10D-1 (2013)

§40:10D-1 Findings, declarations relative to protection of archaeological findings, sites.

1.The Legislature finds and declares that it is of critical importance to protect archaeological sites in New Jersey to prevent their despoliation; that archaeological sites in the State have been pillaged by relic hunters; that these collectors generally dig without permission, almost always lack the technical training required to conduct scientific archaeological excavations, and seldom conduct legitimate research; and that illicit diggings have resulted in the loss of scientific data and archaeological findings that would make these sites invaluable to cultural research and to the State's heritage, destroying irreplaceable records of human activities and history.

The Legislature therefore determines that it is in the State's historic and cultural interests to prevent the unauthorized excavation and removal of archaeological findings from certain public lands in New Jersey.

L.2004, Chapter 170, §1.

<https://law.justia.com/codes/new-jersey/2013/title-47/section-47-1a-9/>

The universal citation: NJ Rev Stat §47:1A-9 (2013)

§47:1A-9 Other laws, regulations, privileges unaffected. (exceptions to open records law if provided by statute)

10. a. The provisions of this act, P.L.2001, Chapter 404 (C. §47:1A-5 et al.), shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to P.L.1963, Chapter 73 (C. §47:1A-1 et seq.); any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

10. b. The provisions of this act, P.L.2001, c.404 (C. §47:1A-5 et al.), shall not abrogate or erode any executive or legislative privilege or grant of confidentiality heretofore established or recognized by the Constitution of this State, statute, court rule or judicial case law, which privilege or grant of confidentiality may duly be claimed to restrict public access to a public record or government record.

L.2001,Chapter 404, §10.

NEW MEXICO CAVE PROTECTION STATUTES

2011 New Mexico Statutes

Chapter 30: Criminal Offenses, Article 15: Property Damage, §30-15-1 through §30-15-7

<https://law.justia.com/codes/new-mexico/2011/chapter30/article15/section30-15-5/>

The universal citation: NM Stat §30-15-5 (1996 through 1st Session 50th Legislature)

§30-15-1. Criminal damage to property.

Criminal damage to property consists of intentionally damaging any real or personal property of another without the consent of the owner of the property.

Whoever commits criminal damage to property is guilty of a petty misdemeanor, except that when the damage to the property amounts to more than one thousand dollars (\$1,000), he is guilty of a fourth-degree felony.

§30-15-1.1. Unauthorized graffiti on personal or real property.

A. Graffiti consists of intentionally and maliciously defacing any real or personal property of another with graffiti or other inscribed material inscribed with ink, paint, spray paint, crayon, charcoal or the use of any object without the consent or reasonable ground to believe there is consent of the owner of the property.

B. Whoever commits graffiti to real or personal property when the damage to the property is one thousand dollars (\$1,000) or less is guilty of a petty misdemeanor and shall be required to perform a mandatory one hundred hours of community service within a continuous six-month period immediately following his conviction and shall be required to make restitution to the property owner for the cost of damages and restoration.

C. Whoever commits graffiti to real or personal property when the damage to the property is greater than one thousand dollars (\$1,000) is guilty of a fourth degree felony and shall be required to perform a mandatory one hundred sixty hours of community service within a continuous eight-month period immediately following his conviction and shall be required to provide restitution to the property owner for the cost of damages and restoration as a condition of probation or following any term of incarceration as a condition of parole.

D. When a single occurrence of graffiti is committed by more than one individual, the court may apportion the amount of restitution owed by each offender in accordance with each offender's degree of culpability.

§30-15-5. Damaging caves or caverns unlawful.

It shall be unlawful for any person, without prior permission of the federal, state or private land owner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm any natural material found in any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions, or other similar crystalline mineral formations or otherwise; to kill, harm or in any manner or degree disturb any plant or animal life found therein; to otherwise disturb or alter the natural conditions of such cave or cavern through the disposal therein of any solid or liquid materials such as refuse, food, containers or fuel of any nature, whether or not malice is intended; to disturb, excavate, remove, displace, mar or harm any archaeological artifacts found within a cave or cavern including petroglyphs, projectile points, human remains, rock or wood carvings or otherwise, pottery, basketry or any handwoven articles of any nature, or any pieces, fragments or parts of any of the such articles; or to break, force, tamper with, remove or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained.

For purposes of this section, “cave” means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.

§30-15-6. Penalty.

Anyone violating the provisions of Section 1 [30-15-5 NMSA 1978] of this act shall be guilty of a misdemeanor. A Misdemeanor if a fine up to \$1,000 and imprisonment from 6 months to one year.

2019 New Mexico Statutes

Chapter 17 - Game and Fish and Outdoor Recreation, Article 4 - Propagation of Fish and Game

<https://law.justia.com/codes/new-mexico/2019/chapter-17/article-4/section-17-4-7/>

The universal citation: NM Stat § 17-4-7 (2019)

§17-4-7 - Liability of landowner permitting persons to hunt, fish or use lands for recreation; duty of care; exceptions.

A. Any owner, lessee or person in control of lands who, without charge or other consideration, other than a consideration paid to the landowner by the state, the federal government or any other governmental agency, grants permission to any person or group to use the owner's, lessee's or land controller's lands for the purpose of hunting, fishing, trapping, camping, hiking, sightseeing, the operation of aircraft, cave exploring or any other recreational use does not thereby:

- (1) extend any assurance that the premises are safe for such purpose;
- (2) assume any duty of care to keep such lands safe for entry or use;
- (3) assume responsibility or liability for any injury or damage to or caused by such person or group; or
- (4) assume any greater responsibility, duty of care or liability to such person or group than if permission had not been granted and the person or group were trespassers.

B. This section shall not limit the liability of any landowner, lessee or person in control of lands that may otherwise exist by law for injuries to any person granted permission to hunt, fish, trap, camp, hike, sightsee, operate aircraft, explore caves or use the land for recreation in exchange for a consideration, other than a consideration paid to the landowner by the state, the federal government or any other governmental agency.

C. For the purposes of this section, “cave” means a natural, geologically formed void or cavity beneath the surface of the earth, but does not mean a mine, tunnel, aqueduct, or other manmade excavation.

History: 1953 Comp., §53-4-5.1, enacted by Laws 1967, Chapter 6, §1; 2011, Chapter 63, §1; 2019, Chapter 24, §1.

ANNOTATIONS

The 2019 amendment, effective June 14, 2019, limited the liability of landowners permitting persons to explore caves on private property, and defined “cave”; in Subsection A, after “operation of aircraft”, added “cave exploring”; in Subsection B, after “operate aircraft”, added “explore caves”; and added Subsection C.

NEW MEXICO ARCHAEOLOGY STATUTES

2011 New Mexico Statutes

Chapter 18: Libraries, Museums and Cultural Properties

Article 6: Cultural Properties, 18-6-1 through 18-6-27

<https://law.justia.com/codes/new-mexico/2011/chapter18/article6/>

The universal citation: : NM Stat § 18-6-11 (1996 through 1st Session 50th Legislature)

§18-6-11. Permit required for excavation of archaeological sites; penalty.

A. It is unlawful for any person or his agent or employee to excavate with the use of mechanical earth moving equipment an archaeological site for the purpose of collecting or removing objects of antiquity when the archaeological site is located on private land in this state, unless the person has first obtained a permit issued pursuant to the provisions of this section for the excavation. As used in this section, an “archaeological site” means a location where there exists material evidence of the past life and culture of human beings in this state but excludes the sites of burial of human beings.

B. Permits for excavation pursuant to Subsection A of this section may be issued by the committee upon approval by the state archaeologist and the state historic preservation officer when the applicant:

- (1) submits written authorization for the excavation from the owner of the land;
- (2) furnishes satisfactory evidence of being qualified to perform the archaeological excavation by experience, training, and knowledge;
- (3) submits a satisfactory plan of excavation for the archaeological site and states in the plan the method by which excavation will be undertaken; and
- (4) agrees in writing, upon the completion of the excavation, to submit a summary report to the committee of the excavation, which report shall contain relevant maps, documents, drawings and photographs, together with a description of the archaeological specimens removed as a result of the excavation. Failure to file the summary report shall be grounds for refusing issuance of a future permit to the person.

C. All archaeological specimens collected or removed from the archaeological site as a result of excavation pursuant to Subsections A and B of this section shall be the property of the person owning the land on which the site is located.

D. Nothing in this section shall be deemed to limit or prohibit the use of the land on which the archaeological site is located by the owner of the land or to require the owner to obtain a permit for personal excavation on his own land, provided that no transfer of ownership is made with the intent of excavating archaeological sites as prohibited in this section, and provided further that this exemption does not apply to marked or unmarked burial grounds.

E. Any person convicted of violating the provisions of this section is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) and in addition thereto shall forfeit to the state all equipment used in committing the violation for which the person is convicted.

§18-6-11.1. Confidentiality of site location.

A. Any information in the custody of a public official concerning the location of archaeological resources, the preservation of which is in the interest of the state of New Mexico, shall remain confidential unless the custodian of such information determines that the dissemination of such information will further the purposes of the Cultural Properties Act [§18-6-1 through §18-6-17 NMSA 1978], as set forth in Section §18-6-2 NMSA 1978 and will not create a risk of loss of archaeological resources.

B. As used in Subsection A of this section, “archaeological resources” means a location where there exists material evidence of the past life and culture of human beings in this state and includes the sites of burial and habitats of human beings. History: 1978 Comp., 18-6-11.1, enacted by Laws 1979, Chapter 66, §1.

§18-6-15. State archaeologist.

The state archaeologist in the cultural affairs department is designated as “state archaeologist” for the purposes of the Cultural Properties Act [§18-6-1 NMSA 1978]. The state archaeologist shall be professionally recognized in the discipline of archaeology, shall have achieved recognition for accomplishments in his field in the American southwest and shall have a specialized knowledge of New Mexico.

NEW YORK DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES.

NEW YORK ARCHAEOLOGY STATUTES

2012 New York Consolidated Laws

PAR - Parks, recreation and historic preservation, Title C - Parks, Recreation and Historic Preservation, Article 14 - (14.01 - 14.09) Historic Preservation

<https://law.justia.com/codes/new-york/2012/par/title-c/article-14>

- 14.01 - Declaration of policy.
- 14.03 - Definitions.
- 14.05 - Statewide historic preservation program.
- 14.07 - State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan.
- 14.09 - State agency activities affecting historic or cultural property; notice and comment.

§14.01 - Declaration of policy.

The universal citation: NY Pks, Rec & Hist Pres L §14.01 (2012)

§ 14.01 Declaration of policy.

The legislature determines that the historical, archeological, architectural, and cultural heritage of the state is among the most important environmental assets of the state and that it should be preserved. It offers residents of the state a sense of orientation and civic identity, is fundamental to our concern for the quality of life and produces numerous economic benefits to the state. The existence of irreplaceable properties of historical, archeological, architectural, and cultural significance is threatened by the forces of change. It is hereby declared to be the public policy and, in the public, interest of this state to engage in a comprehensive program of historic preservation to accomplish the following purposes:

1. To promote the use, reuse, and conservation of such properties for the education, inspiration, welfare, recreation, prosperity, and enrichment of the public;
2. To promote and encourage the protection, enhancement and perpetuation of such properties, including any improvements, landmarks, historic districts, objects, and sites which have or represent elements of historical, archeological, architectural, or cultural significance;
3. To encourage and assist municipalities to undertake preservation programs and activities;
4. To foster civic pride in the beauty and accomplishments of the past through cooperation with municipalities and local organizations;
5. To preserve and enhance the state's attractions to tourists and visitors.

Article 14 - (§14.01 - 1§4.09) Historic Preservation

§14.03 Definitions.

When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Agency preservation officer" means the commissioner, director or chairperson of any state department, agency, board, commission, public benefit corporation or public authority, or his representative identified in accordance with the provisions of subdivision two of §14.05 of this article.
2. "Board" means the state board for historic preservation.

3. "Chairman" means the chairman of the state board for historic preservation.

4. "Historic preservation" means for the purposes of this article and notwithstanding any other provision of law, the study, designation, protection, restoration, rehabilitation and use of buildings, structures, historic districts, areas, and sites significant in the history, architecture, archeology or culture of this state, its communities or the nation.

5. "Historic and/or cultural place or property" means any building, structure, district, area, site or object including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of the state, its communities, or the nation.

6. "Historic district" means any area which: (a) has a special character or special historical, archeological, architectural, or cultural value; or (b) represents one or more periods or styles of architecture typical of one or more eras; and (c) causes such area, by reason of such factors, to constitute a distinct section.

7. "Municipality" for the purpose of this article only means any county, city, town, or village.

8. "Municipal official" means the chief executive officer of any municipality or his or her designated representative.

9. "National register" means the national register of historic places authorized by the National Historic Preservation Act of 1966.

10. "Registered property" means any historic place or property within the boundaries of the state nominated by the commissioner for listing on the national register of historic places or listed on the New York state register of historic places established pursuant to §14.07 of this article.

11. "State agency" means any state department, agency, board or commission of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

12. "State register" means the state register of historic places established pursuant to §14.07 of this article.

Article 14 - (14.01 - 14.09) HISTORIC PRESERVATION

§14.07 State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan.

1. State register of historic places.

(a) The commissioner, in consultation with the board, shall establish a listing of sites, districts, structures, buildings, areas or objects above or below the surface of the earth whether on land or in the waters of the state, together with any designated improvements thereon, significant in the history, architecture, archeology or culture of the state, its communities or the nation. Such listing shall constitute the New York state register of historic places. All historic places within the state listed on or nominated by the commissioner for inclusion on the national register of historic places before or after this article becomes law shall be deemed to be listed on the state register.

(b) The commissioner, with the advice of the board, shall establish the procedures and the criteria for listing on the state register consistent with the criteria established for listing on the national register and for classifying whether such places are primarily of national, state or local significance. The criteria for listing on the national register which shall be used as a guide for listing on the state register are as follows:

The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. that are associated with events that have made a significant contribution to the broad patterns of our history; or

B. that are associated with the lives of persons significant in our past; or

C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. that have yielded, or may be likely to yield, information important in prehistory or history. Such procedures shall include opportunity for the public to make proposals for listing on the state register, the notification in advance of the listing to the agency preservation officers and/or municipal official having jurisdiction over the property and for the mailing of notification of pending action to the owner or owners of record of the property, if privately owned, at their last known address; provided however, that if one listing affects more than one property owner or where the owner or owners cannot be ascertained, the publishing of notice of pending listing in a newspaper of general circulation in the area where the property is located shall constitute adequate notice. Such procedures shall also provide for timely review and consideration of listing places on the state register which the United States Secretary of the Interior has designated as eligible for the national register. When a proposal for listing with sufficient supporting documentation is made by a municipal official, local historic preservation board or commission or a member of the public, a decision on listing the proposed property with an appropriate finding supporting the decision shall be issued in writing by the commissioner not more than one hundred eighty days after such proposal is received by the commissioner.

(c) If the municipal official of any municipality with jurisdiction over any property or the owner or owners of such property, other than that included upon or nominated for inclusion upon the national register of historic places prior to the effective date of this article, advises the commissioner in writing within fifteen days of mailing or publishing of notification that the municipality or owner questions the eligibility of the proposed property, the commissioner shall postpone the listing until the municipality or owner has the reasonable opportunity to present a written statement to the commissioner and the board.

(d) The benefits and protections of this article upon any listing on the state register shall accrue in full force and effect from the date of its listing. Within forty-five days after the listing of any property on the state register, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. With respect to all properties deemed to be listed on the state register because they were listed on or nominated to the national register before this article became law, within a reasonable time after this article becomes law, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. Such notice shall include the registered properties' classification as primarily of national, state, or local significance. The commissioner shall also cause notice of the listing to be published in a newspaper of general circulation in the area where the property is located. Such publication of notice shall be in lieu of the personal notice hereinabove required in instances where one listing affects more than one property owner and in instances where the owner or owners of the listed property cannot be ascertained.

(e) No place may be removed from the state register unless it is determined by the commissioner, after consultation with the board, that the qualities that gave it significance and for which it was initially listed no longer exist.

(f) The commissioner shall, upon request, provide information on the places listed on the state register and on sites included in the statewide inventory maintained by the office pursuant to the provisions of subdivision two of this section to any person making a written request for such information, with the exception of sites that may be damaged by unauthorized investigators if their location be generally publicized. Notwithstanding the provisions of any other law, information on such archeological sites may be withheld from the public at the discretion of the commissioner in consultation with the commissioner of education and will be released, where appropriate, in a format approved by such commissioners. The commissioner may establish a reasonable fee for the preparation, duplication and mailing of requested information.

(g) The commissioner shall include in the state register all places he determines to be of significance after consultation with the board. In making the listing the commissioner shall indicate whether the place is primarily of national, state, or local significance.

1. Statewide inventory of historic property.

(a) The commissioner, with the assistance of the agency preservation officers of all state departments, agencies, boards, commissions, public benefit corporations and public authorities shall prepare and maintain an inventory of all property owned by the state, public benefit corporations or public authorities, which may qualify for

nomination to the national register of historic places and/or listing on the state register of historic places. In addition, the commissioner in cooperation with municipal officials, shall prepare and maintain an inventory of all other property publicly and privately owned which may qualify for nomination to the national register and listing on the state register.

(b) The commissioner shall consult with the commissioner of education and consider information from surveys of archeological sites prepared by such department. The commissioner of education shall cooperate with the commissioner by continuing to expand, maintain and review the department of education's inventory of archeological sites and provide information thereon to the commissioner.

(c) The commissioner shall assist and encourage private organizations and groups in undertaking surveys, studies and inventories of historic places and cultural resources.

(d) These inventories shall constitute the statewide inventory of historic places and shall be represented on appropriate maps of the entire inventory. Inclusion of a historic place on the inventory shall not by itself be deemed to be a determination by the state of such place's significance for purposes of section 15 (a) of Public Law 89-574 as subsequently amended. The commissioner shall regularly review this inventory and, with the advice of the board, select sites for listing on the state register and for nomination to the national register and make recommendations to the commissioner of the office of general services of buildings on the inventory which have available space deemed suitable for state use.

3. Statewide comprehensive historic preservation plan.

The commissioner, in consultation with the board, shall prepare a statewide comprehensive historic preservation plan. This plan may include proposals for the preservation and use of registered property. The annual state plan submitted to the Heritage Conservation and Recreation Service in the United States Department of Interior may substantially be used in preparing this plan. The agency preservation officers shall cooperate, and municipal officials may cooperate with the commissioner in the promulgation of plans and proposals in relation to historic places within their respective jurisdictions. The commissioner shall update the plan annually. The commissioner shall annually notify every agency preservation officer and municipal official of the availability of the state plan or the annual update and a copy of the annual plan or update shall be sent to every agency preservation officer and municipal official requesting such a plan or update.

4. Funds.

From funds available from the federal government for historic preservation purposes which may be used for reimbursement as hereinafter provided, and funds appropriated by the state for the purpose of assisting local and regional preservation programs including funds for survey and planning, the commissioner may provide reimbursement to municipalities and private organizations which undertake surveys and studies of historic places and cultural resources, prepare local historic preservation reports or otherwise assist the commissioner in carrying out his historic preservation responsibilities.

NORTH CAROLINA CAVE PROTECTION STATUTES

2019 North Carolina General Statutes

Chapter 14 - Criminal Law, Article 22C - Cave Protection Act.

<https://law.justia.com/codes/north-carolina/2019/chapter-14/article-22c/>

The universal citation: NC Gen Stat § 14-159.20 – 14-159.23(2019)

§14-159.20. Definitions.

The terms listed below have the following definitions as used in this Article, unless the context clearly requires a different meaning:

- (1) “Cave” means any naturally occurring subterranean cavity. The word “cave” includes or is synonymous with cavern, pit, well, sinkhole, and grotto;
- (2) “Commercial cave” means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry;
- (3) “Gate” means any structure or device located to limit or prohibit access or entry to any cave;
- (4) “Person” means any individual, partnership, firm, association, trust, or corporation;
- (5) “Speleothem” means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals; and
- (6) “Owner” means a person who has title to land where a cave is located, including a person who owns title to a leasehold estate in such land. (1987, Chapter 449)

§14-159.21. Vandalism; penalties.

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

- (1) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material therein, including speleothems;
- (2) Disturb or alter in any manner the natural condition of any cave;
- (3) Break, force, tamper with or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained. Any person violating a provision of this section shall be guilty of a Class 3 misdemeanor. (1987, Chapter 449; 1993, Chapter 539, §103; 1994, Ex. Sess., Chapter 24, §14(c).)

§14-159.22. Sale of speleothems unlawful; penalties.

It is unlawful to sell or offer for sale any speleothems in this State, or to export them for sale outside the State. A person who violates any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (1987, Chapter 449; 1993, Chapter 539, §104; 1994, Ex. Sess., Chapter 24, §14(c).)

§14-159.23. Limitation of liability of owners and agents.

The owner of a cave, and his agents and employees, shall not be liable for any injury to, or for the death of any person, or for any loss or damage to property, by reason of any act or omission unless it is established that the injury, death, loss, or damage occurred as a result of gross NC General Statutes - Chapter 14 Article 22C2 negligence, wanton conduct, or intentional wrongdoing. The limitation of liability provided by this section

applies only with respect to injury, death, loss, or damage occurring within a cave, or in connection with entry into or exit from a cave, and applies only with respect to persons to whom no charge has been made for admission to the cave. (1987, Chapter 449.)

2019 North Carolina General Statutes Chapter 38A - Landowner Liability, §38A-2 - Definitions.

<https://law.justia.com/codes/north-carolina/2019/chapter-38a/section-38a-2/>

The universal citation: NC Gen Stat §38A-2 (2019)

§38A-2. Definitions.

The following definitions shall apply throughout this Chapter, unless otherwise specified:

- (1) “Charge” means a price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for an invitation or permission to enter upon land, except as otherwise excluded in this Chapter.
- (2) “Educational purpose” means any activity undertaken as part of a formal or informal educational program, and viewing historical, natural, archaeological, or scientific sites.
- (3) “Land” means real property, land, and water, but does not mean a dwelling and the property immediately adjacent to and surrounding such dwelling that is generally used for activities associated with occupancy of the dwelling as a living space.
- (4) “Owner” means any individual or nongovernmental legal entity that has any fee, leasehold interest, or legal possession, and any employee or agent of such individual or nongovernmental legal entity.
- (5) “Recreational purpose” means any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure or sport, including equestrian recreation as defined in G.S. 99E-1.

§38B-2 - General rule.

A possessor of land, including an owner, lessee, or other occupant, does not owe a duty of care to a trespasser and is not subject to liability for any injury to a trespasser. (2011-283, §3.2; 2011-317, §1.1.)

2019 North Carolina General Statutes Chapter 14 - Criminal Law, Article 22 - Damages and Other Offenses to Land and Fixtures.

§14-127.1. Graffiti vandalism.

- (a) As used in this section, “graffiti vandalism” means to unlawfully write or scribble on, mark, paint, deface, or besmear the walls of:
 - (i) any real property, whether public or private, including cemetery tombstones and monuments,
 - (ii) any public building or facility as defined in G.S. 14-132, or
 - (iii) any statue or monument situated in any public place, by any type of pen, paint, or marker regardless of whether the pen or marker contains permanent ink, paint, or spray paint.
- (b) Except as otherwise provided in this section, any person who engages in graffiti vandalism is guilty of a Class 1 misdemeanor. A person convicted of a Class 1 misdemeanor under this subsection shall be fined a minimum of five hundred dollars (\$500.00) and, if community or intermediate punishment is imposed, shall be required to perform 24 hours of community service.
- (c) Any person who violates subsection (a) of this section shall be guilty of a Class H felony if all apply:
 - (1) The person has two or more prior convictions for violation of this section.
 - (2) The current violation was committed after the second conviction for violation of this section.
 - (3) The violation resulting in the second conviction was committed after the first conviction for violation of this section. (2015-72, §1.)

NORTH CAROLINA ARCHAEOLOGY STATUTES

Similar to other states, North Carolina Archaeology Statutes are detailed, and all of the sections are not listed.

2015 North Carolina General Statutes

Chapter 70 - Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection.

Article 2 - Archaeological Resources Protection Act.

- § 70-10 - Short title.
- § 70-11 - Findings and purpose.
- § 70-12 - Definitions.
- § 70-13 - Archaeological investigations.
- § 70-13.1 - 1. Criminal record checks of applicants for permit or license.
- § 70-14 - Rule-making authority; custody of resources.
- § 70-15 - Prohibited acts and criminal penalties.
- § 70-16 - Civil penalties.
- § 70-17 - Forfeiture.
- § 70-18 - Confidentiality.
- § 70-19 - Cooperation with private individuals.
- § 70-20 - Delegation of responsibilities.
- § 70-21 - Cemeteries on State lands.

Article 2 - Archaeological Resources Protection Act.

§70-12 - Definitions.

The universal citation: NC Gen Stat §70-12 (2015)

§70-12. Definitions.

As used in this Article, unless the context clearly indicates otherwise:

- (1) “Archaeological investigation” means any surface collection, subsurface tests, excavation, or other activity that results in the disturbance or removal of archaeological resources.
- (2) “Archaeological resource” means any material remains of past human life or activities which are at least 50 years old and which are of archaeological interest, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carvings, intaglios, graves or human skeletal materials. Paleontological specimens are not to be considered archaeological resources unless found in an archaeological context.
- (3) “State lands” means any lands owned, occupied, or controlled by the State of North Carolina, with the exception of those lands under short term lease solely for archaeological purposes, excluding highway rights-of-way. (1981, Chapter 904, §2.)

2015 North Carolina General Statutes

Chapter 70 - Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection. Article 3 - Unmarked Human Burial and Human Skeletal Remains Protection Act.

<https://law.justia.com/codes/north-carolina/2015/chapter-70/article-3/>

The universal citation: NC Gen Stat §70-26 (2015)

§70-26. Short title.

This Article shall be known as “The Unmarked Human Burial and Human Skeletal Remains Protection Act.” (1981, Chapter 853, §2.)

- § 70-26 - Short title.
- § 70-27 - Findings and purpose.
- § 70-28 - Definitions.
- § 70-29 - Discovery of remains and notification of authorities.
- § 70-30 - Jurisdiction over remains.
- § 70-31 - Archaeological investigation of human skeletal remains.
- § 70-32 - Consultation with the Native American Community.
- § 70-33 - Consultation with other individuals.
- § 70-34 - Skeletal analysis.
- § 70-35 - Disposition of human skeletal remains.
- § 70-36 - Financial responsibility.
- § 70-37 - Prohibited acts.
- § 70-38 - Rule-making authority.
- § 70-39 - Exceptions.
- § 70-40 - Penalties.
- § 70-41 through 70-45 - . Reserved for future codification purposes.

2015 North Carolina General Statutes

Chapter 70 - Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection. Article 3 - Unmarked Human Burial and Human Skeletal Remains Protection Act. §70-28 - Definitions.

The universal citation: NC Gen Stat §70-28 (2015)

§70-28. Definitions.

As used in this Article:

- (1) “State Archaeologist” means the head of the Office of State Archaeology section of the Office of Archives and History, Department of Natural and Cultural Resources.
- (2) “Executive Director” means the Executive Director of the North Carolina Commission of Indian Affairs.
- (3) “Human skeletal remains” or “remains” means any part of the body of a deceased human being in any stage of decomposition.
- (4) “Professional archaeologist” means a person having
 - (i) a postgraduate degree in archaeology, anthropology, history, or another related field with a specialization in archaeology,
 - (ii) a minimum of one year's experience in conducting basic archaeological field research, including the excavation and removal of human skeletal remains, and
 - (iii) designed and executed an archaeological study and presented the written results and interpretations of such study.
- (5) “Skeletal analyst” means any person having
 - (i) a postgraduate degree in a field involving the study of the human skeleton such as skeletal biology, forensic osteology or other relevant aspects of physical anthropology or medicine,
 - (ii) a minimum of one year's experience in conducting laboratory reconstruction and analysis of skeletal remains, including the differentiation of the physical characteristics denoting cultural or biological affinity, and

(iii) designed and executed a skeletal analysis and presented the written results and interpretations of such analysis.

(6) “Unmarked human burial” means any interment of human skeletal remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased. (1981, Chapter 853, §2; 2002-159, §35(a); 2007-484, §10(a); 2015-241, §14.30(s).)

015 North Carolina General Statutes

Chapter 70 - Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection. Article 2 - Archaeological Resources Protection Act. §70-18 - Confidentiality.

<https://law.justia.com/codes/north-carolina/2015/chapter-70/article-2/section-70-18/>

The universal citation: NC Gen Stat §70-18 (2015)

§70-18. Confidentiality.

Information concerning the nature and location of any archaeological resource, regardless of the ownership of the property, may be made available to the public under Chapter 132 of the North Carolina General Statutes or under any other provision of law unless the Department of Natural and Cultural Resources determines that the disclosures would create a risk of harm to such resources or to the site at which such resources are located. (1981, Chapter 904, §2; 2015-241, §14.30(s).)

NORTH DAKOTA DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES.

NORTH DAKOTA ARCHAEOLOGY STATUTES

2019 North Dakota Century Code

Title 55 State Historical Society and State Parks

<https://law.justia.com/codes/north-dakota/2019/title-55/>

The universal citation: ND Century Code §55.01-55.12 (2019)

- Chapter 55-01 State Historical Society
- Chapter 55-02 State Historical Board Director
- Chapter 55-02.1 Archival Resources and State Archivist
- Chapter 55-03 Protection of Prehistoric Sites and Deposits
- Chapter 55-04 Acquiring Lands for Public Parks
- Chapter 55-05 International Peace Garden
- Chapter 55-06 Historical Study of Yellowstone and Missouri River Confluence [Repealed]
- Chapter 55-07 Recreational Development Bonds [Repealed]
- Chapter 55-08 Parks and Recreation Department
- Chapter 55-09 Heritage Commission [Repealed]
- Chapter 55-10 Preservation of Historic Sites and Antiquities
- Chapter 55-11 Nature Preserves
- Chapter 55-12 Museum or Historical Society Unclaimed Property

CHAPTER 55-03 Protection of Prehistoric Sites and Deposits

§55-03-00.1. Definitions.

1. “Cultural resources” includes prehistoric or historic archaeological sites, burial mounds, and unregistered graves.
2. “Mitigate adverse effect” includes:
 - a. The process of making and preserving a record of the existence and scientific, historical, architectural, engineering, educational, or aesthetic value of a cultural resource, historic building, structure, or object.
 - b. The process of restoring, rehabilitating, reconstructing, stabilizing, or preserving, through some other means, a cultural resource, historic building, structure, or object.

§55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources, historic buildings, structures, or objects - Application - Fee.

Any person engaged in identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects on any lands in North Dakota, under section 106 of the National Historic Preservation Act of 1966 [Pub. Law 89-665; 80 Stat. 915; 16 U.S.C. 470, as amended by Pub. Law 91-243, Pub. Law 93-54, Pub. Law 94-422, and Pub. Law 94-458], 36 CFR 800, or subdivision u of subsection 1 of §38-14.1-14, shall obtain an annual permit from the director of the state historical society. The permit application must be in the form prescribed by the director. Each application must be accompanied by a filing fee of one hundred dollars. The director may waive the fee requirement if the applicant is an instrumentality of the state. Following issuance of the annual permit, the permittee shall submit to the state historical society payment in the amount of fifty dollars with every cultural resources identification, evaluation, and mitigation report submitted

to the director in compliance with the federal and state statutory and regulatory requirements identified in this section. A permittee submitting a report on behalf of a nonprofit corporation formed under Chapter 10-33 does not have to pay the fee for filing the report.

§55-03-01.1. Permit required to investigate, excavate, or otherwise record cultural resources on land owned by an instrumentality of the state and to excavate cultural resources on private land.

Any person engaged in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state or in the excavation of cultural resources on private land for any purposes other than those identified in §55-03-01 first shall obtain a permit from the director. A permit may be granted only for the investigation, excavation, or other recording of cultural resources at the locations described in the application for permit. Each application must be accompanied by a fee of one hundred dollars.

§55-03-02. Contents of permit.

A permit issued pursuant to an application made under §§55-03-01 or 55-03-01.1 must clearly describe the purpose of the permit and must be in the form prescribed by the director. A permit may not be granted until the director is satisfied that the applicant is professionally qualified to conduct that work for which the permit is required. When the cultural resources are on land owned by an instrumentality of the state, the permit may not be granted until the applicant has agreed to deliver to the director all of the archaeological or historical materials found and removed from the land. When the cultural resources are on private land, the permit may not be granted until the applicant has agreed to deliver to the director all of the human remains and burial goods, as defined in §23-06-27, found and removed from the land. A permit may not be granted until the applicant has agreed to deliver to the director copies of all records and reports as determined by the director to be pertinent to the work performed.

§55-03-03. Period for which permit granted - Revocation.

Each permit issued under §55-03-01 terminates on December thirty-first of the year in which it is issued. Any permit issued under §§55-03-01 or 55-03-01.1 may be revoked by the director at any time if it appears that any identification, evaluation, or mitigation of adverse effects on cultural resources, historic buildings, structures, or objects performed by the permittee are being conducted negligently or improperly, or without regard for the careful preservation and conservation of the artifacts and materials they contain.

§55-03-04. Fees deposited in revolving fund - Use.

All fees collected by the director under §§55-03-01 and 55-03-01.1 must be deposited in the revolving fund of the state historical society and must be used by the director for making investigations of permit applicants and for the management and analysis of records and artifacts submitted to the director under §55-03-01, 55-03-01.1, and 55-03-02.

§55-03-05. Landowner may explore on his own land.

Repealed by State Law 1989, Chapter 307, §7 .

§55-03-06. Archaeological or paleontological materials retained upon sale of land by state or municipality.

When land is sold, conveyed, transferred, or leased by the state of North Dakota, or by any department or agency thereof, or by any municipal subdivision thereof, the title to any and all archaeological or paleontological materials, whether such materials are found upon the surface or below the surface of such land, must be retained by the state or by the municipal subdivision thereof, as the case may be.

§55-03-07. Violation of chapter - Penalty.

Any person violating any provision of this chapter is guilty of a class A misdemeanor and shall forfeit to the state all archaeological or historical articles and materials discovered by the violator. Any such violation must be held to be committed in the county where the exploration or excavation for archaeological or historical material was undertaken.

2019 North Dakota Century Code

Title 55 State Historical Society and State Parks, Chapter 55-02 State Historical Board Director

<https://law.justia.com/codes/north-dakota/2019/title-55/chapter-55-02/>

§55-02-07. Protection of historical or archaeological artifacts or sites.

Any historical or archaeological artifact or site that is found or located upon any land owned by the state or its political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the director of the state historical society, significant in understanding and interpreting the history and prehistory of the state, may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board, unless §55-02-07.2 applies to the site. Notification of the director's opinion of significance must be communicated to the appropriate governing official. The state historical board through the director, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove, or otherwise dispose of a significant artifact or site, shall provide the governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of the significant artifact or site. The state and its political subdivisions shall cooperate with the director in identifying and implementing any reasonable alternative to destruction or alteration of any historical or archaeological artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board may approve the demolition or alteration.

§55-02-07.1. Protection of prehistoric or historic site locational data.

The director of the state historical society may limit access to, and release of, information from files of the state historical society which contain data that specifically identifies the location of archaeological, historical, or paleontological sites in North Dakota. No access to, or release of, information from files that contain site-specific locational data may be made until the director is satisfied that the applicant has a reasonable need for the information contained in those files and professionally acceptable qualifications to assure that release of the information will not result in unnecessary destruction of the resource.

2019 North Dakota Century Code

Title 12.1 Criminal Code Chapter 12.1-21 Damaging Property or Public Services

<https://law.justia.com/codes/north-dakota/2019/title-12-1/chapter-12-1-21/>

§12.1-21-05c. Criminal mischief.

A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of two thousand dollars or if the actor intentionally causes pecuniary loss of from one hundred dollars through two thousand dollars.

CHAPTER 12.1-32 Penalties and Sentencing

<https://law.justia.com/codes/north-dakota/2019/title-12-1/chapter-12-1-32/>

§12.1-32-01.5. Classification of offenses – Penalties

Class A misdemeanor, for which a maximum penalty of imprisonment for three hundred sixty days, a fine of three thousand dollars, or both, may be imposed.

OHIO CAVE PROTECTION STATUTES

2018 Ohio Revised Code

Title [15] XV Conservation of Natural Resources

Chapter 1517 - Division of Natural Areas and Preserves

<https://law.justia.com/codes/ohio/2018/title-15/chapter-1517/>

The universal citation: Ohio Rev Code § 1517.01 – 1517.99 (2018)

§1517.01 - Division of natural areas and preserves definitions.

As used in Chapter 1517. of the Revised Code:

(A) “Natural area” means an area of land or water which either retains to some degree or has re-established its natural character, although it need not be completely undisturbed, or has unusual flora, fauna, geological, archeological, scenic, or similar features of scientific or educational interest.

(B) “Nature preserve” means an area which is formally dedicated under section 1517.05 of the Revised Code. Effective Date: 08-31-1970.

§1517.21 - Cave definitions.

As used in sections 1517.21 to 1517.26 of the Revised Code:

(A) “Cave” means a naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including, without limitation, a grotto, rock shelter, sinkhole, cavern, pit, natural well, pothole, or subsurface water and drainage system.

(B) “Cave life” means any organism that naturally occurs in, uses, visits, or inhabits any cave, except those animals that are permitted to be taken under Chapter 1533. of the Revised Code.

(C) “Material” includes:

(1) Any speleothem, whether attached or broken, found in a cave;

(2) Any clay or mud formation or concretion or sedimentary deposit found in a cave;

(3) Any scallop, rill, or other corrosional or corrosional feature of a cave;

(4) Any wall or ceiling of a cave or any other part of the speleogen.

(D) “Owner” means any person having title to land in which a cave is located.

(E) “Speleothem” means any stalactite, stalagmite, or other natural mineral formation or deposit occurring in a cave.

(F) “Speleogen” means the surrounding material or bedrock in which a cave is formed, including walls, floors, ceilings, and similar related structural and geological components.

(G) “Sinkhole” means a closed topographic depression or basin generally draining underground, including, without limitation, a blind valley, swallow hole, or sink.

(H) “Hazard” means a risk of serious physical harm to persons or property. Effective Date: 03-22-1989.

§1517.22 - Protection of cave resources.

The general assembly hereby finds that caves are uncommon geologic phenomena and that the minerals deposited in them may be rare and occur in unique forms of great beauty that are irreplaceable if destroyed. Also irreplaceable are the archeological resources in caves, which are of great scientific and historic value.

It is further found that species of cave life are unusual and of limited numbers; that many are rare, threatened, or endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the general assembly to protect these unique and great natural, historical, scientific, and cultural resources. Effective Date: 03-22-1989.

§1517.23 - Chief of division - duties.

The chief of the division of natural areas and preserves shall do both of the following:

(A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program;

(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Amended by 128th General Assembly File No.47, SB 181, §1, eff. 9/13/2010.

Effective Date: 03-22-1989; 12-30-2004; 06-27-2005

§1517.24 - Prohibited acts.

(A) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall knowingly:

(1) Break, break off, crack, carve on, write on, mark on, burn, remove, or in any other manner destroy, deface, mark, or disturb the surfaces of any cave or any natural material found in any cave, whether attached or broken, including, without limitation, speleothems, speleogens, and sedimentary deposits;

(2) Break, force, tamper with, or otherwise disturb any lock, door, gate, or other device designed to limit control, or prevent access to or entry into a cave;

(3) Remove, deface, or tamper with any posted sign giving notice against unauthorized access to or presence in a cave or citing any of the provisions of §§1517.21 to 1517.26 or division (B) of §1517.99 of the Revised Code;

(4) Place refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans in a cave;

(5) Burn within a cave any substance other than acetylene gas burned in a carbide lamp that produces smoke or gas that is harmful to cave life;

(6) Use any door, gate, or other device designed to limit, control, or prevent access to or entry into a cave that does not allow free and unimpeded passage of air, water, and cave life;

(7) Excavate or remove historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones;

(8) Remove, kill, harm, or disturb any cave life found within a cave.

(B) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall purposely destroy, injure, or deface historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones.

Effective Date: 03-22-1989.

§1517.25 - Sale of speleothems collected from caves prohibited.

No person shall sell or offer for sale speleothems collected from caves in this state.

Effective Date: 03-22-1989.

§1517.26 - Immunity.

(A) Owners and, if the owner has leased the land, the lessee, are not liable for injuries, death, or loss sustained by any permittee on their land if no charge has been made. By granting permission for entry, the owner or lessee does not:

(1) Extend to the permittee any assurance that the premises are safe for such purposes;

(2) Confer on the permittee the legal status of an invitee or licensee to whom a duty of care is owed;

(3) Assume responsibility for or incur liability for any injury, death, or loss to person or property caused by an act or omission of a permittee.

(B) This section does not limit the liability which otherwise exists for injury, death, or loss to persons or property caused by an act or omission of the owner or lessee as follows:

- (1) Negligent failure to warn the permittee against a hazard of which the owner or lessee had actual knowledge prior to the permittee's entry on the land;
- (2) Willful or wanton misconduct;
- (3) Intentionally tortious conduct.

Effective Date: 03-22-1989.

§1517.99 - Penalty.

(A)(1) Except as provided in division (A)(2) of this section, whoever violates §1517.021 of the Revised Code is guilty of a minor misdemeanor.

(A)(2) Whoever violates §1517.021 of the Revised Code with regard to a species of plant identified in a rule adopted under or included on a list prepared under §1518.01 of the Revised Code is guilty of a misdemeanor of the third degree for a first offense. For each subsequent offense, the person is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (A) of §1517.24 or §1517.25 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (B) of §1517.24 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates §1517.051 of the Revised Code is guilty of a misdemeanor of the first degree.

Effective Date: 03-18-1999.

2018 Ohio Revised Code

Title [29] XXIX CRIMES – Procedure, Chapter 2929 - Penalties and Sentencing

<https://law.justia.com/codes/ohio/2018/title-29/chapter-2929/section-2929.31/>

The universal citation: Ohio Rev Code §2929.31 (2018)

§2929.31 - Fines for organizations by degree of offense.

(A) Regardless of the penalties provided in §§2929.02, 2929.14 to 2929.18, and §§2929.24 to 2929.28 of the Revised Code, an organization convicted of an offense pursuant to section 2901.23 of the Revised Code shall be fined in accordance with this section. The court shall fix the fine as follows:

- (8) For a misdemeanor of the first degree, not more than five thousand dollars (\$5000);
- (9) For a misdemeanor of the second degree, not more than four thousand dollars (\$4000);
- (10) For a misdemeanor of the third degree, not more than three thousand dollars (\$3000);
- (12) For a minor misdemeanor, not more than one thousand dollars (\$1000)

OHIO ARCHAEOLOGY STATUTES

2018 Ohio Revised Code

Title [15] XV Conservation of Natural Resources

Chapter 1517 - Division of Natural Areas and Preserves

<https://law.justia.com/codes/ohio/2018/title-15/chapter-1517/>

The universal citation: Ohio Rev Code § 1517.24 (2018)

§1517.24 - Prohibited acts.

(A) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall knowingly:

(7) Excavate or remove historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones;

(B) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall purposely destroy, injure, or deface historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones.

Effective Date: 03-22-1989.

Access to State Historic Preservation Office inventory data, such as the National Register of Historic Places, Ohio Historic Inventory, and the Ohio Archaeological Inventory, is limited to paid subscribers. Paid subscriptions are strictly limited to qualified professionals. <https://www.ohiohistory.org/preserve/state-historic-preservation-office/mapping>

Ohio Open Records Law (Ohio Revised Code Title I, Chapter 149, §A.1 (v)) exempts records protected by state or Federal law

2018 Ohio Revised Code

Title [1] State Government, Chapter 149 - Documents, Reports, and Records

<https://law.justia.com/codes/ohio/2018/title-1/chapter-149/section-149.43-2/>

The universal citation: Ohio Rev Code §149.43-2 (2018)

§Section 149.43 - [Effective 4/5/2019] Availability of public records for inspection and copying.

(A) As used in this section (Public record does not mean any of the following):

(5) “Intellectual property record” means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

OKLAHOMA CAVE PROTECTION STATUTES

2014 Oklahoma Statutes

Title 21. Crimes and Punishments

<https://law.justia.com/codes/oklahoma/2014/title-21/section-21-1789/>

The universal citation: 21 OK Stat § 21-1789 (2014)

§21-1789. Caves or caverns, injuring

A. It shall be unlawful for any person to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, deface, mar or harm any natural material found in any cave or cavern located on any public lands or other lands owned by the United States, the State of Oklahoma, or any county, municipality, school district or other instrumentality of government, or on private property without the prior written consent of the owner; to kill, harm or disturb any plant or animal life found in any cave or cavern, and, whether inside or outside a cave, any fish of the genera chologaster, typhlichthys or amblyopsis (commonly known as cavefish, springfish or blindfish), any salamander of the genus typhlotriton (commonly known as the Ozark blind, grotto or spring grotto salamander), or the species eurycea lucifuga (commonly known as cave salamander); provided, nothing in this act shall be construed as prohibiting the commercial mining of bat guano or the destruction of any predatory terrestrial mammal or poisonous snake seeking shelter within a cave if such destruction is not otherwise unlawful.

B. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance in or near any cave, cavern or natural subterranean drainage system shall be subject to the provisions of Section 1 of this act.

Amended by Laws 1988, Chapter 115, §5, effective Nov. 1, 1988.

§21-10. Punishment of misdemeanor.

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year or by a fine not exceeding five hundred dollars, or both such fine and imprisonment.

R.L.1910, §2091.

OKLAHOMA ARCHAEOLOGY STATUTES

2014 Oklahoma Statutes

Title 53. Oklahoma Historical Societies and Associations

<https://law.justia.com/codes/oklahoma/2014/title-53/section-53-361/>

The universal citation: 53 OK Stat §53-361 (2014)

§53-361. Anthropological and archaeological projects.

A. Any person, or persons, making any investigations, explorations, or excavations of any prehistoric ruins, ancient burial grounds, pictographs, petroglyphs, prehistoric specimens, utensils, and trinkets, and all other archaeological features discoveries in the state on state lands, shall donate to the state all articles, implements and material found or discovered by such investigations, explorations, or excavations, which shall be deposited with a museum or other recognized repository in the state, within ninety (90) days after the permit termination date, as provided in subsection F of this section.

B. 1. The State Archaeologist, in consultation with the State Historic Preservation Officer, shall study and evaluate the museums and institutions in this state and designate appropriate curatorial facilities. The characteristics of museums and institutions to be considered in making this determination shall include:

- a. the quality of the physical plant,
- b. previous experience in curation, and
- c. the availability of a professional staff trained in curation or archaeology.

B. 2. All original field records, notes, photographs and other information collected, except for personal journals or diaries, or reasonable facsimiles of those records, notes, photographs and other information shall be housed in the same repository as the collections of artifacts and archaeological materials unless otherwise specified in the permit or by the State Archaeologist in consultation with the State Historic Preservation Officer.

B. 3. All those collections of artifacts, archaeological materials, field records, maps, notes, photographs and other information collected pursuant to the provisions of this act shall be made available to the people of Oklahoma for study, examination and appreciation, provided that such availability can be arranged without contributing to the destruction or degradation of said artifacts, archaeological materials, field records, maps, notes, photographs and other information and objects and that such release of information is in the educational interest of the citizens of Oklahoma.

B. 4. Any repository for materials as designated in accordance with paragraph 1 of this subsection may, as it deems necessary, charge a reasonable, one-time fee of a permit holder to help defray the costs of providing long-term storage of the materials.

C. Before any exploration or excavation is made in or on any prehistoric ruins or archaeological site in Oklahoma, on the Oklahoma State Register, or on property owned by or under the control of the State of Oklahoma or any of its political subdivisions, a permit shall first be obtained from the State Archaeologist, Oklahoma Archaeological Survey. Such permit shall be issued upon:

1. Receipt of an application from any state agency, institution, company, or individual who can show cause for having such a permit for the taking, salvage, excavation, restoration or conducting of scientific or educational studies at, in or on properties defined in this subsection;
2. Payment of a fee of Fifty Dollars (\$50.00);
3. Determination by the State Archaeologist of the appropriateness of the permit request. This determination shall include:
 - a. application on a form approved by the State Archaeologist,
 - b. specifications on the need for the indicated research activity and shall include a research design providing for the recovery of scientific, archaeological, or historical information,
 - c. designation and qualifications of personnel involved in the project,

- d. specifications on the location, nature of the activity and time period required for the work, and
 - e. a signed statement from the landowner or, for state lands, from the appropriate state agency, granting permission for access and removal of archaeological or historical specimens;
4. Signing an agreement to donate specimens or materials in compliance with subsection A of this section; and
5. A signed agreement establishing a mutually acceptable formula for determining a one-time fee, as authorized by subsection B of this section, or that no fee will be charged by the repository for the long-term curation of deposited materials relating to the licensed project.

D. Each permit shall accurately specify the locations, nature of the activity and the time period covered by the permit and shall authorize or permit explorations or excavations only at the described location.

E. Copies of issued permits shall be on file with the State Archaeologist and the State Historic Preservation Officer.

F. Each permit shall expire at midnight one (1) year after the date of its issuance, provided, that any permit may be revoked by the State Archaeologist, upon consultation with the State Historic Preservation Officer, at any time upon being convinced that archaeological activities authorized by the permit are being conducted unlawfully or improperly. It shall be the duty of the State Archaeologist to monitor all projects granted permits. The following shall be considered proper actions for the conducting of archaeological work under a permit:

1. One copy of the permit shall be at the site of the project, either in the possession of the Principal Investigator of the project or a designated supervisory archaeologist at the project site;
2. The permit may be examined by the State Archaeologist or his designated representative on demand at any time during the period of the permit; and
3. Investigation or excavation of archaeological sites or ruins listed on the permit must be conducted in accordance with the National Historic Preservation Act, the Archaeological Resources Protection Act of 1979, and the permit provisions of this statute, as stipulated.

The permit may be renewed if cause is shown for the need of renewal. The fee for renewal shall be at the rate for a new application.

G. A final report shall be submitted to the State Archaeologist and the State Historic Preservation Officer each within a reasonable period of time after the termination of the permitted project. Applications for new permits from delinquent permit holders shall not be granted until the delinquent final reports are delivered. This final report shall be in accordance with federal standards and the "minimal standard for reports" which have been adopted by the State Historic Preservation Officer and the Oklahoma Archaeological Survey.

H. The fees, if any, collected under the provisions of this section shall be deposited in the Revolving Fund of the University of Oklahoma, and shall be used for the payment of the expenses in making investigations and for administration costs by the State Archaeologist as set out in this section; provided, that the State Archaeologist shall not issue any permit to any person until a thorough review has been made as to the purpose, place, and condition of the proposed explorations or excavations.

I. It shall be unlawful for any person to offer for sale or to purchase any archaeological specimen knowing the same to have been acquired in violation of this act.

J. Any person in possession of articles or materials acquired in violation of this act shall forfeit them to the state, pending return to their rightful owner.

K. It shall be unlawful for any person to intentionally and knowingly deface American Indian or aboriginal paintings, pictographs, petroglyphs or other marks or carvings on rock or elsewhere that are of archaeological interest and pertain to early American Indian or aboriginal habitation of the country. It shall be unlawful to willingly injure, disfigure, remove or destroy any archaeological resources, including but not limited to, a prehistoric or historic structure, site, monument, marker, medallion, burial, burial marker or artifact without lawful authority as provided in this or related statutes. It shall be unlawful to enter onto the enclosed lands of

another with the intent to intentionally injure, disfigure, remove, excavate, damage, take, dig into or destroy any archaeological remains or any prehistoric or historic site, American Indian or aboriginal campsite, artifact, burial, ruin or other materials wherever situated within the state without the consent of the owner.

L. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall forfeit to the state for final disposition all articles and materials and related records wrongfully acquired through his action or efforts, and shall also be fined not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or imprisoned in the county jail, not exceeding thirty (30) days, or both.

M. In order to protect and preserve historical, archaeological and scientific information, matters and objects and other archaeological remains, which may from time to time be found on privately owned lands within Oklahoma, the Legislature declares as a statement of purpose that archaeological excavations on privately owned lands should be discouraged except in accordance with and pursuant to the spirit and authority of this statute. Persons having knowledge of the location of archaeological sites in the State of Oklahoma are encouraged to communicate such information to a reputable museum, institution of higher learning, a recognized scientific or historical institution or society or the Oklahoma Archaeological Survey. Those institutions, societies or museums contacted with such information should in turn inform the State Archaeologist, Oklahoma Archaeological Survey, so that the information may be recorded in the inventory of sites maintained for the state.

Amended by Laws 1985, Chapter 268, §1, effective Nov. 1, 1985. Renumbered from Title 70, §3309 by Laws 1985, Chapter 268, §2, effective Nov. 1, 1985.

The Oklahoma Antiquities Law (53 Oklahoma Statute § 53-361) protects archaeological sites on the State Register of Historic Places or on property owned by or under the control of the State of Oklahoma or any of its political subdivisions that are subject to taking, salvage, excavation, restoration, or scientific or educational studies.

The Burial Desecration Law (21 Oklahoma Statute §21.1168.0-1168.6) extends protection to human remains and associated burial goods in unmarked graves on both state- and privately-owned land. Among the provisions of this law:

OREGON DOES NOT HAVE ANY SPECIFIC CAVE PROTECTION STATUTES.

OREGON ARCHAEOLOGY STATUTES

2019 Oregon Revised Statutes

Volume : 09 - Education and Culture, Chapter 358 - Oregon Historical and Heritage Agencies, Programs and Tax Provisions; Museums; Local Symphonies and Bands; Archaeological Objects and Sites

<https://law.justia.com/codes/oregon/2019/volume-09/chapter-358/>

ARCHAEOLOGICAL OBJECTS AND SITES

- Section 358.905 - Definitions for ORS §§358.905 to 358.961; interpretation.
- Section 358.910 - Policy.
- Section 358.915 - Application.
- Section 358.920 - Prohibited conduct; exception; penalty.
- Section 358.923 - When collection may be held notwithstanding ORS §§358.920 (3) and (4).
- Section 358.924 - Objects held unlawfully considered contraband; seizure; procedure; disposition of seized objects.
- Section 358.925 - Seizure of instrumentalities and proceeds of certain violations; forfeiture; procedure.
- Section 358.928 - Alternative method for seizure and forfeiture of instrumentalities and proceeds of certain violations; procedure.
- Section 358.930 [1983 c.620 §5; 1993 c.459 §6; repealed by 2001 Chapter.739 §10]
- Section 358.935 - Forfeiture of seized objects in criminal prosecution.
- Section 358.937 - Declination to prosecute certain violations; notice required; authority of Attorney General to prosecute; requirement to provide investigatory reports to Commission on Indian Services.
- Section 358.940 - Reinterment required; notice to appropriate Indian tribe or Commission on Indian Services.
- Section 358.945 - Notice required upon finding of object; exception.
- Section 358.950 - When notice to Indian tribe required; report; penalty.
- Section 358.953 - Compensation to property owner deprived of lawful use of property; expense of removal.
- Section 358.955 - Civil enforcement.
- Section 358.958 - Remedies not precluded.
- Section 358.961 - Time limitations on actions or proceedings; tolling of statute.

<https://law.justia.com/codes/oregon/2019/volume-09/chapter-358/section-358-905/>

The universal citation: OR Rev Stat §358.905 (2019)

§358.905 - Definitions for ORS 358.905 to 358.961; interpretation

(1) As used in ORS 192.005, 192.338, 192.345, 192.355, 358.905 to 358.961 and 390.235:

(a) “Archaeological object” means an object that:

(A) Is at least 75 years old;

(B) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and

(C) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products, and dietary by-products.

(b) “Site of archaeological significance” means:

(A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or

(B) Any archaeological site that has been determined significant in writing by an Indian tribe.

(c)(A) “Archaeological site” means a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with:

(i) Each other; or

(ii) Biotic or geological remains or deposits.

(c)(B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

(d) “Indian tribe” has the meaning given that term in ORS 97.740.

(e) “Burial” means any natural or prepared physical location whether originally below, on or above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture, human remains were deposited.

(f) “Funerary objects” means any artifacts or objects that, as part of a death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

(g) “Human remains” means the physical remains of a human body, including, but not limited to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

(h) “Object of cultural patrimony”:

(A) Means an object having ongoing historical, traditional or cultural importance central to the native Indian group or culture itself, rather than property owned by an individual native Indian, and which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of whether or not the individual is a member of the Indian tribe. The object shall have been considered inalienable by the native Indian group at the time the object was separated from such group.

(B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads, baskets, or stone tools.

(i) “Police officer” has the meaning given that term in ORS 181A.355.

(j) “Public lands” means any lands owned by the State of Oregon, a city, county, district or municipal or public corporation in Oregon.

(k) “Sacred object” means an archaeological object or other object that:

(A) Is demonstrably revered by any ethnic group, religious group, or Indian tribe as holy;

(B) Is used in connection with the religious or spiritual service or worship of a deity or spirit power; or

(C) Was or is needed by traditional native Indian religious leaders for the practice of traditional native Indian religion.

(L) “State police” has the meaning given that term in ORS 181A.010.

(2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq. [1983 Chapter 620 §1; 1993 Chapter 459 §1; 1995 Chapter 588 §1]

2015 Oregon Revised Statutes

Volume : 05 - State Government, Government Procedures, Land Use

Chapter 192 - Records; Public Reports and Meetings

<https://law.justia.com/codes/oregon/2015/volume-05/chapter-192/section-192.501>

The universal citation: OR Rev Stat §192.501-11 (2015)

§192.501 - Public records conditionally exempt from disclosure.

(11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS §358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known, and publicized tourist facility or attraction.

PENNSYLVANIA CAVE PROTECTION STATUTES

UNCONSOLIDATED STATUTES

The Laws of Pennsylvania, also referred to as the Pamphlet Laws, have been recognized as official law since December 1, 1801. Acts are numbered by the Department of State and published by the Legislative Reference Bureau as separate official documents known as slip laws before publication in bound editions as the Laws of Pennsylvania.

[Unconsolidated Statutes](#) Use keyword search to locate cave.

Pennsylvania Cave Protection Law (1989 Effective 1990)

The General Assembly of Pennsylvania Senate Bill No. 867 Session of 1989: An Act Prohibiting Certain Conduct with Respect to Caves and Imposing Penalties.

The universal citation: 32 Pa. Const. Stat. §5601 - §5607

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

§1. Short title. This act shall be known and may be cited as **The Cave Protection Act**.

§2. Legislative findings and policy. The General Assembly finds that caves are uncommon geologic phenomena and that the minerals deposited therein may be rare and occur in unique forms of great beauty, which are irreplaceable if destroyed. Also irreplaceable are the archeological resources in caves, which are of great scientific and historic value. It is further found that the organisms which live in caves are unusual and of limited numbers; that many are rare and endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the General Assembly and the intent of this act to protect these unique natural and cultural resources.

§3. Definitions. The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- “Cave.” Any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including, but not limited to, natural subsurface water and drainage systems, whether or not it has a natural entrance. The term does not include any mine, tunnel, aqueduct, or other man-made excavation. The term includes, or is synonymous with, cavern, sinkhole, natural pit, and grotto and rock shelter.
- “Cave life.” Any life form, which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of this Commonwealth.
- “Commercial cave.” Any cave utilized by the owner for the purposes of exhibition to the general public wherein a fee is collected for entry.
- “Gate.” Any structure or device located to limit or prohibit access or entry to any cave.
- “Material.” All or any part of any archeological, paleontological, biological or historical item or artifact, including but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, or remains of historical mining activity or any other occupation, found in a cave.
- “Owner.” A person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically including the commonwealth and any of its agencies, departments, boards, bureaus, commissions or authorities, as well as counties, municipalities and other political subdivisions of the Commonwealth.

- “Person.” An individual, partnership, firm, association, trust, corporation, or other legal entity. “Police officer.” An individual authorized by law to make arrests for violations of the criminal laws of this commonwealth.
- “Sinkhole.” A closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley or sink.
- “Speleogen.” The surrounding natural material or bedrock in which a cave is formed, including clastic sediments, walls, floors and ceiling and similar related structural and geological components.
- “Speleothem.” A natural mineral formation or deposit occurring in a cave. The term includes, or is synonymous with, stalagmite, stalactite, helictite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone and other similar mineral formations which occur in caves. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

§4. Enforcement. Police officers employed in this commonwealth shall enforce the provisions of this act.

§5. Violations. It shall be unlawful for any person, without the expressed written permission of the landowner, to:

- (1) Willfully or knowingly break, break off, crack, carve upon, write, burn, mark upon, remove or in any manner destroy, disturb, mar or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens and sedimentary deposits.
- (2) Break, force, tamper with or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
- (3) Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this act.
- (4) Store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animal, sewage, or toxic substance harmful to cave life or humans in any cave or sinkhole.
- (5) Burn within any cave or sinkhole any material, which produces any smoke or gas, which is harmful to any organism in the cave. This paragraph shall specifically exempt acetylene gas emissions created by carbide lamps used as a source of light by persons using the cave.
- (6) Kill, injure, disturb or otherwise interfere with any cave life, including any cave roosting bat, or interfere with or obstruct the free movement of any life into or out of any cave, or enter any cave with the intention of killing, injuring, disturbing or interfering with life forms therein, except where public health may be threatened.
- (7) Remove, deface, tamper with, or otherwise disturb any natural or cultural resources or material found within any cave.
- (8) Disturb or alter in any way the natural condition of any cave.

§6. Penalties.

- (a) Summary offense. -- A person who violates any provision of this act commits a summary offense punishable by a fine of not less than \$100 nor more than \$1,000, and, in default of the payment of such fine, to undergo imprisonment for not more than 30 days.
- (b) Public nuisance. -- Unlawful conduct as described by §5 shall also constitute a public nuisance.

§7. Other remedies.

- (a) Jurisdiction. --In addition to any other remedies provided in this act, upon relation of any district attorney of any county affected, or upon relation of the solicitor of any county or municipality affected, an action in equity may be brought in a court of competent jurisdiction for an injunction to restrain any and all violations of this act or to restrain a public nuisance.
- (b) Concurrent remedies. --The penalties prescribed by this act shall be deemed concurrent, and the existence of or exercise of any remedy shall not prevent the Department of Environmental Resources from exercising any other remedy hereunder, at law or in equity.

LAND FOR RECREATION - LIABILITY FOR LANDOWNERS TO RECREATIONAL USERS
Act of Oct. 24, 2018, P.L. 671, No. 98, Session of 2018, No. 2018-98, HB 544

An Act amending the act of February 2, 1966 (1965 P.L.1860, No.586), entitled "An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts," further providing for liability for landowners to recreational users.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:
Section 1. Sections 1, 2, 3, 4, 6 and 7 of the act of February 2, 1966 (1965 P.L.1860, No.586)

"An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts," are amended to read:

§1. The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability[.] to:

- (1) recreational users; and
- (2) persons or property based on:
 - (i) acts of omission by landowners; or
 - (ii) acts or acts of omission by recreational users.

§2. As used in this act:

- (1) "Land" means land, roads, water, watercourses, private ways and buildings, amenities, structures, boating access and launch ramps, bridges, fishing piers, boat docks, ramps, paths, paved or unpaved trails, hunting blinds and machinery or equipment when attached to the realty. The term shall also include areas providing access to, or parking for, lands and waters, including, but not limited to, access ramps, trails, or piers for use by recreational users with disabilities.
- (2) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.
- (3) "Recreational purpose" means any activity undertaken or viewed for exercise, sport, education, recreation, relaxation or pleasure and includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, recreational noncommercial aircraft operations or recreational noncommercial ultralight operations on private airstrips, camping, picnicking, hiking, pleasure driving, snowmobiling, all-terrain vehicle and motorcycle riding, nature study, water skiing, water sports, **cave exploration and viewing or enjoying historical, archaeological, scenic, or scientific sites.**
- (4) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land. The term does not include voluntary contributions, in-kind contributions or contributions made to an owner of real property that are not retained by the owner of the real property and are used by the owner of the real property exclusively for one or more of the following purposes:
 - (i) conserving or maintaining the land;
 - (ii) paying taxes on the real property; or
 - (iii) paying for liability insurance on the real property.
- (5) "Recreational user" means a person who enters or uses land for a recreational purpose.

§3. Except as specifically recognized or provided in section 6 of this act, an owner of land owes no duty of care to keep the premises safe for entry or use by [others for recreational purposes] recreational users, or to give any warning of a dangerous condition, use, structure, or activity on such premises to [persons entering for such purposes] recreational users.

§4. Except as specifically recognized by or provided in section 6 of this act, an owner of land who either directly or indirectly invites or permits without charge any [person] recreational user to use such property [for recreational purposes] does not thereby:

- (1) Extend any assurance that the premises are safe for any purpose.
- (2) Confer upon such [person] recreational user the legal status of an invitee or licensee to whom a duty of care is owed.
- (3) Assume responsibility for or incur liability for any injury to persons or property caused by an act of omission of [such persons] a recreational user or landowner.
- (4) Assume responsibility for or incur liability for any injury to persons or property, wherever such persons or property are located, caused while hunting as defined in 34 Pa.C.S. § 102 (relating to definitions).

§6. Nothing in this act limits in any way any liability which otherwise exists:

- (1) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
- (2) For injury suffered in any case where the owner of land charges the [person or persons] recreational user or users who enter or go on the land [for the recreational use thereof], except that in the case of land leased to the State or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of its section.

§7. Nothing in this act shall be construed to:

- (1) Create a duty of care or ground of liability for injury to persons or property.
- (2) Relieve any [person using the land of another for recreational purposes] recreational user from any obligation which he may have in the absence of this act to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 2. This act shall take effect in 60 days.

APPROVED--The 24th day of October, A.D. 2018.

PENNSYLVANIA ARCHAEOLOGY STATUTES

2019 Pennsylvania Consolidated Statutes

Title 37 - Historical and Museums, Chapter 5 - Historic Preservation

<https://law.justia.com/codes/pennsylvania/2019/title-37/chapter-5/chapter-notes/>

- Chapter Notes
- Section 501 - Short title of chapter
- Section 502 - Powers and duties of commission
- Section 503 - Inclusion of property on register
- Section 504 - Historic Preservation Board
- Section 505 - Powers and duties of board
- Section 506 - Archaeological field investigations on Commonwealth land
- Section 507 - Cooperation by public officials with the commission
- Section 508 - Interagency cooperation
- Section 509 - Transfer of Commonwealth land involving historic resources
- Section 510 - Approval of construction affecting historic resources
- Section 511 - Criminal penalties
- Section 512 - Enforcement of historic preservation laws and policies

Historic Preservation Act: Criminal Penalties

The universal citation: 37 PA. Const. Stat. §511

A person commits a misdemeanor in the third degree by conducting an archeological survey, or by appropriating, defacing or destroying any archeological site or specimen, on any land or submerged land that is controlled by the commonwealth and does so without a permit from the Pennsylvania Historical and Museum Commission.

Violators may be fined up to \$2,500, imprisoned under one year, or both. Additionally, violators must forfeit all archaeological specimens, photographs and records that were collected or excavated.

General state laws for criminal mischief

The universal citation: 18 PA. C.S.A. §3304.

A person has committed criminal mischief when he intentionally, recklessly, or negligently damages the tangible property of another through the use of fire, explosives or other dangerous means relating to causing or risking catastrophe.

Additionally, criminal mischief occurs when a person intentionally or recklessly tampers with the tangible property of another in a way that endangers the person or property or causes economic losses through the use of deception or threat.

Criminal mischief also applies to the intentional damage of either real or personal property of another, the intentional defacing or any other form of damage to public or private property through the use of a paintball gun or by creating an unauthorized design on the property through the use of a marking device (graffiti).

The grading of criminal mischief depends on the amount of damages incurred.

- Felony in the third degree if the damages were intentional and are over \$5000 or the mischief caused a substantial impairment of public services such as communication, transportation, water, or gas.
- Misdemeanor of the second degree if the damages were intentional and exceed \$1000 but are less than \$5000.
- Misdemeanor of the third degree if the damages were reckless or intentional and exceed \$500. If the person committed criminal mischief by graffiti, the offense is a misdemeanor of the third degree if the graffiti causes a loss of more than \$150.
- Summary Offense: all other criminal mischief is classified as a criminal offense.

Criminal Trespass

The universal citation: 18 PA C.S.A §3503

When a person who knows that he is not licensed or privileged to enter any building or occupied structure enters or secretly remains in any building or occupied structure or breaks into any such building or structure the person has committed the offense of criminal trespass.

If the person breaks into (to gain entry by force, breaking, intimidation, unauthorized opening of locks or through an opening not designed for human access, the offense is a felony of the second degree.

A person has committed the offense of defiant trespass if knowing that he is not licensed or privileged to do so, he enters or remains in any place and has been given notice against trespass.

Notice against trespass may be given by actually telling the trespasser that he is trespassing, legally posting notice against trespassing in a way that is reasonably likely to come to the attention of intruders, fencing or enclosing the land to exclude intruders.

A defiant trespasser has committed a misdemeanor of the third degree if the offender defies an order to leave which was personally communicated to him by the owner of the premises or otherwise authorized person. The offense is a summary offense.

Simple Trespass occurs when a person, knowing that he is not licensed or privileged to do so, enters and remains in any place for the purpose of threatening or terrorizing the owner or occupant of the premises, starting a fire or defacing or damaging the premises. Simple trespass is a summary offense.

A person commits agricultural trespass when knowing that he is not licensed or privileged to do so he enters or remains on any agricultural or other open lands when notice against trespassers has been given, or remains on any agricultural or other open lands in defiance of an order not to enter or to leave which has been personally communicated to him by the owner of the land or other authorized person.

Entering and remaining by posted notice or enclosure is a misdemeanor of the third degree and is punishable by no more than one-year imprisonment and a fine of no less than \$250.

Entering and remaining in defiance of personally communicated notice is a misdemeanor of the second degree punishable by no more than 2 years imprisonment and a fine ranging between \$500-\$5000.

Access to archaeological site locations and detailed site information is restricted and password protected and will be granted to qualified individuals on a need to know basis. Statutes of Pennsylvania Title 101, Part I, Subpart E, Chapter 31; Pennsylvania Right to Know Law, 2008, P.L. 6, No. 3, Section 708 (b) (25) exempts locations of archaeological sites

RHODE ISLAND DOES NOT HAVE ANY CAVE PROTECTION STATUTES

RHODE ISLAND ARCHAEOLOGY STATUTES

2012 Rhode Island General Laws

Title 42 - State Affairs and Government, Chapter 42-45.1 - Antiquities Act of Rhode Island

<https://law.justia.com/codes/rhode-island/2012/title-42/chapter-42-45.1/>

The universal citation: RI Gen L §42-45.1 - 42-45.1-13 (2012)

Chapter 42-45.1 - Antiquities Act of Rhode Island

- Chapter 42-45.1-1 - Short title.
- Chapter 42-45.1-2 - Purpose of chapter.
- Chapter 42-45.1-3 - Definitions.
- Chapter 42-45.1-4 - Property and investigative rights of state.
- Chapter 42-45.1-5 - Responsibility for administration of programs – Rules and regulations – Permission to conduct recovery operation – Title to recovered objects.
- Chapter 42-45.1-6 - Survey of sites.
- Chapter 42-45.1-7 - Cooperation by state and municipal agencies – Notice and investigation of possible adverse effects of state projects.
- Chapter 42-45.1-8 - Conditions upon transfer of property by state.
- Chapter 42-45.1-9 - Reservation of lands from sale by state properties committee.
- Chapter 42-45.1-10 - State archaeological landmarks.
- Chapter 42-45.1-11 - Field investigations on privately owned lands – Communication of knowledge of archeological sites.
- Chapter 42-45.1-12 - Enforcement of chapter – Assistance by other agencies.
- Chapter 42-45.1-13 - Severability.

Chapter 42-45.1-3 - Definitions.

§42-45.1-3 Definitions. – As used in this chapter:

- (1) “Field investigations” means the study of the traces of human culture at any land or water site by means of surveying, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.
- (2) “Site” means any man-made landform, fort, earthwork, habitation area, burial ground, historic or prehistoric ruin, mine, cave, or other location which is or may be the source of important archaeological data.
- (3) “Specimen” means all relics, artifacts, remains, objects, or any other archaeological evidence of a historical, prehistorical, or anthropological nature which may be found on or below the surface of the earth, and which have scientific or historical value as objects of antiquity or as archaeological samples.
- (4) “Underwater historic property” means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, or part thereof, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any navigable waters and territorial seas of the state.

History of Section. (G.L. 1956, §42-45.1-3; P.L. 1974, Chapter 161, §1.)

2010 Rhode Island Code
Title 11 Criminal Offenses, Chapter 11-44 Trespass and Vandalism

<https://law.justia.com/codes/rhode-island/2010/title11/chapter11-44/>

§ 11-44-1 Vandalism – Obstruction of lawful pursuits.

(a) Every person who shall willfully and maliciously or mischievously injure or destroy or write upon, paint, or otherwise deface the property of another, or obstruct the use of the property of another, or obstruct another in the prosecution of his or her lawful business or pursuits, in any manner, the punishment of which is not specifically provided for by statute, shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars (\$1,000) and/or be imprisoned not exceeding one year, and shall be liable to make restitution for the injury or damage caused. Every person convicted of a first offense under this section shall be required to perform up to one hundred (100) hours of public community restitution work, and for a second or subsequent conviction shall be required to perform up to two hundred (200) hours of public community restitution work. Provided, further that every person who shall willfully and maliciously or mischievously injure or destroy or write upon, paint, or otherwise deface government property, or obstruct the use of that property, shall be punished in accordance with this statute. Jurisdiction for matters involving government property shall be concurrent with the district court or the respective city or town police or municipal court.

2013 Rhode Island General Laws
Title 38 - Public Records, Chapter 38-2 - Access to Public Records

<https://law.justia.com/codes/rhode-island/2013/title-38/chapter-38-2/section-38-2-2/>

The universal citation: RI Gen L § 38-2-2(S) (2013)

§ 38-2-2 Definitions. – As used in this chapter:

(S) Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court.

SOUTH CAROLINA DOES NOT HAVE ANY CAVE PROTECTION STATUTES

SOUTH CAROLINA ARCHAEOLOGY STATUTES

2019 South Carolina Code of Laws

Title 16 - Crimes and Offenses, Chapter 11 - Offenses Against Property

Article 7 - Trespasses and Unlawful Use of Property of Others

<https://law.justia.com/codes/south-carolina/2019/title-16/chapter-11/>

The universal citation: SC Code §16-11-770 (2019)

Section 16-11-770. Illegal graffiti vandalism; penalty; removal or restitution.

(A) As used in this section, “illegal graffiti vandalism” means an inscription, writing, drawing, marking, or design that is painted, sprayed, etched, scratched, or otherwise placed on structures, buildings, dwellings, statues, monuments, fences, vehicles, or other similar materials that are on public or private property and that are publicly viewable, without the consent of the owner, manager, or agent in charge of the property.

(B) It is unlawful for a person to engage in the offense of illegal graffiti vandalism and, upon conviction, for a:

(1) first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not more than thirty days;

(2) second offense, within ten years, is guilty of a misdemeanor and must be fined not more than two thousand five hundred dollars or imprisoned not more than one year; and

(3) third or subsequent offense within ten years of a first offense, is guilty of a misdemeanor and must be fined not more than three thousand dollars or imprisoned not more than three years.

(C) In addition to the penalties provided in subsection (B), a person convicted of the offense of illegal graffiti vandalism also may be ordered by the court to remove the illegal graffiti, pay the cost of the removal of the graffiti, or make further restitution in the discretion of the court.

HISTORY: 2007 Act No. 82, Section 9, eff June 12, 2007; 2018 Act No. 204 (S.959), Section 1, eff May 17, 2018. Effect of Amendment 2018 Act No. 204, Section 1, in (B), in (1), substituted “not more than thirty days” for “not less than thirty days nor more than ninety days”.

<https://law.justia.com/codes/south-carolina/2019/title-16/chapter-11/section-16-11-780/>

The universal citation: SC Code §16-11-780 (2019)

Section 16-11-780. Prohibition on entering certain lands to discover, uncover, move, remove, or attempt to remove archaeological resource; definitions; penalty; exception.

(A) As used in this section:

(1) “Archaeological resource” means all artifacts, relics, burial objects, or material remains of past human life or activities that are at least one hundred years old and possess either archaeological or commercial value, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carving, intaglios, graves, or human skeletal materials.

(2) “Archaeological value” means the value of the data associated with the archaeological resource.

This value may be appraised in terms of the costs of the retrieval of the scientific information that would have been obtainable prior to the violation. These costs may include, but need not be limited to,

the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(3) "Commercial value" means the fair market value of the archaeological resource. When a violation has resulted in damage to the archaeological resource, the fair market value may be determined using the condition of the archaeological resource prior to the violation, to the extent its prior condition can be ascertained.

(4) "Cost of restoration and repair" means the sum of the costs incurred for emergency restoration or repairs to an archaeological resource, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

(a) reconstruction of the archaeological resource;

(b) stabilization of the archaeological resource;

(c) ground contour reconstruction and surface stabilization;

(d) physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(e) examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining resources that cannot be otherwise conserved; or

(f) preparation of reports relating to any of the activities described in this section.

(5) "Posted lands" means lands where the State has complied with the notice or warning requirement which must either be posted or given to an offender pursuant to Section 16-11-600.

(B) The court may call upon the Office of the State Archaeologist to provide evidence to assist in determining, calculating, or computing archaeological value, commercial value, or the cost of restoration and repair of an archaeological resource.

(C) It is unlawful for a person to willfully, knowingly, or maliciously enter upon the lands of another or the posted lands of the State and disturb or excavate a prehistoric or historic site for the purpose of discovering, uncovering, moving, removing, or attempting to remove an archaeological resource. Each unlawful entry and act of disturbance or excavation of a prehistoric or historic site constitutes a separate and distinct offense.

(D) For a first offense, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined, imprisoned, or both, pursuant to the jurisdiction of magistrates as provided in Section 22-3-550.

(E) For a second offense for violating this section on the same property as the first offense or on another posted property, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or more than three thousand dollars or imprisoned not more than three years, or both.

(F) For a third or subsequent offense for violating this section on the same property as the first offense or on another posted property, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(G) For the purposes of subsections (E) and (F) of this section, a second, third, or subsequent offense on the same property as the first offense or on another posted property must include no offense that occurs more than ten years after conviction for the first offense.

(H) All equipment and conveyances including, but not limited to, trailers, motor vehicles, and water going vessels that were used in connection with felony violations of this section are subject to forfeiture to the State in the same manner as equipment and conveyances are subject to forfeiture pursuant to Section 44-53-520, if the offender either owns the equipment or conveyance or is a resident of the equipment or conveyance owner's household.

(1) All equipment and conveyances subject to confiscation and forfeiture under this section may be confiscated by any law enforcement officer as provided in this section. The confiscating officer shall deliver the confiscated property immediately to the county or municipality where the offense occurred. The county or municipality shall notify the registered owner of the confiscated property by certified mail within seventy-two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the court. The confiscation hearing must be held within ten days from the date of receipt of the request. The confiscated property must be returned to the registered owner if the registered owner shows by a preponderance of the evidence that he did not know the confiscated property was used in the commission of the crime, that he did not give permission for the confiscated property to be used in the commission of the crime, and that the confiscated property had not been used for a previous violation of this section on the posted land where this offense occurred or other posted land.

(2) The county or municipality in possession of the confiscated property shall provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(3) Forfeiture of property is subordinate in priority to all valid liens and encumbrances.

(4) A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

(I) The landowner, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover the greater of the archaeological resource's archaeological value or commercial value, and the cost of restoration and repair of the site where the archaeological resource was located, plus attorney's fees and court costs.

(J) Nothing contained in this section shall limit or interfere with a landowner's lawful use of his property or with the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

(K) Nothing contained in this section shall limit or interfere with:

(1) a landowner's lawful use of his property;

(2) the lawful acts of a landowner's employee, agent, or independent contractor acting in the scope of and in the course of his employment, agreement, or contract;

(3) the lawful acts of a utility worker acting in the scope of and in the course of his employment; or

(4) the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

HISTORY: 2010 Act No. 255, Section 1, eff June 11, 2010.

2014 South Carolina Code of Laws
Title 30 - Public Records, Chapter 4 - Freedom of Information Act

<https://law.justia.com/codes/south-carolina/2014/title-30/chapter-4/section-30-4-40/>

The universal citation: SC Code § 30-4-40 (2014)

SECTION 30-4-40. Matters exempt from disclosure.

(14)(A) Data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher education in the conduct of or as a result of study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where the data, records, or information has not been publicly released, published, copyrighted, or patented.

(14)(B) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of a state institution of higher education or any public or private entity supporting or participating in the activities of a state institution of higher education in the conduct of or as a result of study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity until the information is published, patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This item applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, proposals, methodologies, protocols, and creative works.

This section exempts disclosure of information that is “specifically exempted from disclosure by statute or law”

SOUTH DAKOTA DOES NOT HAVE ANY CAVE PROTECTION STATUTES

SOUTH DAKOTA ARCHAEOLOGY STATUTES

2013 South Dakota Codified Laws

Title 1 - State Affairs and Government, Chapter 20 - Archaeological Exploration

<https://law.justia.com/codes/south-dakota/2011/title1/chapter20/>

The universal citation: SD Codified L §1-20-1 to 1-20-37 (2013)

- § 1-20-1 to 1-20-16. Repealed.
- § 1-20-17 Legislative findings--Purpose of chapter.
- § 1-20-18 Definition of terms.
- § 1-20-19 Employment and qualifications of state archaeologist.
- § 1-20-20 Duties of state archaeologist--Employment of personnel.
- § 1-20-21 Statewide survey of archaeological sites--Records.
- § 1-20-21.1 Agreements involving archaeological survey or assessment work--Fee schedule.
- § 1-20-21.2 Confidentiality of records pertaining to location of archaeological site--Exceptions.
- § 1-20-22 Notice to board of projects endangering archaeological sites--Notice to contractors.
- § 1-20-23 Investigation of endangered archaeological sites.
- § 1-20-24 Initiation of action by board--Recovery of archaeological data--Contractor's cost.
- § 1-20-25 Reservation of right of field investigation on public lands--Property of state.
- § 1-20-26 Cooperation with state archaeologist by public agencies.
- § 1-20-27 Reservation from sale of state archaeological sites--Release when examination complete.
- § 1-20-28 Reservation by state of archaeological interest in land transferred.
- § 1-20-29 Policy as to investigations on private land.
- § 1-20-30 Designation of archaeological register sites--Consent required.
- § 1-20-31 Notice of designation of archaeological site--Permit required for field investigation.
- § 1-20-32 Issuance of exploration permits--Qualifications of permittees.
- § 1-20-33 Reports to state archaeologist of exploration results.
- § 1-20-34 Specimens collected as state property--Arrangements for disposition.
- § 1-20-35 Unauthorized investigation as misdemeanor--Forfeiture of materials found.
- § 1-20-36 Trespass on private land--Misdemeanor.
- § 1-20-37 Forgery and misrepresentation of archaeological objects--Sale of unlawfully collected objects--Misdemeanor.

§1-20-18 Definition of terms.

Terms used in this chapter mean:

- (1) "Field investigations," the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent;
- (2) "Site," any aboriginal mound, fort, earthwork, village location, burial ground, historic or prehistoric ruin, mine, cave, or other location which is or may be the source of important archaeological data;
- (3) "Specimens," all relics, artifacts, remains, objects, or any other evidence of an historical, prehistorical, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historical value as objects of antiquity, as aboriginal relics, or as archaeological samples.

Source: SL 1974, Chapter 11, § 2; SL 2009, Chapter 1, § 99.

2013 South Dakota Codified Laws

Title 1 - State Affairs and Government, Chapter 20 - Archaeological Exploration

<https://law.justia.com/codes/south-dakota/2013/title-1/chapter-20/section-1-20-35>

§1-20-35 Unauthorized investigation as misdemeanor--Forfeiture of materials found.

No person may conduct field investigation activities on any land owned or controlled by the state, its agencies, departments, and institutions, or within the boundaries of any designated state archaeological landmark, without first obtaining a permit from the State Historical Society Board of Trustees. No person may appropriate, deface, destroy, or otherwise alter any archaeological site or specimen located upon state lands or within the boundaries of a designated state archaeological register site, except in the course of activities pursued under the authority of a permit granted by the State Historical Society Board of Trustees. A violation of this section is a Class 2 misdemeanor, and in addition, any person who violates this section shall forfeit to the state all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material.

Source: SL 1947, Chapter 136, §7; SDC Supp 1960, §29.9904; SDCL §1-20-16; SL 1974, Chapter 11, §15; SL 1980, Chapter 24, §6; SL 2009, Chapter 1, §108.

§1-20-36 Trespass on private land--Misdemeanor.

It is deemed an act of trespass for any person to remove artifacts and antiquities of the kind described in this chapter from the private land of any owner without the owner's permission being first obtained, in writing. A violation of this section is a Class 2 misdemeanor.

Source: SL 1974, Chapter 11, §17; SL 1980, Chapter 24, §7; SL 2009, Chapter 1, §109.

§ 22-6-2 Misdemeanor classes and penalties--Restitution--Misdemeanor when no penalty imposed.

<https://law.justia.com/codes/south-dakota/2013/title-22/chapter-06/section-22-6-2/>

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class 1 misdemeanor: one-year imprisonment in a county jail or two thousand dollars fine, or both;
- (2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

§ 1-20-21.2 Confidentiality of records pertaining to location of archaeological site--Exceptions.

Any records maintained pursuant to §1-20-21 pertaining to the location of an archaeological site shall remain confidential to protect the integrity of the archaeological site. The state archaeologist may make the information from the records of an archeological site available to any agency of state government and any political subdivision of the state or to any tribe, which, in the opinion of the state archaeologist, may conduct an activity that affects any such site. The state archaeologist shall also make the information from the records of an archeological site available to the owner of the land that is an archeological site and may make the information available to any qualified researcher or research entity.

TENNESSEE CAVE PROTECTION STATUTES

2016 Tennessee Code

Title 11 - Natural Areas and Recreation, Chapter 5 - Geology

<https://law.justia.com/codes/tennessee/2016/title-11/chapter-5/section-11-5-108/>

The universal citation: TN Code § 11-5-108 (2016)

§11-5-108. Vandalism of caves or caverns.

- (a) It is an offense for any person, without the prior permission of the owner, to knowingly:
- (1) Break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, mar or harm any natural material found within any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns or other similar crystalline material formations;
 - (2) Kill, harm, or disturb any plant, animal or artifact found therein;
 - (3) Disturb or alter the natural condition of such cave or cavern; or
 - (4) Break, force, tamper with, remove, or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, whether or not entrance is actually gained.
- (b) Nothing in this section shall be construed to prohibit the owner of property from performing on such owner's property any of the acts set forth in subsection (a).
- (c) An act constituting a violation of this section is to be valued according to § 39-11-106(a)(36) and punished as theft under § 39-14-105.

§39-14-105. Grading of theft.

Theft of property or services is:

- (1) A Class A misdemeanor if the value of the property or services obtained is five hundred dollars (\$500) or less;
- (2) A Class E felony if the value of the property or services obtained is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000);

2010 Tennessee Code

Title 70 - Wildlife Resources, Chapter 7 - Liability of Landowner to Persons Using Land Part 1 - General Provisions

<https://law.justia.com/codes/tennessee/2010/title-70/chapter-7/part-1/70-7-102-70-7-105/>

§70-7-102. Landowner's duty of care.

The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for such recreational activities as hunting, fishing, trapping, camping, water sports, white water rafting, canoeing, hiking, sightseeing, animal riding, bird watching, dog training, boating, **caving**, fruit and vegetable picking for the participant's own use, nature and historical studies and research, rock climbing, skeet and trap shooting, skiing, off-road vehicle riding, and cutting or removing wood for the participant's own use, nor shall such landowner be required to give any warning of hazardous conditions, uses of, structures, or activities on such land or premises to any person entering on such land or premises for such purposes, except as provided in §70-7-104.

§70-7-103. Effect of landowner's permission.

Any landowner, lessee, occupant, or any person in control of the land or premises or such person's agent who gives permission to another person to hunt, fish, trap, camp, engage in water sports, participate in white water rafting or canoeing, hike, sightsee, ride animals, bird watch, train dogs, boat, cave, pick fruit and vegetables for the participant's own benefit, engage in nature and historical studies and research, climb rocks, shoot skeet and trap, ski, ride off-road vehicles, and cut and remove wood for the participant's own use upon such land or premises does not by giving such permission:

- (1) Extend any assurance that the premises are safe for such purpose;
- (2) Constitute the person to whom permission has been granted to legal status of an invitee to whom a duty of care is owed; or
- (3) Assume responsibility for or incur liability for any injury to such person or purposely caused by any act of such person to whom permission has been granted except as provided in § 70-7-104.

[Acts 1963, Chapter 177, §4; T.C.A., §51-804; Acts 1987, Chapter 448, §3.]

§70-7-104. Conditions under which liability unaffected.

- (a) This part does not limit the liability that otherwise exists for:
 - (1) Gross negligence, willful or wanton conduct that results in a failure to guard or warn against a dangerous condition, use, structure, or activity; or
 - (2) Injury caused by acts of persons to whom permission to hunt, fish, trap, camp, hike, sightsee, cave, or any other legal purpose was granted, to third persons or to persons to whom the person granting permission, or the landowner, lessee, occupant, or any person in control of the land or premises, owed a duty to keep the land or premises safe or to warn of danger.
- (b) Subdivision (a)(1) shall not be construed to impose liability or remove the immunity conferred by §70-7-102 for failure to guard or warn of a dangerous condition created by forces of nature.

[Acts 1963, Chapter 177, §5; T.C.A., §51-805; Acts 1987, Chapter 448, §§4, 5; 2004, Chapter 622, §9; 2009, Chapter. 602, §1.]

§70-7-105. Waiver of landowner's duty of care.

Any person eighteen (18) years of age or older entering the land of another for the purpose of camping, fishing, hunting, hiking, dog training, or cutting or removing firewood for such person's use for a consideration may waive in writing the landowner's duty of care to such person for injuries that arise from camping, fishing, hunting, hiking, dog training, or cutting or removing firewood for such person's use, if such waiver does not limit liability for gross negligence, or willful or wanton conduct, or for a failure to guard or warn against a dangerous condition, use, structure or activity.

[Acts 1989, Chapter 149, §1.]

TENNESSEE ARCHAEOLOGY STATUTES

2018 Tennessee Code

Title 11 - Natural Areas and Recreation, Chapter 6 – Archaeology

<https://law.justia.com/codes/tennessee/2018/title-11/chapter-6/>

The universal citation: TN Code §§11-6-101 – 11-6-121 (2018)

§11-6-101. Division established -- Purposes.

§11-6-102. Chapter definitions.

§11-6-103. Archaeological advisory council.

§11-6-104. Excavated artifacts -- Property of state -- Availability and care.

§11-6-105. Excavation of state lands -- Permits -- Unauthorized excavation -- Penalty.

§11-6-106. Defacement of sites or artifacts -- Misdemeanor.

§11-6-107. Discovery of sites, artifacts, or human remains -- Notice to division, contractors, and authorities.

§11-6-108. State lands -- Reserved from sale -- Procedure.

§11-6-109. Private land -- Trespass, vandalism, and unauthorized activities -- Permission -- Artifacts -- Prohibited storage, dumping or littering.

§11-6-110. Designation as archaeological site.

§11-6-111. Sites threatened by construction projects -- Contract with corporations or organizations.

§11-6-112. Violations -- Penalties -- Enforcement powers.

§11-6-113. Contracts and cooperative agreements -- Authorization.

§11-6-114. Acceptance of gifts and grants -- Title to land.

§11-6-115. Tennessee Archaeological Society -- Support of programs.

§11-6-116. Excavation of areas containing Native American Indian human remains -- On-site representatives -- Notice of intent to remove remains.

§11-6-117. Display of Native American Indian human remains.

§11-6-118. Import or export of human remains.

§11-6-119. Reburial of human remains or Native American burial objects following discovery or confiscation.

§11-6-120. Volunteer programs -- Providing archaeological information to schools and other interest groups -- Tennessee Archaeology Awareness Week.

§11-6-121. Abandoned shipwrecks.

§11-6-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Artifacts” means all relics, specimens or objects of an historical, prehistorical, archaeological or anthropological nature which may be found above or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics, or as archaeological specimens;

(2) “Burial grounds” means a place used for or to be used for human burials. “Burial grounds” does not include an individual urn or other container for ashes of a person who has been lawfully cremated. The fact that any tract of land has been set apart for burial purposes, or that a part or all of the grounds have been used for burial purposes, shall be evidence that such grounds were set aside for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes;

(3) “Burial object” means any cultural material, including, but not limited to, whole or broken ceramic, metal or glass vessels, chipped stone tools, ground stone tools, worked bone and shell objects, clothing, medals, buttons, rings, jewelry, firearms, edged weapons, and the casket and parts thereof, that were

demonstratively buried with an individual or the burial pit or mound associated with an individual or the structure created to house the body;

(4) "Diving" means any underwater activity using snorkel, scuba, submersible or surface air supply;

(5) "Excavation" means digging below the surface of the earth or water by hand or with mechanical equipment for the purpose of recovering artifacts, archaeological data, human remains or burial objects;

(6) "Field archaeology" means the study of the traces of human culture at any land or water site by means of photographing, mapping, surveying, digging, sampling, excavating, and removing artifacts or other archaeological material, or going on a site with that intent;

(7) "Human remains" means the bodies of deceased persons, in whatever stage of decomposition, including, but not limited to, skeletal remains, mummies, or body parts. "Human remains" does not include the ashes of a person who has been lawfully cremated. "Human remains" does not include body parts or tissue which is removed for transplantation or other medical procedures or research;

(8) "Site" means any location of historic or prehistoric human activity such as, but not restricted to, mounds, forts, earthworks, burial grounds, structures, villages, mines, caves, shipwrecks, and all locations which are or may be sources of paleontological remains;

(9) "Submerged" means beneath or substantially beneath the territorial waters of the state;

(10) "Surface collecting" means walking fields, stream banks, or other locations to look for and collect artifacts lying on the surface of the ground, or which are partially exposed on the surface of the ground, or which have been disturbed by plowing or natural processes of erosion; and

(11) "Territorial waters" means the navigable waters of the state, and such other waters of the state as may be included within "lands beneath navigable waters" as defined in the federal Abandoned Shipwreck Act of 1987, compiled in 43 U.S.C. §2101 et seq.

§11-6-112. Violations -- Penalties -- Enforcement powers.

(a) All acts declared to be misdemeanors in this part, and not otherwise classified, are Class A misdemeanors.

(b) All acts declared to be felonies in this part, and not otherwise classified, are Class E felonies.

(c) When properly commissioned and qualified by the commissioner of environment and conservation, employees of the division of archaeology shall have all of the police powers necessary to enforce all state laws and all rules and regulations made and published by the department regarding archaeological sites which are authorized for park superintendents and park rangers by §11-3-107, within any of the archaeological sites for the purpose of enforcing §§11-6-104 -- 11-6-106.

TEXAS CAVE PROTECTION STATUTES

2017 Texas Statutes

Natural Resources Code, Title 10 – Caves

<https://law.justia.com/codes/texas/2017/natural-resources-code/title-10/>

Chapter 201. Cavern Protection, Subchapter A. General Provisions

§201.001. Policy

It is declared to be the public policy and in the public interest of the State of Texas to protect and preserve all caves on or under any of the land in the State of Texas, including tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

§201.002. DEFINITIONS.

In this chapter:

- (1) “Cave” means any naturally occurring subterranean cavity, and includes or is synonymous with cavern, pit, pothole, well, sinkhole, and grotto.
- (2) “Gate” means any structure, lock, door, or device located to limit or prohibit access or entry to any cave.
- (3) “Speleothem” means a natural mineral formation or deposit occurring in a cave, and includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, plettes, flowstone, or other similar crystalline mineral formations commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals and formations.
- (4) “Owner” means a person who owns title to land on which a cave is located, including a person who owns title to a leasehold estate in the land.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

Subchapter B. Permits

§201.011. Permit Required.

No person may excavate, remove, destroy, injure, alter in any significant manner, or deface any part of a cave owned by the State of Texas, unless the person possesses a valid permit under §201.012.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

Amended by: Acts 2007, 80th Leg., R.S., Chapter 993 (S.B. 1524), §2, effective September 1, 2007.

Acts 2007, 80th Leg., R.S., Chapter. 1107 (H.B. 3502), §1, effective September 1, 2007.

§201.012. Issuance of Permit.

The General Land Office may issue a permit under this subsection if the person seeking the permit furnishes the following information:

- (1) a detailed statement giving the reasons and objectives for the excavation, removal, or alteration and the benefits expected to be obtained from the contemplated work;
- (2) data and results of any completed excavation;

- (3) the prior written permission from the state agency which manages the site of the proposed excavation;
- (4) a sworn statement that he will carry the permit while exercising the privileges granted; and
- (5) any other reasonable information which the General Land Office may prescribe.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

§201.013. Revocation.

The General Land Office may for good cause revoke any permit issued under Section 201.012 of this code.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

§201.014. Penalties.

A person who violates § 201.011 is guilty of a Class A misdemeanor, unless the person has previously been convicted of violating that section, in which case the person is guilty of a state jail felony.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

Amended by: Acts 2007, 80th Leg., R.S., Chapter 993 (S.B. 1524), §2, effective September 1, 2007.

Acts 2007, 80th Leg., R.S., Chapter 1107 (H.B. 3502), §1, effective September 1, 2007.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Chapter 87 (S.B. 1969), §16.002, effective September 1, 2009.

Subchapter C. Prohibitions

§201.041. Vandalism.

- (a) A person may not, without express, prior, written permission of the owner, knowingly:
 - (1) break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, deface, mar, or harm the surfaces of any cave or any natural material in a cave, including speleothems;
 - (2) deface, mar, or harm in any manner the natural condition of any cave; or
 - (3) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance to the cave may not be gained.
- (b) A person who violates a provision of this section is guilty of a state jail felony, unless the person has previously been convicted of violating this section, in which case the person is guilty of a felony of the third degree.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

Amended by: Acts 2007, 80th Leg., R.S., Chapter 993 (S.B. 1524), §2, effective September 1, 2007.

Acts 2007, 80th Leg., R.S., Chapter 1107 (H.B. 3502), §1, effective September 1, 2007.

Reenacted by Acts 2009, 81st Leg., R.S., Chapter 87 (S.B. 1969), §16.003, effective September 1, 2009.

§201.042. Sale of Speleothems.

- (a) A person may not sell or offer for sale any speleothems in this state, or export them for sale outside the state, without written permission from the owner of the cave from which the speleothems were removed.
- (b) A person who violates this section is guilty of a Class A misdemeanor, unless the person has previously been convicted of violating this section, in which case the person is guilty of a state jail felony.

Added by Acts 1979, 66th Leg., p. 2003, Chapter 785, §5, effective June 13, 1979.

Amended by: Acts 2007, 80th Leg., R.S., Chapter 993 (S.B. 1524), §3, effective September 1, 2007.

Acts 2007, 80th Leg., R.S., Chapter 1107 (H.B. 3502), §2, effective September 1, 2007.

2017 Texas Statutes
Penal Code, Title 3 – Punishments, Chapter 12 - Punishments

<https://law.justia.com/codes/texas/2017/penal-code/title-3/chapter-12/>

Chapter 12. Punishments, Subchapter A. General Provisions

§12.01. Punishment in Accordance with Code.

- (a) A person adjudged guilty of an offense under this code shall be punished in accordance with this chapter and the Code of Criminal Procedure.
- (b) Penal laws enacted after the effective date of this code shall be classified for punishment purposes in accordance with this chapter.
- (c) This chapter does not deprive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend, or cancel a license or permit, remove a person from office, cite for contempt, or impose any other civil penalty. The civil penalty may be included in the sentence.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.02. Classification of Offenses.

Offenses are designated as felonies or misdemeanors.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.03. Classification of Misdemeanors.

- (a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:
 - (1) Class A misdemeanors;
 - (2) Class B misdemeanors;
 - (3) Class C misdemeanors.
- (b) An offense designated a misdemeanor in this code without specification as to punishment or category is a Class C misdemeanor.
- (c) Conviction of a Class C misdemeanor does not impose any legal disability or disadvantage.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.04. Classification of Felonies.

- (a) Felonies are classified according to the relative seriousness of the offense into five categories:
 - (1) capital felonies;
 - (2) felonies of the first degree;
 - (3) felonies of the second degree;
 - (4) felonies of the third degree; and
 - (5) state jail felonies.
- (b) An offense designated a felony in this code without specification as to category is a state jail felony.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1973, 63rd Leg., p. 1125, Chapter 426, Article 2, §3, effective Jan. 1, 1974; Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

Subchapter B. Ordinary Misdemeanor Punishments

§12.21. CLASS A Misdemeanor.

An individual adjudged guilty of a Class A misdemeanor shall be punished by:

- (1) a fine not to exceed \$4,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and confinement.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1991, 72nd Leg., Chapter 108, §1, effective Sept. 1, 1991; Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.22. CLASS B Misdemeanor.

An individual adjudged guilty of a Class B misdemeanor shall be punished by:

- (1) a fine not to exceed \$2,000;
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and confinement.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, effective Jan. 1, 1974. Amended by Acts 1991, 72nd Leg., Chapter 108, §1, effective Sept. 1, 1991; Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.23. CLASS C Misdemeanor.

An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed \$500.

Acts 1973, 63rd Leg., p. 883, Chapter 399, §1, eff. Jan. 1, 1974. Amended by Acts 1991, 72nd Leg., Chapter 108, §1, effective Sept. 1, 1991; Acts 1993, 73rd Leg., Chapter 900, §1.01, effective Sept. 1, 1994.

§12.34. Third Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed \$10,000.

§12.35. State Jail Felony Punishment.

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$10,000.

2017 Texas Statutes

Parks and Wildlife Code, Title 5 - Wildlife and Plant Conservation, Subtitle B - Hunting and Fishing, Chapter 63 - Game and Nongame Animals, Subchapter B. Nongame Animals

<https://law.justia.com/codes/texas/2017/parks-and-wildlife-code/title-5/subtitle-b/chapter-63/>

§63.101. Protection of Bats.

(a) Except as provided by Subsections (b) and (c), no person may:

- (1) hunt a bat; or
- (2) sell, offer for sale, purchase, offer to purchase, or possess after purchase a bat or any part of a bat, dead or alive.

(b) A bat may be removed or hunted if the bat is inside or on a building occupied by people.

(c) This section does not apply to:

- (1) an animal control officer, a peace officer, or a health official who captures a bat that the officer or official considers injured or diseased;
- (2) a person who transports a bat for the purpose of laboratory testing if the bat has exposed or potentially exposed humans or domestic animals to rabies; or
- (3) a person who is licensed to provide pest control services.

Added by Acts 2001, 77th Leg., Chapter 363, § 1, effective Sept. 1, 2001.

§63.104. Penalties.

(c) A person who violates Section 63.002 or 63.101 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Added by Acts 1985, 69th Leg., Chapter 267, Article 3, § 52, effective Sept. 1, 1985. Amended by Acts 1999, 76th Leg., Chapter 354, § 1, effective Sept. 1, 1999; Acts 2001, 77th Leg., Chapter 363, § 2, effective Sept. 1, 2001.

2017 Texas Statutes

Parks and Wildlife Code, Title 2 - Parks and Wildlife Department Chapter 12 - Powers and Duties Concerning Wildlife

<https://law.justia.com/codes/texas/2017/parks-and-wildlife-code/title-2/chapter-12/>

§12.406. CLASS C PARKS and WILDLIFE CODE MISDEMEANOR.

An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than \$25 nor more than \$500.

Added by Acts 1985, 69th Leg., Chapter 267, Article 3, § 1, effective Sept. 1, 1985. Amended by Acts 1987, 70th Leg., Chapter 535, § 1, effective Sept. 1, 1987.

TEXAS ARCHAEOLOGY STATUTES

2017 Texas Statutes

Natural Resources Code, Title 9 – Heritage, Chapter 191 - Antiquities Code

<https://law.justia.com/codes/texas/2017/natural-resources-code/title-9/chapter-191/>

Subchapter A. General Provisions

§191.001. Title. This chapter may be cited as the **Antiquities Code of Texas**.

Acts 1977, 65th Leg., p. 2683, Chapter 871, Article I, §1, effective Sept. 1, 1977.

§191.002. Declaration of Public Policy.

It is the public policy and in the public interest of the State of Texas to locate, protect, and preserve all sites, objects, buildings, pre-twentieth century shipwrecks, and locations of historical, archeological, educational, or scientific interest, including but not limited to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure imbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part of their contents, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, pre-history, history, natural history, government, or culture in, on, or under any of the land in the State of Texas, including the tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

Acts 1977, 65th Leg., p. 2683, Chapter 871, Article I, §1, effective Sept. 1, 1977.

§191.003. Definitions.

In this chapter:

- (1) “Committee” means the Texas Historical Commission.
- (2) “Landmark” means a state archeological landmark.
- (3) “State agency” means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by §61.003, Texas Education Code.
- (4) “Political subdivision” means a local governmental entity created and operating under the laws of this state, including a city, county, school district, or special district created under Article III, §52(b)(1) or (2), or Article XVI, §59, of the Texas Constitution.

Acts 1977, 65th Leg., p. 2683, Chapter 871, Article I, §1, effective Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2001, Chapter 364, §1, effective Sept. 1, 1983; Acts 1987, 70th Leg., Chapter 948, §1, effective Sept. 1, 1987; Acts 1995, 74th Leg., Chapter 109, §18, effective Aug. 30, 1995.

§191.004. Certain Records Not Public Information.

- (a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter is not public information.
- (b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.
- (c) Information specifying details of a survey to locate state archeological landmarks under this chapter is not public information. Added by Acts 1981, 67th Leg., p. 959, Chapter 365, §1, effective June 10, 1981.

Subchapter B. Administrative provisions

§191.021. Compliance with open meetings act and administrative procedure and Texas Register Act.

(a) Repealed by Acts 1995, 74th Leg., Chapter 109, §29, effective Aug. 30, 1995.

Subchapter C. Powers and Duties

§191.051. In General.

(a) The committee is the legal custodian of all items described in this chapter that have been recovered and retained by the State of Texas.

(b) The committee shall:

- (1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;
- (2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;
- (3) contract or otherwise provide for discovery operations and scientific investigations under the provisions of §191.053 of this code;
- (4) consider the requests for and issue the permits provided for in Section 191.054 of this code;
- (5) prepare and make available to the general public and appropriate state agencies and political subdivisions information of consumer interest describing the functions of the committee and the procedures by which complaints are filed with and resolved by the committee; and
- (6) protect and preserve the archeological and historical resources of Texas.

Acts 1977, 65th Leg., p. 2685, Chapter 871, Article I, §1, effective Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 2002, Chapter 364, §5, effective Sept. 1, 1983; Acts 1987, 70th Leg., Chapter 948, §4, effective Sept. 1, 1987.

§191.052. Rules.

§191.0525. Notice Required.

§191.053. Contract for Discovery and Scientific Investigation.

§191.054. Permit for Survey and Discovery, Excavation, Restoration, Demolition, or Study.

§191.055. Supervision.

§191.056. Acceptance of Gifts.

§191.057. Survey, Excavation, or Restoration for Private Parties.

§191.058. Curation of Artifacts.

§191.059. Complaints.

Subchapter D. State Archeological Landmarks

§191.091. Ships, Wrecks of The Sea, And Treasure Imbedded in Earth.

§191.092. Other Sites, Artifacts, or Articles.

§191.093. Prerequisites to Removal, Altering, Damaging, Destroying, Salvaging, or Excavating Certain Landmarks.

§191.094. Designating A Landmark on Private Land.

§191.095. Permit for Landmark on Private Land.

§191.096. Marking Landmark on Private Land

§191.097. Removing Designation as Landmark.

§191.098. Notification of Alteration or Demolition of Possible Landmark.

Subchapter E. Prohibitions

§191.131. Contract or Permit Requirement.

§191.132. Damage or Destruction.

(a) No person may intentionally and knowingly deface American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere that pertain to early American Indian or aboriginal habitation of the country.

(b) A person who is not the owner shall not willfully injure, disfigure, remove, or destroy a historical structure, monument, marker, medallion, or artifact without lawful authority.

Acts 1977, 65th Leg., p. 2688, Chapter 871, art. I, §1, eff. Sept. 1, 1977.

§191.133. Entry Without Consent.

No person who is not the owner, and does not have the consent of the owner, proprietor, lessee, or person in charge, may enter or attempt to enter on the enclosed land of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archeological site, American Indian or aboriginal campsite, artifact, burial, ruin, or other archeological remains located in, on, or under any private land within the state of Texas.

Acts 1977, 65th leg., p. 2688, Chapter 871, art. I, §1, eff. Sept. 1, 1977.

Subchapter F. Enforcement

§191.171. Criminal Penalty.

(a) a person violating any of the provisions of this chapter is guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than \$50 and not more than \$1,000, by confinement in jail for not more than 30 days, or by both.

(b) each day of continued violation of any provision of this chapter constitutes a separate offense for which the offender may be punished.

Acts 1977, 65th leg., p. 2689, Chapter 871, Article I, §1, effective Sept. 1, 1977.

§191.172. Civil action by attorney general.

§191.173. Civil action by citizen.

§191.174. Assistance from state agencies, political subdivisions, and law enforcement officers.

UTAH DOES NOT HAVE ANY CAVE PROTECTION STATUTES

UTAH ARCHAEOLOGY STATUTES

2018 Utah Code

Title 9 - Heritage, Arts, Libraries, and Cultural Development, Chapter 8 - History Development, Part 3 – Antiquities

<https://law.justia.com/codes/utah/2018/title-9/chapter-8/part-3/>

- Section 301 - Purpose.
- Section 302 - Definitions.
- Section 304 - Antiquities Section created -- Duties.
- Section 305 - Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.
- Section 306 - Archaeological or anthropological landmarks.
- Section 307 - Report of discovery on state or private lands.
- Section 308 - Forgery or false labeling of specimens unlawful.
- Section 309 - Ancient human remains on nonfederal lands that are not state lands.

§9-8-302. Definitions.

As used in this Part and Part 4, Historic Sites:

- (1) “Agency” means a department, division, office, bureau, board, commission, or other administrative unit of the state.
- (2) “Ancient human remains” means all or part of the following that are historic or prehistoric:
 - (a) a physical individual; and
 - (b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.
- (3) “Antiquities Section” means the Antiquities Section of the Division of State History created in §9-8-304.
- (4) “Archaeological resources” means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.
- (5) “Collection” means a specimen and the associated records documenting the specimen and its recovery.
- (6) “Curation” means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.
- (7) “Curation facility” means the same as that term is defined in §53B-17-603.
- (8) “Division” means the Division of State History created in §9-8-201.
- (9) “Excavate” means the recovery of archaeological resources.
- (10) “Historic property” means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.
- (11) “Indian tribe” means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (12) “Museum” means the Utah Museum of Natural History.
- (13)

- (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.
- (b) "Nonfederal land" includes:
 - (i) land owned or controlled by:
 - (A) the state;
 - (B) a county, city, or town;
 - (C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or
 - (D) a person other than the federal government; or
 - (ii) school and institutional trust lands.
- (14) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.
- (15) "Repository" means the same as that term is defined in §53B-17-603.
- (16) "School and institutional trust lands" are those properties defined in S§53C-1-103.
- (17) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.
- (18) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.
- (19) "State historic preservation officer" means that position mentioned in 54 U.S.C. §302303, as amended.
- (20)
 - (a) "State land" means land owned by the state including the state's:
 - (i) legislative and judicial branches;
 - (ii) departments, divisions, agencies, boards, commissions, councils, and committees; and
 - (iii) institutions of higher education as defined under §53B-3-102.
 - (b) "State land" does not include:
 - (i) land owned by a political subdivision of the state;
 - (ii) land owned by a school district;
 - (iii) private land; or
 - (iv) school and institutional trust lands.
- (21) "Survey" means a surface investigation for archaeological resources that may include:
 - (a) insubstantial surface collection of archaeological resources; and
 - (b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Amended by Chapter 348, 2016 General Session

§9-8-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.

- (10)(a) Any person violating this section is guilty of a class B misdemeanor.
- (10) (b) A person convicted of violating this section or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

2018 Utah Code

Title 76 - Utah Criminal Code, Chapter 3 – Punishments, Part 2 – Sentencing, Section 204 - Misdemeanor conviction -- Term of imprisonment.

§76-3-204. Misdemeanor conviction -- Term of imprisonment.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- (1) In the case of a class A misdemeanor, for a term not exceeding one year;
- (2) In the case of a class B misdemeanor, for a term not exceeding six months;

Enacted by Chapter 196, 1973 General Session

Class A Misdemeanors

A class A misdemeanor is the most serious type of misdemeanor in Utah, punishable by up to 364 days in jail and a fine of as much as \$2,500. Theft of services or property worth between \$500 and \$1,500 is a class A misdemeanor.

(Utah Code Ann. §§ 76-3-204, 76-3-301 (2019).)

Class B Misdemeanors

Under Utah’s laws, class B misdemeanors are punishable by up to six months in jail and a fine of up to \$1,000.

(Utah Code Ann. §§ 76-3-204, 76-3-301 (2019).)

2018 Utah Code

Title 76 - Utah Criminal Code, Chapter 6 - Offenses Against Property, Part 1 - Property Destruction

<https://law.justia.com/codes/utah/2018/title-76/chapter-6/part-1/section-107/>

The universal citation: UT Code § 76-6-107 (2018)

§76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability.

(1) As used in this section:

- (a) “Etching” means defacing, damaging, or destroying hard surfaces by means of a chemical action which uses any caustic cream, gel, liquid, or solution.
- (b) “Graffiti” means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.
- (c) “Victim” means the person or entity whose property was defaced by the graffiti and bears the expense for its removal.

(2) Graffiti is a:

- (a) second degree felony if the damage caused is in excess of \$5,000;
- (b) third degree felony if the damage caused is in excess of \$1,000;
- (c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and
- (d) class B misdemeanor if the damage caused is less than \$300.

(3) Damages under Subsection (2) include removal costs, repair costs, or replacement costs, whichever is less.

(4) The court, upon conviction or adjudication, shall order restitution to the victim in the amount of removal, repair, or replacement costs.

(5) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.

(6) A person who voluntarily, and at his own expense, removes graffiti for which he is responsible may be credited for the removal costs against restitution ordered by a court.

Amended by Chapter 278, 2013 General Session

§76-6-107.1. Compensatory service -- Graffiti penalties.

(1) If an offender uses graffiti and is convicted under §§76-6-106 or 76-6-206 for its use, the court may, as a condition of probation under Subsection 77-18-1(8), order the offender to clean up graffiti of his own and any other at a time and place within the jurisdiction of the court.

(a) For a first conviction or adjudication, the court may require the offender to clean up graffiti for not less than eight hours.

(b) For a second conviction or adjudication, the court may require the offender to clean up graffiti for not less than 16 hours.

(c) For a third conviction or adjudication, the court may require the offender to clean up graffiti for not less than 24 hours.

(2) The offender convicted under §§76-6-106, 76-6-206, or 76-6-107 shall be responsible for removal costs as determined under §76-6-107, unless waived by the court for good cause.

(3) The court may also require the offender to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).

Renumbered and Amended by Chapter 3, 2008 General Session

2010 Utah Code

Title 63G - General Government, Chapter 02 - Government Records Access and Management Act.

<https://law.justia.com/codes/utah/2010/title-63g/chapter-02/63g-2-305/>

§63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

Subsection (26): Records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

VERMONT CAVE PROTECTION & ARCHAEOLOGY STATUTES

2018 Vermont Statutes

Title 22 - Libraries, History, and Information Technology, Chapter 14 - Historic Preservation, Subchapter 1: General Provisions

<https://law.justia.com/codes/vermont/2018/title-22/chapter-14/>

The universal citation: 22 V.S.A. § 701

§701. Definitions

For the purposes of this chapter:

- (1) “Council” means the Vermont Advisory Council on Historic Preservation.
- (2) [Repealed.]
- (3) “Division” means the Division for Historic Preservation.
- (4) “Field investigations” means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects or going on a site with that intent.
- (5) “Historic preservation” means the research, protection, restoration, and rehabilitation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.
- (6) “Historic property” or “resource” means any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.
- (7) “Secretary” means the Secretary of the Agency of Commerce and Community Development.
- (8) “Site” means any aboriginal mound, fort, earthwork, village location, burial ground, historic or prehistoric ruin, mine, cave, or other location which is or may be source of important archaeological data.**
- (9) “Specimen” means a relic, artifact, remain, object, or any other evidence of a historical, prehistorical, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which has scientific or historical value as an object of antiquity, as an aboriginal relic, or as an archaeological sample.**
- (10) “Underwater historic property” means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including and found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than 10 years on the bottoms of any waters. (Added 1975, No. 109, §4; amended 1995, No. 190 (Adj. Sess.), §1(a); 2001, No. 35, §8.)

§721. Creation of Division

The Division for Historic Preservation is created under 3 V.S.A. §2473 to coordinate historic preservation activities on behalf of the State. (Added 1975, No. 109, §4; amended 1995, No. 190 (Adj. Sess.), §4.)

§722. State Historic Preservation Officer

The Secretary shall nominate and the Governor shall appoint a State Historic Preservation Officer, with the advice and consent of the Senate, who shall fulfill the obligations and requirements of a State Historic Preservation Officer as required under federal law, and shall have demonstrated interest, knowledge, and experience in applying the principles of historic preservation to his or her professional work. The State Historic Preservation Officer shall supervise and direct the Division for Historic Preservation, subject to the general supervision and direction of the Secretary. (Amended 1995, No. 46, §42; 2001, No. 35, §2.)

§723. Duties and powers of Division and State Historic Preservation Officer

(a) The State Historic Preservation Officer shall, through the administration of the Division, and where required by section 742 of this title, with the approval of the Advisory Council on Historic Preservation:

- (1) Undertake a statewide survey to identify and document historic properties and sites yielding or likely to yield archaeological and anthropological information.
- (2) Adopt standards for the listing of an historic property on the State Register consistent with the standards of the National Register and the relevant federal standards of preservation and care.
- (3) Prepare and maintain a State Register of Historic Properties and maintain a nonpublic electronic archaeological inventory database. The Division shall take all measures necessary to assure the security and protection of archaeological site locations that are accessible through the database, and to assure that electronic access to this database is limited to authorized persons for authorized activities.
- (4) Prepare a State Historic Preservation Plan and review and revise that Plan annually.
- (5) Cooperate with federal, State, and local government agencies in the planning and conduct of specific undertakings affecting historic properties and preservation objectives and in the implementation of federal and State laws pertaining to local and regional planning and development, land use planning, and environmental protection.
- (6) Establish standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance, and operation of properties under the control of the Division.
- (7) Provide technical and financial assistance to others involved in historic preservation activities in accord with the preservation criteria of the Division and preservation priorities outlined in the Historic Preservation Plan.
- (8) Develop a continuing program of historical, architectural, and archaeological research and development to include surveys, excavation, scientific recording, interpretation, and publication of the historical, architectural, archaeological, and cultural resources of the State.
- (9) Maintain, develop, and interpret State-owned historic properties.
- (10) Adopt rules under the provisions of 3 V.S.A. Chapter 25 to carry out the purposes of this chapter.
- (11) Adopt and implement by June 30, 1990, a policy for notifying the property owners and the legislative body of a municipality in which is located an archaeological or historic resource which is being considered for inclusion in the State Register of Historic Properties. This policy shall provide that the Division shall hold a public hearing if the affected municipality requests a hearing.

(b) The Division may:

- (1) For the purpose of protecting or preserving any historic property, acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. The property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, or otherwise. Property may be acquired by the Division using such funds as may be appropriated for the purpose or monies available to it from any other source.
- (2) In the case of real property, the interest acquired shall be limited to that estate, agency, interest, or term deemed by the Division to be necessary for the continued protection or preservation of the property. The Division may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant covenant, lease, or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Division consistent with the purpose of the continued preservation of the property.
- (3) Acquire or dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any other person under covenants, deed restrictions, lease, or other contractual arrangements that limit the future use of the property to ensure its preservation. In all cases where property is conveyed, it shall be subject to rights of access, public visitation, and other conditions or restrictions of operation,

maintenance, restoration, and repair that the Division may prescribe or may be agreed upon between the Division and the grantee or lessee to accomplish the purposes of this section. In the event that the Division intends to dispose of any historic property in fee, the transaction shall first be approved by the General Assembly.

(4) Enter into and carry out contracts with the federal government or any agency thereof under which the government or agency grants financial or other assistance to the Division to further the purposes of this chapter. The Division may agree to and comply with any reasonable conditions not inconsistent with State law which are imposed on those grants. The grant funds or other assistance may be accepted from a federal government or agency and expended whether or not pursuant to a contract. The Division may further enter into and carry out contracts with municipalities and with any other person to further the purposes of this chapter.

(c) The State Historic Preservation Officer and the Division shall adopt a procedure for the efficient review in accordance with this chapter and the National Historic Preservation Act, 16 U.S.C. Chapter 1A, subchapter II, of undertakings related to the provision of broadband services, and shall take all feasible steps to effect such efficient review. Unless contrary to federal requirements, any review of pole attachments shall be conducted using a systemic approach. As used in this subsection, “broadband” means high-speed Internet access that meets the minimum technical objectives adopted by the Department of Public Service pursuant to 30 V.S.A. §8077(a). (Added 1975, No. 109, §4; amended 1979, No. 61, §1; 1989, No. 194 (Adj. Sess.), §1, effective May 21, 1990; 1995, No. 46, §§43, 44; 2001, No. 35, §3; 2009, No. 47, §3; 2011, No. 53, §7, effective May 27, 2011.)

§724. Historic Preservation Special Funds

(a) Historic Sites Operations Special Fund. The Historic Sites Operations Special Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 to be used by the Division for Historic Preservation to carry out the provisions of subdivisions 723(a)(9) and (b)(1) of this title. Revenues to the Fund shall be from the following sources:

- (1) Receipts from ticket sales at and fees for rental of State-owned historic sites. Notwithstanding 32 V.S.A. §603(2), fees for admission to and rentals of historic sites shall be set by the State Historic Preservation Officer, with the approval of the Commissioner of Housing and Community Development, in a manner that both maximizes revenues and promotes the tourism purposes of historic sites, but not to exceed \$12.00 for a single admission. This not-to-exceed amount shall not apply to the rental of an historic site or admission to an historic site for a special event. These fees shall be reported in accordance with 32 V.S.A. §605.
- (2) Transfers from the accounts of gift shops operated at State-owned historic sites.
- (3) Appropriations by the General Assembly, gifts, grants, and other donations and monies from any other source received for historic sites.
- (4) Income from trust funds held by the Treasurer.
- (5) Revenues from the sale of publications.

(b) Archaeology Operations Special Fund. The Archaeology Operations Special Fund is established pursuant to 32 V.S.A. Chapter 7, subchapter 5 to be used by the Division for Historic Preservation for cost recovery related to activities undertaken by the Division to carry out the provisions of §§723, 761, and 762 of this title. Revenues to the Fund shall be from the following sources:

- (1) Fees paid for electronic access to the nonpublic archaeological inventory database. The fee shall be \$250.00 per year for each authorized person unless the State Historic Preservation Officer determines that the fee may be paid on a pro rata basis.
- (2) A \$500.00 one-time fee for each archival box (standard banker box size) of archaeological collection for the care and maintenance of such materials at the Vermont Archaeological Heritage Center in perpetuity paid by any person involved in a federally or State funded, licensed, permitted, or approved project. This fee shall be paid on a pro rata basis for one-half and one-quarter boxes.
- (3) Appropriations by the General Assembly, gifts, grants, and other donations and monies from any other source received for archaeology activities and services performed by the Division for Historic Preservation.

(c) The Division for Historic Preservation shall ensure that donations and gifts are used for the purposes intended. (Added 1987, No. 89, §306; amended 1997, No. 59, §27, effective June 30, 1997; 2007, No. 192 (Adj. Sess.), §6.006, effective June 7, 2008; 2009, No. 47, §4; 2013, No. 191 (Adj. Sess.), §6.)

§725. Acceptance of funds or gifts for historic sites and Vermont Archaeology Heritage Center

With the approval of the Secretary of Administration, the State Historic Preservation Officer may accept grants, gifts, donations, loans, or other things of value on behalf of the Division for Historic Preservation for use by the Division for Historic Preservation in establishing and maintaining displays and exhibits at any historic site and at the Vermont Archaeology Heritage Center, or restoring any historic site maintained and developed under section 723 of this chapter. (Added 1995, No. 46, §51; amended 2001, No. 35, §4; 2007, No. 192 (Adj. Sess.), §6.007, effective June 7, 2008.)

Subchapter 5: Advisory Council on Historic Preservation

§741. Creation of Advisory Council

(a) There is established a Vermont Advisory Council on Historic Preservation. The Council shall consist of seven members, appointed by the Governor, at least four of whom shall fulfill the professional requirements of the National Historic Preservation Act.

(b) The members shall serve for terms of three years or until their successors are appointed. (Added 1975, No. 109, §4; amended 1979, No. 61, §2.)

§742. Duties and powers of the Council

(a) The Council shall:

- (1) Approve nominations to the State and National Registers of Historic Places.
- (2) Review and approve the State survey of historic properties undertaken in accordance with the provisions of this chapter.
- (3) Review and approve the content of the State Preservation Plan developed in accordance with the provisions of this chapter.
- (4) Approve the removal of properties from the State register.
- (5) Recommend the removal of properties from the National Register.
- (6) Review and approve projects to receive federal and State grants-in-aid for historic preservation.
- (7) Provide an advisory and coordinative mechanism by which State undertakings of every kind which are potentially deleterious to historic preservation may be discussed, and, where possible, resolved, giving due consideration to the competing public interests which may be involved. The head of any State agency or department having direct or indirect jurisdiction over a proposed State or State-assisted undertaking, or independent agency having authority to build, construct, license, permit, authorize, or approve any undertaking, shall, prior to the approval of the State funds for the undertaking, or prior to any approval, license, permit, or authorization as the case may be, take into account the effect of the undertaking on any historic property that is included in the State Register of Historic Places. Where, in the judgment of the Council such undertaking will have an adverse effect upon any listed district, area, site, building, structure, or object, the head of the State agency or department shall afford the Council reasonable opportunity to comment with regard to the undertaking.
- (8) Advise on any participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties and sites and approve any participation in the review of nonfederal undertakings, including proceedings under the State land use and development act (10 V.S.A. chapter 151).

(b) The Council may provide testimony relating to the historical, architectural, and archaeological significance of State register and national register sites. (Added 1975, No. 109, §4; amended 1979, No. 61, §§3, 4.)

§743. Cooperation of agencies

An agency, department, division, or commission shall:

- (1) Consult the Vermont Advisory Council on Historic Preservation before demolishing, altering, or transferring any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed on the State register. An agency, department, division, or commission shall submit its annual capital improvement plan to the Council.
- (2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of properties under its ownership that are listed on the State or National Register; the measures and procedures shall comply with applicable standards prescribed by the State Historic Preservation Division.
- (3) Develop plans for the maintenance, through preservation, rehabilitation, or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public interest.
- (4) Institute procedures to assure that its plans, programs, codes, and regulations contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, archaeological, or cultural significance. (Added 1975, No. 109, § 4.)

Subchapter 7: PROTECTION OF ARCHAEOLOGICAL INFORMATION

- § 761 State archaeologist; survey; protection of archaeological sites
- § 762 Field investigation
- § 763 Designation of archaeological sites
- § 764 Permits for exploration
- § 765 Transfer of State property
- § 766 Reservation of lands to be sold
- § 767 Cooperation between agencies

§761. State archaeologist; survey; protection of archaeological sites

(a) The State Historic Preservation Officer shall employ a State Archaeologist through the classified service who shall conduct and maintain a survey of sites of archaeological and anthropological specimens located within the State. The State archaeologist shall make the survey available to agencies of the State government that, in his or her opinion, may conduct activities which may affect these archaeological or anthropological sites.

(b) All information regarding the location of archaeological sites and underwater historic properties shall be confidential except that the State archaeologist shall provide this information to qualified individuals or organizations, public agencies and nonprofit organizations for archaeological and scientific research or for preservation and planning purposes when the State Archaeologist determines that the preservation of these properties is not endangered. (Added 1975, No. 109, §4; amended 1989, No. 136 (Adj. Sess.), §2; 1995, No. 46, §45.)

§762. Field investigation

The State reserves to itself the exclusive right of field investigation on sites owned or controlled by the State in order to protect and preserve archaeological and scientific information, matter, and objects. All information and objects deriving from State lands shall remain the property of the State and be utilized for scientific or public educational purposes. (Added 1975, No. 109, §4.)

§763. Designation of archaeological sites

The State Archaeologist, with the approval of the State Historic Preservation Officer, may publicly designate an archaeological site of significance to the scientific study or public representation of the State's historical, prehistorical, or aboriginal past as a "State archaeological landmark." All State agencies administering State-owned lands containing State archaeological landmarks shall cooperate to ensure the protection of these

landmarks. State archaeological landmarks located on privately owned land shall not be designated without the written consent of the owner. Upon designation of an archaeological site the private owner or affected State agency shall be given written notice of the designation by the State Archaeologist. Once so designated, no person may conduct field activities without first securing a permit from the State Historic Preservation Officer and complying with the provisions of section 762 of this title. (Added 1975, No. 109, §4; amended 1995, No. 46, §46.)

§ 764. Permits for exploration

The State Historic Preservation Officer, with the advice of the State Archaeologist, may issue permits for exploration and field investigations to be undertaken on State lands or within the boundaries of designated State archaeological landmarks to an amateur or professional whom the State Historic Preservation Officer deems properly qualified to conduct the activity, subject to such rules and regulations as the Division may prescribe, with a view toward disseminating the knowledge gained through his or her activities; and, provided that a summary report of the undertakings, containing relevant maps, documents, drawings, and photographs be submitted to the Division; and, provided further, that all specimens so collected under permit shall be the permanent property of the State and that the State Archaeologist shall make prior arrangements for the disposition of specimens derived from the activities in an appropriate institution of the State or for the loan of the specimens to qualified institutions in or out of the State. (Added 1975, No. 109, §4; amended 2001, No. 35, §5.)

§765. Transfer of State property

When transferring real property under its jurisdiction that contains significant archaeological, aboriginal, or other anthropological resources, the State, may, upon the recommendation of the State Historic Preservation Officer, with the advice of the State Archaeologist, condition the transfer upon such covenants, deed restrictions or other contractual arrangements as will limit the future use of the property in such a way as will protect those resources. (Added 1975, No. 109, §4; amended 1995, No. 46, §47.)

§766. Reservation of lands to be sold

Upon written notice to the head of a State agency administering State lands, given by the State Historic Preservation Officer, with the advice of the State Archaeologist, the agency head shall reserve from sale any State lands, including lands forfeited to the State for nonpayment of taxes, on which sites or artifacts are located or may be found, as designated by the State Archaeologist under section 763 of this title, provided, however, that the reservation of the lands from sale may be confined to the actual location of the site or artifacts. When the sites or artifacts have been explored, excavated, or otherwise examined to the extent desired by the State Archaeologist, he or she shall then file with the agency head a statement releasing the lands and permitting their sale. (Added 1975, No. 109, §4; amended 1995, No. 46, §48.)

§767. Cooperation between agencies

All State agencies, departments, institutions, and commissions, as well as all municipalities, shall cooperate fully with the State Archaeologist in the preservation, protection, excavation, and evaluation of specimens and sites; and to that end:

- (1) When any State, regional, or municipal agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any State, State-assisted, State-licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, the agency shall notify the State Archaeologist and shall provide him or her with information concerning the project, program, or activity. The provisions of this chapter shall be made known to contractors by the State agencies doing the contracting.

(2) The State Archaeologist, upon notification or determination that scientific, historical, or archaeological data, including specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.

(3) The Division shall initiate actions within 60 days of notification under subdivision (1) of this subsection and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering the data, including analysis and publications, and the costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a State agency. (Added 1975, No. 109, § 4.)

Subchapter 11: PROHIBITED ACTS

The universal citation: 22 V.S.A. §791

§791. Penalty

A person who conducts field investigation activities on or under any land owned or controlled by the State or within the boundaries of any designated State archaeological landmark, without first obtaining a permit therefor from the State Historic Preservation Officer or any person who appropriates, defaces, destroys, or otherwise alters any archaeological site or specimen located on or under State lands or within the boundaries of a designated State archaeological landmark, except in the course of activities pursued under the authority of a permit granted by the State Historic Preservation Officer, shall be fined not more than \$1,000.00 or imprisoned for not more than six months or both, and in addition, shall forfeit to the State all specimens, objects, and materials collected or excavated, together with all photographs and records relating to that material. (Added 1975, No. 109, §4; amended 2001, No. 35, §7.)

Unlawful mischief

The universal citation: 13 V.S.A. §3701

§3701. Unlawful mischief

A person who intentionally destroys property which she has no right to do so and no reasonable grounds to believe she has such a right is guilty of a crime. If the value of the damaged property exceeds \$1,000, that person is guilty of a felony and shall be punished with imprisonment of up to 5 years and/or a fine of up to \$5,000. If the value of the property exceeds \$250, that person is guilty of a misdemeanor and the punishment is up to one year's imprisonment and/or a fine of up to \$1,000. If the value of the property does not exceed \$250, the punishment shall be imprisonment of up to six months and/or a fine of up to \$500. If the damage is done using an explosive, the crime shall be a felony and the punishment shall be imprisonment of up to five years and/or a fine of up to \$5,000.

VIRGINIA CAVE PROTECTION STATUTES

2010 Code of Virginia

Title 10.1 – Conservation, Chapter 10 - Cave Protection Act (10.1-1000 thru 10.1-1008)

<https://law.justia.com/codes/virginia/2010/title-10-1/chapter-10/>

The universal citation: VA Code §10.1-1000 – 1008 (2010)

§10.1-1000. Definitions.

As used in this chapter, unless the context requires a different meaning:

- “Board” means the Cave Board.
- “Cave” means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge including natural subsurface water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The word “cave” includes or is synonymous with cavern, sinkhole, natural pit, grotto, and rock shelter.
- “Cave life” means any rare or endangered animal or other life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system.
- “Commercial cave” means any cave utilized by the owner for the purposes of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.
- “Gate” means any structure or device located to limit or prohibit access or entry to any cave.
- “Material” means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.
- “Owner” means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities, as well as counties, municipalities, and other political subdivisions of the Commonwealth.
- “Person” means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- “Sinkhole” means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley, or sink.
- “Speleogen” means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.
- “Speleothem” means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmite, stalactite, helictite, shield, anthodite, gypsum flower and needle, angel’s hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals.

(1979, Chapter 252, §10-150.12; 1988, Chapter 891.)

§10.1-1001. Cave Board; qualifications; officers.

A. The Cave Board is continued within the Department of Conservation and Recreation and shall consist of the Director of the Department of Historic Resources, or his designee, serving in an ex officio capacity and eleven citizens of Virginia appointed by the Governor for four-year terms. Appointments shall be made on the basis of activity and knowledge in the conservation, exploration, study, and management of caves.

B. The Cave Board shall meet at least three times a year. Six members shall constitute a quorum for the transaction of business. The Board shall annually elect a chairman, vice-chairman and recording secretary and such other officers as the Board deems necessary.

(1979, Chapter 433, §§9-152.1, 9-152.2; 1980, Chapter 745; 1984, Chapter 750; 1985, Chapter 448; 1988, Chapter 891; 1989, Chapter 656.)

§10.1-1002. Powers and duties of Cave Board.

A. The Cave Board may perform all tasks necessary to carry out the purposes of this chapter, including the following:

1. Accept any gift, money, security, or other source of funding and expend such funds to effectuate the purposes of this chapter.
2. Serve as an advisory board to any requesting state agency on matters relating to caves and karst.
3. Conduct and maintain an inventory of publicly owned caves in Virginia.
4. Provide cave management expertise and service to requesting public agencies and cave owners.
5. Maintain a current list of all significant caves in Virginia and report any real and present danger to such caves.
6. Provide cave data for use by state and other governmental agencies.
7. Publish or assist in publishing articles, pamphlets, brochures or books on caves and cave-related concerns.
8. Facilitate data gathering and research efforts on caves.
9. Advise civil defense authorities on the present and future use of Virginia caves in civil defense.
10. Advise on the need for and desirability of a state cave recreation plan.
11. Inform the public about the value of cave resources and the importance of preserving them for the citizens of the Commonwealth.

B. The Cave Board shall have the duty to:

1. Protect the rare, unique, and irreplaceable minerals and archaeological resources found in caves.
2. Protect and maintain cave life.
3. Protect the ground water flow which naturally occurs in caves from water pollution.
4. Protect the integrity of caves that have unique characteristics or are exemplary natural community types.
5. Make recommendations to interested state agencies concerning any proposed rule, regulation or administrative policy which directly affects the use and conservation of caves in this Commonwealth.
6. Study any matters of special concern relating to caves and karst.

(1979, Chapter 252, §10-150.11; 1979, Chapter 433, §§9-152.1, 9-152.3 to 9-152.5; 1980, Chapter 745; 1984, Chapters 734, 750; 1985, Chapter 448; 1988, Chapter 891.)

§10.1-1003. Permits for excavation and scientific investigation; how obtained; penalties.

A. In addition to the written permission of the owner required by § 10.1-1004 a permit shall be obtained from the Department of Conservation and Recreation prior to excavating or removing any archaeological, paleontological, prehistoric, or historic feature of any cave. The Department shall issue a permit to excavate or remove such a feature if it finds with the concurrence of the Director of the Department of Historic Resources that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section. The permit shall be issued for a period of two years and may be renewed upon expiration. Such permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.

B. All field investigations, explorations, or recovery operations undertaken under this section shall be carried out under the general supervision of the Department and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.

C. A person applying for a permit pursuant to this section shall:

1. Be a historic, scientific, or educational institution, or a professional or amateur historian, biologist, archaeologist, or paleontologist, who is qualified and recognized in these areas of field investigations.
2. Provide a detailed statement to the Department giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.
3. Provide data and results of any completed excavation, study, or collection at the first of each calendar year.
4. Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land.
5. Carry the permit while exercising the privileges granted.

D. Any person who fails to obtain a permit required by subsection A hereof shall be guilty of a Class 1 misdemeanor. Any violation of subsection C hereof shall be punished as a Class 3 misdemeanor, and the permit shall be revoked.

E. The provisions of this section shall not apply to any person in any cave located on his own property.

(1979, Chapter 252, §10-150.16; 1982, Chapter 81; 1984, Chapter 750; 1988, Chapter 891; 1989, Chapter 656.)

§10.1-1004. Vandalism; penalties.

A. It shall be unlawful for any person, without express, prior, written permission of the owner, to:

1. Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.
2. Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
3. Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this chapter.
4. Excavate, remove, destroy, injure, deface, or in any manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including relics, inscriptions, saltpeter workings, fossils, bones, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of the Virginia Antiquities Act (§ 10.1-2300 et seq.).

B. Entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

C. Any violation of this section shall be punished as a Class 1 misdemeanor.

D. The provisions of this section shall not apply to an owner of a cave on his own property.

(1979, Chapter 252, §10-150.13; 1982, Chapter 81; 1988, Chapter 891.)

§10.1-1005. Pollution; penalties.

A. It shall be unlawful for any person, without express, prior, written permission of the owner, to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole. It shall also be unlawful to burn within a cave or sinkhole any material which produces any smoke or gas which is harmful to any naturally occurring organism in any cave.

B. Any violation of this section shall be punished as a Class 1 misdemeanor.

(1979, Chapter 252, §10-150.14; 1982, Chapter 81; 1988, Chapter 891.)

§ 10.1-1006. Disturbance of naturally occurring organisms; scientific collecting permits; penalties.

A. It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organisms within any cave, except for safety or health reasons; however, scientific collecting permits may be obtained from the Department.

B. Any violation of this section shall be punished as a Class 3 misdemeanor.

(1979, Chapter 252, §10-150.15; 1988, Chapter 891.)

§10.1-1007. Sale of speleothems; penalties.

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, or to export them for sale outside the Commonwealth. Any violation of this section shall be punished as a Class 1 misdemeanor.

(1979, Chapter 252, §10-150.17; 1982, Chapter 81; 1988, Chapter 891.)

§ 10.1-1008. Liability of owners and agents limited; sovereign immunity of Commonwealth not waived.

Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry as to the experience or expertise of the individual seeking consent may have been made.

Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus, or agencies.

(1979, Chapter 252, §10-150.18; 1988, Chapter 891.)

2019 Code of Virginia

Title 18.2 - Crimes and Offenses Generally, Chapter 1 - In General

<https://law.justia.com/codes/virginia/2019/title-18-2/chapter-1/section-18-2-11/>

The universal citation: VA Code §18.2-11 (2019)

§18.2-11. Punishment for conviction of misdemeanor

The authorized punishments for conviction of a misdemeanor are:

- (a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.
- (b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.
- (c) For Class 3 misdemeanors, a fine of not more than \$500.
- (d) For Class 4 misdemeanors, a fine of not more than \$250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of §18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

(1975, Chapters 14, 15; 1990, Chapter 788; 2000, Chapter 770.

VIRGINIA ARCHAEOLOGY STATUTES

2010 Code of Virginia

Title 10.1 – Conservation, Chapter 23 - Virginia Antiquities Act (10.1-2300 thru 10.1-2306)

<https://law.justia.com/codes/virginia/2010/title-10-1/chapter-23/>

The universal citation: VA Code § 10.1-2300 – 10.1-2306 (2010)

- 10.1-2300 - Definitions.
- 10.1-2301 - Duties of Director.
- 10.1-2302 - Permit required to conduct field investigations; ownership of objects of antiquity; penalty.
- 10.1-2303 - Control of archaeological sites; authority of Director to contract.
- 10.1-2304 - Designating archaeological sites and zones.
- 10.1-2305 - Permit required for the archaeological excavation of human remains.
- 10.1-2306 - Violations; penalty.

§10.1-2300. Definitions.

As used in this chapter, unless the context requires a different meaning:

- “Field investigation” means the study of the traces of human culture at any site by means of surveying, sampling, excavating, or removing surface or subsurface material, or going on a site with that intent.
- “Object of antiquity” means any relic, artifact, remain, including human skeletal remains, specimen, or other archaeological article that may be found on, in or below the surface of the earth which has historic, scientific, archaeological, or educational value.
- “Person” means any natural individual, partnership, association, corporation, or other legal entity.
- “Site” means a geographical area on dry land that contains any evidence of human activity which is or may be the source of important historic, scientific, archaeological, or educational data or objects.
- “State archaeological site” means an area designated by the Department in which it is reasonable to expect to find objects of antiquity.
- “State archaeological zone” means an interrelated grouping of state archaeological sites.
- “State archaeologist” means the individual designated pursuant to § 10.1-2301.
- “State-controlled land” means any land owned by the Commonwealth or under the primary administrative jurisdiction of any state agency. State agency shall not mean any county, city or town, or any board or authority organized under state law to perform local or regional functions. Such land includes but is not limited to state parks, state wildlife areas, state recreation areas, highway rights-of-way and state-owned easements.

(1977, Chapter 424, §10-150.3; 1984, Chapter 750; 1988, Chapter 891, §10.1-900; 1989, Chapter 656; 2005, Chapter 457.)

§10.1-2302. Permit required to conduct field investigations; ownership of objects of antiquity; penalty.

A. It shall be unlawful for any person to conduct any type of field investigation, exploration or recovery operation involving the removal, destruction or disturbance of any object of antiquity on state-controlled land, or on a state archaeological site or zone without first receiving a permit from the Director.

B. The Director may issue a permit to conduct field investigations if the Director finds that it is in the best interest of the Commonwealth, and the applicant is a historic, scientific, or educational institution, professional archaeologist or amateur, who is qualified and recognized in the area of field investigations or archaeology.

- C. The permit shall require that all objects of antiquity that are recovered from state-controlled land shall be the exclusive property of the Commonwealth. Title to some or all objects of antiquity which are discovered or removed from a state archaeological site not located on state-controlled land may be retained by the owner of such land. All objects of antiquity that are discovered or recovered on or from state-controlled land shall be retained by the Commonwealth unless they are released to the applicant by the Director.
- D. All field investigations, explorations, or recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Director and in a manner to ensure that the maximum amount of historic, scientific, archaeological and educational information may be recovered and preserved in addition to the physical recovery of objects.
- E. If the field investigation described in the application is likely to interfere with the activity of any state agency, no permit shall be issued unless the applicant has secured the written approval of such agency.
- F. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor.

(1977, Chapter 424, §10-150.5; 1984, Chapter 750; 1988, Chapter 891, §10.1-903; 1989, Chapter 656.)

§10.1-2306. Violations; penalty.

It shall be unlawful to intentionally deface, damage, destroy, displace, disturb, or remove any object of antiquity on any designated state archaeological site or state-controlled land.
Any person who violates this section shall be guilty of a Class 1 misdemeanor.

(1977, Chapter 424, §10-150.10; 1988, Chapter 891, §10.1-906; 1989, Chapter 656.)

The Department of Historic Resources

<https://www.dhr.virginia.gov/archaeology/>

Data cannot be released to the public: <http://www.dhr.virginia.gov/archives/TermsAndConditions.pdf> ; sites exempted from release in Freedom of Information Act: Code of Virginia §2.23705.7 (10),

Overview of Archival Resources: VCRIS (Virginia Cultural Resource Database)

DHR's cultural resource database, VCRIS, contains information on more than 200,000 sites in Virginia. The system is used for documenting and mapping sites. Full access to it is available for a fee to qualified professionals, and limited access is available for free to the public.

DHR is also the principal repository for Virginia historic survey and archaeological reports. Databases and mapping for the files and reports are only available onsite at the DHR Archives.

Reference

Lera, Thomas "The Virginia Cave Protection Act: A Review (1966 – 2009)," *Journal of Cave and Karst Studies*, 2009, Vol. 71, No.3: 204 – 209. This paper focuses on the history of the Virginia Cave Protection Act, the Virginia Cave Board, and the activities taken to protect caves and karst resources in Virginia. It can be found on the Virginia Cave Board Web Page. <https://www.dcr.virginia.gov/natural-heritage/document/the-virginia-cave-protection-act.pdf>

WASHINGTON DOES NOT HAVE ANY CAVE PROTECTION STATUTES

WASHINGTON ARCHAEOLOGY STATUTES

2018 Revised Code of Washington

Title 27 - Libraries, Museums, and Historical Activities, §27.53 Archaeological sites and resources.

<https://law.justia.com/codes/washington/2018/title-27/chapter-27.53/>

The universal citation: WA Rev Code § 27.53.010 – 27.53.150 (2018)

- §27.53.010 Declaration.
- §27.53.020 Archaeological resource preservation—Designation of department of archaeology and historic preservation—Cooperation among agencies.
- §27.53.030 Definitions.
- §27.53.040 Archaeological resources—Declaration.
- §27.53.045 Abandoned archaeological resources—Declaration.
- §27.53.060 Disturbing archaeological resource or site—Permit required—Conditions—Exceptions—Penalty.
- §27.53.070 Field investigations—Communication of site or resource location to department.
- §27.53.080 Archaeological activities upon public lands—Entry—Agreement—Approval of activities—Information regarding results of studies and activities.
- §27.53.090 Violations—Penalty.
- §27.53.095 Knowing and willful failure to obtain or comply with permit—Penalties.
- §27.53.100 Historic archaeological resources on state-owned aquatic lands—Discovery and report—Right of first refusal.
- §27.53.110 Contracts for discovery and salvage of state-owned historic archaeological resources.
- §27.53.120 Recovery of property from historic archaeological sites—Mitigation of damage—Refusal to issue salvage permit to prevent destruction of resource.
- §27.53.130 List of areas requiring permits.
- §27.53.140 Rule-making authority.
- §27.53.150 Proceeds from state’s property—Deposit and use.

§27.53.030 Definitions.

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

- (1) “Amateur society” means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.
- (2) “Archaeological object” means an object that comprises the physical evidence of an indigenous and subsequent culture, including material remains of past human life, including monuments, symbols, tools, facilities, and technological by-products.
- (3) “Archaeological site” means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects.
- (4) “Archaeology” means systematic, scientific study of humankind’s past through material remains.
- (5) “Department” means the department of archaeology and historic preservation, created in Chapter 43.334 RCW.
- (6) “Director” means the director of the department of archaeology and historic preservation, created in Chapter 43.334 RCW.

(7) “Field investigation” means an on-site inspection by a professional archaeologist or by an individual under the direct supervision of a professional archaeologist employing archaeological inspection techniques for both the surface and subsurface identification of archaeological resources and artifacts resulting in a professional archaeological report detailing the results of such inspection.

(8) “Historic” means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term “historic” shall include only those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(9) “Historic archaeological resources” means those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(10) “Prehistoric” means peoples and cultures who are unknown through contemporaneous written documents in any language.

(11) “Professional archaeologist” means a person with qualifications meeting the federal secretary of the interior’s standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior’s standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

[2013 Chapter 23 §45. Prior: 2011 Chapter 219 §1; 2008 Chapter 275 §5; 2005 Chapter 333 §20; 1995 Chapter 399 §16; 1989 Chapter 44 §6; 1988 Chapter 124 §2; 1986 Chapter 266 §17; 1983 Chapter 91 §20; 1977 Executive Session. Chapter 195 §13; 1975 1st Executive Session. Chapter 134 §3.]

§27.53.060 Disturbing archaeological resource or site—Permit required—Conditions—Exceptions—Penalty.

(1) On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyptic or painted record of any tribe or peoples, or historic graves as defined in Chapter 68.05 RCW, disturbances of which shall be a Class C felony punishable under Chapter 9A.20 RCW, without having obtained a written permit from the director for such activities.

NOTES:

Chapter 43.334 RCW - Department of archaeology and historic preservation:

The Washington criminal code uses the term “glyptic” instead of petroglyphs to describe any carving, engraving or inscription on stone. Any person who destroys or damages a carving or painted record of any tribe or people is guilty of a Class C felony. Wash. Rev. Code §27.44.040(1).

Washington has a specific law for the protection of historic graves in which any person who knowingly removes, mutilates, defaces, injures, or destroys a historic grave will be guilty of a class C felony. Someone who disturbs a historic grave accidentally, including during construction, shall reinter the human remains under the supervision of the department of archaeology and historic preservation. Expenses to reinter the human remains are to be provided by the department to the extent that funds for this purpose are set aside by the legislature. Wash. Rev. Code §68.60.050.

Under Washington criminal law, any person who knowingly mutilates, defaces, injures, or destroys any “cairn” (memorial or landmark marked by a heap of stones) or grave of any native Indian is guilty of a Class C felony.

Additionally, any person who knowingly mutilates, defaces, injures, or destroys any “glyptic” (carving or engraving) or painted record of any tribe or peoples is guilty of a Class C felony.

§ 27.44.040. Protection of Indian graves — Penalty

Any archaeologist or interested person may copy and examine “glyptics” (carvings or engravings) or painted records or examine the surface of any grave. However, no record or archaeological material from any grave may be removed unless it will be reburied or preserved in a duly recognized archaeological repository * and the state historic preservation officer has granted permission** for scientific research and removal. Wash. Rev. Code §27.44.020. It is a Class C felony to damage or remove the glyptic or painted record without permission. §27.53.060(1).

*An archaeological repository such as the Museum of Anthropology at Washington State University is responsible for the long-term care of archaeological materials in conformance with applicable governmental policies and procedures and current professional standards. 36 CFR Part 79: Curation of Federally owned and Administered Archaeological Collections.

**Whenever a request for permission to remove records or material is received, the state historic preservation officer shall notify the affected Indian tribe or tribes. The affected Indian tribe or tribes are those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found; those that submit to the department maps that reflect the tribes geographical area of cultural affiliation; and other tribes with historical and cultural affiliation in the jurisdiction where the remains were found. §27.44.055(4)(a).

Wash. Rev. Code §9A.20.021 - For crimes committed after July 1, 1984:

Unless a different maximum sentence for a classified felony is specifically established by statute, the maximum fines and penalties for a felony are:

- Class A felony: confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of \$50,000, or both.
- Class B felony: confinement in a state correctional institution for a term of 10 years, or by a fine in an amount fixed by the court of \$20,000, or both.
- Class C felony: confinement in a state correctional institution for 5 years, or by a fine in an amount fixed by the court of \$10,000, or both.

For misdemeanors, the general fines and penalties are:

- Gross misdemeanor: imprisonment in the county jail for a maximum term of not more than 1 year, or by a fine in an amount fixed by the court of not more than \$5,000, or both.
- Misdemeanor: imprisonment in the county jail for a maximum of not more than 90 days, or by a fine of not more than \$1,000, or both.

In either case, restitution may be an alternative to a fine if a person has gained money or property or caused a victim to lose money or property through the commission of a crime. The court may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of what the defendant gained, or the victim lost. It is the prosecuting attorney’s duty to investigate the alternative of restitution and to recommend it to the court when appropriate. Wash. Rev. Code §90A.20.030

2018 Revised Code of Washington

Title 42 - Public Officers and Agencies, §42.56 Public Records Act. §42.56.300 Archaeological sites.

<https://law.justia.com/codes/washington/2018/title-42/chapter-42.56/section-42.56.300/>

The universal citation: WA Rev Code § 42.56.300 (2018)

RCW §42.56.300 Archaeological sites.

- (1) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites are exempt from disclosure under this chapter.
- (2) Records, maps, and other information, acquired during watershed analysis pursuant to the forests and fish report under RCW 76.09.370, that identify the location of archaeological sites, historic sites, artifacts, or the sites of traditional religious, ceremonial, or social uses and activities of affected Indian tribes, are exempt from disclosure under this chapter in order to prevent the looting or depredation of such sites.
- (3) Any site form, report, specific fields and tables relating to site form data within a database, or geographic information systems spatial layer obtained by any state agency or local government, or shared between any state agency, local government, or tribal government, is exempt from disclosure under this chapter, if the material is related to:
 - (a) An archaeological site as defined in RCW 27.53.030;
 - (b) Historical [Historic] archaeological resources as defined in RCW 27.53.030; or
 - (c) Traditional cultural places.
- (4) The local government or agency shall respond to requests from the owner of the real property for public records exempt under subsection (1), (2), or (3) of this section by providing information to the requestor on how to contact the department of archaeology and historic preservation to obtain available locality information on archaeological and cultural resources.

[2014 Chapter 165 §1; 2006 Chapter 86 §1; 2005 Chapter 274 §410.]

NOTES: Effective date—2006 Chapter 86: “This act takes effect July 1, 2006.” [2006 Chapter 86 §2.]

WEST VIRGINIA CAVE PROTECTION STATUTES

2019 West Virginia Code

Chapter 20. Natural Resources, Article 7A. Cave Protection

<https://law.justia.com/codes/west-virginia/2019/chapter-20/article-7a/>

The universal citation: WV Code § 20-7A-1 – 20-7A-6 (2019)

§20-7A-1. Definitions

Unless the context in which used clearly requires a different meaning, as used in this article:

- (a) "Cave" means any naturally occurring subterranean cavity. The word "cave" includes or is synonymous with cavern, pit, pothole, well, sinkhole and grotto.
- (b) "Commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.
- (c) "Gate" means any structure or device located to limit or prohibit access or entry to any cave.
- (d) "Person or persons" means any individual, partnership, firm, association, trust, or corporation.
- (e) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.
- (f) "Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land.

§20-7A-2. Vandalism; Penalties

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

- (a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material therein, including speleothems;
- (b) Disturb or alter in any manner the natural condition of any cave;
- (c) Break, force, tamper with or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

Any person violating a provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$150 nor more than \$500, and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.

§20-7A-3. Sale of Speleothems Unlawful; Penalties

It is unlawful to sell or offer for sale any speleothems in this state, or to export them for sale outside the state. A person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$150 nor more than \$500 and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.

§20-7A-4. Biological Policy; Penalties for Violation

It is unlawful to remove, kill, harm, or disturb any plant or animal life found within any cave: Provided, that scientific collecting permits may be obtained from the director as provided in section fifty, article two of this

chapter. Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, insects, bats, and aquatic fauna. A person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$500 and in addition thereto, may be imprisoned in the county jail for not less than fifteen days nor more than six months.

§20-7A-5. Archaeology; Permits for Excavation; How Obtained; Prohibitions; Penalties

(a) No person may excavate, remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or paleontological site including saltpeter workings, relics or inscriptions, fossilized footprints, bones or any other such features which may be found in any cave.

(b) Notwithstanding the provisions of subsection (a) of this section, a permit to excavate or remove archaeological, paleontological, prehistoric, and historic features may be obtained from the director of natural resources. Such permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable but this does not preclude persons from working under the direct supervision of the person holding the permit: Provided, That the director shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested.

A person applying for such a permit must:

- (1) Provide a detailed statement to the director of natural resources giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.
- (2) Provide data and results of any completed excavation, study, or collection at the first of each calendar year.
- (3) Obtain the prior written permission of the director of natural resources if the site of the proposed excavation is on state-owned lands and prior written permission of the owner if the site of such proposed excavation is on privately owned land.
- (4) Carry the permit while exercising the privileges granted.

A person who violates any provision of subsection (a) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, and may be imprisoned in the county jail for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, and the permit herein authorized shall be revoked.

§20-7A-6. Liability of Owners and Agents

(a) Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using such features for recreational or scientific purpose if the prior consent of the owner has been obtained and if no charge has been made for the use of such features.

(b) An owner of a commercial cave is not liable for an injury sustained by a spectator who has paid to view the cave, unless such injury is sustained as a result of such owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires or other modifications, and such negligence is the proximate cause of the injury.

WEST VIRGINIA ARCHAEOLOGY STATUTES

2019 West Virginia Code

Chapter 29. Miscellaneous Boards and Officers, Article 1. Division of Culture and History

<https://law.justia.com/codes/west-virginia/2019/chapter-29/article-1/section-29-1-8a/>

The universal citation: WV Code § 29-1-8a (2019)

§29-1-8a. Protection of Human Skeletal Remains, Grave Artifacts and Grave Markers; Permits for Excavation and Removal; Penalties

(a) Legislative findings and purpose. -- The Legislature finds that there is a real and growing threat to the safety and sanctity of unmarked human graves in West Virginia and the existing laws of the state do not provide equal or adequate protection for all such graves. As evident by the numerous incidents in West Virginia which have resulted in the desecration of human remains and vandalism to grave markers, there is an immediate need to protect the graves of earlier West Virginians from such desecration. Therefore, the purpose of this article is to assure that all human burials be accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations.

The Legislature also finds that those persons engaged in the scientific study or recovery of artifacts which have been acquired in accordance with the law are engaged in legitimate and worthy scientific and educational activities. Therefore, this legislation is intended to permit the appropriate pursuit of those lawful activities. Finally, this legislation is not intended to interfere with the normal activities of private property owners, farmers, or those engaged in the development, mining, or improvement of real property.

(b) Definitions. -- For the purposes of this section:

- (1) "Human skeletal remains" means the bones, teeth, hair, or tissue of a deceased human body;
- (2) "Unmarked grave" means any grave or location where a human body or bodies have been buried or deposited for at least fifty years and the grave or location is not in a publicly or privately maintained cemetery or in the care of a cemetery association, or is located within such cemetery or in such care and is not commonly marked;
- (3) "Grave artifact" means any items of human manufacture or use that are associated with the human skeletal remains in a grave;
- (4) "Grave marker" means any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with a grave;
- (5) "Person" means any individual, partnership, firm, society, association, trust, corporation, other business entity or any agency, unit, or instrumentality of federal, state, or local government;
- (6) "Disturb" means the excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way of human skeletal remains, unmarked graves, grave artifacts, or grave markers;
- (7) "Native American tribe" means any Indian tribe, band, nation, or organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;
- (8) "Cultural affiliation" means the relationship of shared group identity which can be reasonably traced historically or prehistorically between a present-day group and an identifiable earlier group;
- (9) "Lineal descendants" means any individuals tracing his or her ancestry directly or by proven kinship; and
- (10) "Proven kinship" means the relationship among people that exists because of genetic descent, which includes racial descent.

(c) Acts prohibited; penalties; exceptions. --

(1) No person may excavate, remove, destroy, or otherwise disturb any historic or prehistoric ruins, burial grounds, archaeological site, or human skeletal remains, unmarked grave, grave artifact or grave marker of historical significance unless such person has a valid permit issued to him or her by the Director of the Historic Preservation Section: Provided, That the supervising archaeologist of an archaeological investigation being undertaken in compliance with the federal Archaeological Resources Protection Act (Public Law 96-95 at 16 USC 470(aa)) and regulations promulgated thereunder is not required to obtain such permit, but shall notify the Director of the Historic Preservation Section that such investigation is being undertaken and file reports as are required of persons issued a permit under this section: Provided, however, That projects being undertaken in compliance with section 106 of the National Historic Preservation Act of 1966, as amended, or subsection (a), section five of this article is not required to obtain such permit for excavation, removal, destruction or disturbance of historic or prehistoric ruins or archaeological sites.

(2) A person who, either by himself or herself or through an agent, intentionally excavates, removes, destroys or otherwise disturbs any historic or prehistoric ruins, burial grounds or archaeological site, or unmarked grave, grave artifact or grave marker of historical significance without first having been issued a valid permit by the Director of the Historic Preservation Section, or who fails to comply with the terms and conditions of such permit, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, confined in jail for not more than six months, or both fined and confined.

(3) A person who, either by himself or herself or through an agent, intentionally excavates, removes, destroys or otherwise disturbs human skeletal remains of historical significance without first having been issued a valid permit by the Director of the Historic Preservation Section, or who fails to comply with the terms and conditions relating to disinterment or displacement of human skeletal remains of such permit, is guilty of the felony of disinterment or displacement of a dead human body or parts thereof under section fourteen, article eight, chapter sixty-one of this code and, upon conviction thereof, shall be imprisoned in a state correctional facility not more than five years.

(4) A person who intentionally withholds information about the excavation, removal, destruction, or other disturbance of any historic or prehistoric ruins, burial grounds, archaeological site, or human skeletal remains, unmarked grave, grave artifact or grave marker of historical significance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than ten days, or both fined and confined.

(5) A person who, either by himself or herself or through an agent, offers for sale or exchange any human skeletal remains, grave artifact or grave marker obtained in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in jail not more than one year, or both fined and confined.

(6) Each instance of excavation, removal, destruction, disturbance or offering for sale or exchange under subdivisions (1) through (5) of this subsection shall constitute a separate offense.

(7) It is a complete defense in a prosecution under this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported.

(8) This subsection does not apply to actions taken in the performance of official law-enforcement duties.

(d) Notification of discovery of human skeletal remains in unmarked locations. --

Upon the discovery of human skeletal remains, grave artifact or grave marker in an unmarked grave on any publicly or privately owned property, the person making such discovery shall immediately cease any activity which may cause further disturbance, make a reasonable effort to protect the area from further disturbance and notify the county sheriff within forty-eight hours of the discovery and its location. If the human remains, grave artifact or grave marker appear to be from an unmarked grave, the sheriff shall promptly, and prior to any further disturbance or removal of the remains, notify the Director of the Historic Preservation Section. The director shall cause an on-site inspection of the disturbance to be made to determine the potential for

archaeological significance of the site: Provided, That when the discovery is made by an archaeological investigation permitted under state or federal law, the supervising archaeologist shall notify the Director of the Historic Preservation Section directly.

If the Director of the Historic Preservation Section determines that the site has no archaeological significance, the removal, transfer and disposition of the remains shall be subject to the provisions of article thirteen, chapter thirty-seven of this code, and the director shall notify the circuit court of the county wherein the site is located.

If the Director of the Historic Preservation Section determines that the site has a potential for archaeological significance, the director shall take such action as is reasonable, necessary and prudent, including consultation with appropriate private or public organizations, to preserve and advance the culture of the state in accordance with the powers and duties granted to the director, including the issuance of a permit for the archaeological excavation or removal of the remains. If the director determines that the issuance of a permit for the archaeological excavation or removal of the remains is not reasonable, necessary, or prudent, the director shall provide written reasons to the applicant for not issuing the permit.

(e) Issuance of permits. --

Prior to the issuance of a permit for the disturbance of human skeletal remains, grave artifacts, or grave markers, the director of historic preservation shall convene and chair an ad hoc committee to develop permit conditions. The committee shall be comprised of the chair and six or eight members representing known or presumed lineal descendants, private and public organizations which have cultural affiliation to the presumed contents of the site, the Council for West Virginia Archaeology, and the West Virginia Archaeological Society. In the case of Native American sites, the membership of the committee shall be comprised of the chair and six or eight members representing the Council for West Virginia Archaeology, the West Virginia Archaeological Society, and known or presumed lineal descendants, preferably with cultural affiliation to tribes that existed in the geographic area that is now West Virginia.

In the case of a site of less than five acres, which is owned by an individual or partnership, the ad hoc committee must be formed within thirty days of application for same by the property owner, must meet within sixty days of such application, and must render a decision within ninety days of such application.

All such permits shall at a minimum address the following conditions: (1) The methods by which lineal descendants of the deceased are notified prior to the disturbance; (2) the respectful manner in which the remains, artifacts or markers are to be removed and handled; (3) scientific analysis of the remains, artifacts or markers and the duration of those studies; (4) the way in which the remains may be reburied in consultation with any lineal descendants, when available; (5) methods for the respectful curation of recovered items; and (6) such other conditions as the director may deem necessary. Expenses accrued in meeting the permit conditions shall be borne by the permit applicant, except in cases where the deceased descendants or sponsors are willing to share or assume the costs. A permit to disturb human skeletal remains, grave artifacts or grave markers will be issued only after alternatives to disturbance and other mitigative measures have been considered.

In addition, a person applying for a permit to excavate or remove human skeletal remains, grave artifacts, grave markers, or any historic or prehistoric features of archaeological significance may provide to the ad hoc committee information he or she deems appropriate and shall:

- (1) Provide a detailed statement to the Director of the Historic Preservation Section giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;
- (2) Provide data and results of any excavation, study, or collection in annual reports to the Director of the Historic Preservation Section and submit a final report to the director upon completion of the excavation;
- (3) Obtain the prior written permission of the owner if the site of such proposed excavation is on privately owned land; and
- (4) Provide any additional information the ad hoc committee deems necessary in developing the permit conditions.

The permits shall be issued for a period of two years and may be renewed at expiration. The permits are not transferable but other persons who have not been issued a permit may work under the direct supervision of the person holding the permit. The person or persons to whom a permit was issued must carry the permit while exercising the privileges granted and must be present at the site whenever work is being done.

Notwithstanding any other penalties to which a person may be subject under this section for failing to comply with the terms and conditions of a permit, the permit of a person who violates any of the provisions of this subsection shall be revoked.

As permits are issued, the Director of the Historic Preservation Section shall maintain a catalogue of unmarked grave locations throughout the state.

(f) Property tax exemption for unmarked grave sites. --

To serve as an incentive for the protection of unmarked graves, the owner, having evidence of the presence of unmarked graves on his or her property, may apply to the Director of the Historic Preservation Section for a determination as to whether such is the case. Upon making such a determination in the affirmative, the Director of the Historic Preservation Section shall provide written certification to the landowner that the site containing the graves is a cemetery and as such is exempt from property taxation upon presentation of the certification to the county assessor. The area of the site to receive property tax exempt status shall be determined by the Director of the Historic Preservation Section. Additionally, a property owner may establish protective easements for the location of unmarked graves.

(g) Additional provisions for enforcement; civil penalties; rewards for information. --

(1) The prosecuting attorney of the county in which a violation of any provision of this section is alleged to have occurred may be requested by the Director of the Historic Preservation Section to initiate criminal prosecutions or to seek civil damages, injunctive relief and any other appropriate relief. The Director of the Historic Preservation Section shall cooperate with the prosecuting attorney in resolving such allegations.

(2) Persons convicted of any prohibited act involving the excavation, removal, destruction, disturbance or offering for sale or exchange of historic or prehistoric ruins, burial grounds, archaeological site, human skeletal remains, unmarked grave, grave artifact or grave marker under the provisions of subdivisions (1) and (2), subsection (c) of this section shall also be liable for civil damages to be assessed by the prosecuting attorney in consultation with the Director of the Historic Preservation Section.

Civil damages may include:

- (i) Forfeiture of any and all equipment used in disturbing the protected unmarked graves or grave markers;
- (ii) Any and all costs incurred in cleaning, restoring, analyzing, accessioning, and curating the recovered material;
- (iii) Any and all costs associated with recovery of data, and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the unmarked burials or grave markers;
- (iv) Any and all costs associated with restoring the land to its original contour or the grave marker to its original condition;
- (v) Any and all costs associated with reinterment of the human skeletal remains; and
- (vi) Any and all costs associated with the determination and collection of the civil damages.

When civil damages are recovered, the proceeds, less the costs of the prosecuting attorney associated with the determination and collection of such damages, shall be deposited into the Endangered Historic Properties Fund and may be expended by the Commissioner of Culture and History for archaeological programs at the state level, including the payment of rewards for information leading to the arrest and conviction of persons violating the provisions of subdivisions (1) and (2), subsection (c) of this section.

(3) The Commissioner of Culture and History is authorized to offer and pay rewards of up to \$1,000 from funds on deposit in the Endangered Historic Properties Fund for information leading to the arrest and conviction of persons who violate the provisions of subdivisions (1) and (2), subsection (c) of this section.

(h) Disposition of remains and artifacts not subject to reburial. --

All human skeletal remains and grave artifacts found in unmarked graves on public or private land, and not subject to reburial, under the provisions of subsection (e) of this section, are held in trust for the people of West Virginia by the state and are under the jurisdiction of the Director of Historic Preservation. All materials collected and not reburied through this section shall be maintained with dignity and respect for the people of the state under the care of the West Virginia State Museum.

§29-1-8b. Protection of Historic and Prehistoric Sites; Penalties

Historic and prehistoric landmarks, sites and districts, identified by the historic preservation section, on lands owned or leased by the state, or on private lands where investigation and development rights have been acquired by the state by lease or contract, shall not be disturbed, or destroyed except as permitted under sections eight and eight-a of this article.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

2019 West Virginia Code

Chapter 29B. Freedom of Information, Article 1. Public Records

<https://law.justia.com/codes/west-virginia/2019/chapter-29b/article-1/section-29b-1-4/>

The universal citation: WV Code § 29B-1-4(6) (2019)

§29B-1-4. Exemptions

(6) Records, archives, documents, or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document, or manuscript.

WISCONSIN CAVE PROTECTION STATUTES

2019 Wisconsin Statutes & Annotations Chapter 943. Crimes against property.

<https://law.justia.com/codes/wisconsin/2019/chapter-943/section-943-01/>

The universal citation: WI Stat § 943.01 (2019)

§943.01 Damage to property.

- (1) Whoever intentionally causes damage to any physical property of another without the person's consent is guilty of a Class A misdemeanor.
- (2) Any person violating sub. (1) under any of the following circumstances is guilty of a Class I felony:
 - (f) 1. In this paragraph, "rock art site" means an archaeological site that contains paintings, carvings, or other deliberate modifications of an immobile rock surface, such as a cave, overhang, boulder, or bluff face, to produce symbols, stories, messages, designs, or pictures. "Rock art site" includes artifacts and other cultural items, modified soils, bone, and other objects of archaeological interest that are located adjacent to the paintings, carvings, or other deliberate rock surface modifications.
 - (f) 2. The property damaged is a rock art site, any portion of a rock art site or any object that is part of a rock art site, if the rock art site is listed on the national register of historic places in Wisconsin, as defined in §44.31(5), or the state register of historic places under §44.36.
- (2m) Whoever causes damage to any physical property of another under all of the following circumstances is subject to a Class B forfeiture:
 - (a) The person does not consent to the damage of his or her property.
 - (b) The property damaged is on state-owned land and is listed on the registry under sub. (5).
- (3) If more than one item of property is damaged under a single intent and design, the damage to all the property may be prosecuted as a single forfeiture offense or crime.
- (4) In any case of unlawful damage involving more than one act of unlawful damage but prosecuted as a single forfeiture offense or crime, it is sufficient to allege generally that unlawful damage to property was committed between certain dates. At the trial, evidence may be given of any such unlawful damage that was committed on or between the dates alleged.
- (5) The department of natural resources shall maintain a registry of prominent features in the landscape of state-owned land. To be included on the registry, a feature must have significant value to the people of this state.

History: 1977 Chapter 173; 1981 Chapter 118 §9; 1987 article 399; 1993 articles 262, 486; 1995 articles 133, 208; 1997 article 143; 2001 articles 16, 109; 2015 article 158; 2019 article 33.

2019 Wisconsin Statutes & Annotations
Chapter 939. Crimes — general provisions.

<https://law.justia.com/codes/wisconsin/2019/chapter-939/section-939-50/>

The universal citation: WI Stat § 939.50 (2019)

§939.50 Classification of felonies.

(1) Felonies in the statutes are classified as follows:

- (I) Class I felony.
- (2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.
- (3) Penalties for felonies are as follows:
 - (I) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

History: 1977 Chapter 173; 1981 Chapter. 280; 1987 article 332 §64; 1993 article 194; 1995 article 69; 1997 article 283; 1999 article 188; 2001 article 109.

<https://law.justia.com/codes/wisconsin/2019/chapter-939/section-939-51/>

§939.51 Classification of misdemeanors.

(1) Misdemeanors in Chapters 939 to 951 are classified as follows:

- (a) Class A misdemeanor.
- (2) A misdemeanor is a Class A, B or C misdemeanor when it is so specified in Chapters 939 to 951.
- (3) Penalties for misdemeanors are as follows:
 - (a) For a Class A misdemeanor, a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

History: 1977 Chapter 173; 1987 article 332 §64; 1997 article 35.

<https://law.justia.com/codes/wisconsin/2019/chapter-939/section-939-52/>

§939.52 Classification of forfeitures.

(1) Except as provided in §§946.86 and 946.87, forfeitures in Chapters 939 to 951 are classified as follows:

- (b) Class B forfeiture.
- (2) A forfeiture is a Class A, B, C, D or E forfeiture when it is so specified in Chapters 939 to 951.
- (3) Penalties for forfeitures are as follows:
 - (b) For a Class B forfeiture, a forfeiture not to exceed \$1,000.

History: 1977 Chapter 173; 1981 Chapter 280; 1987 article 171; 1987 article 332 §64; 1989 article 121.

WISCONSIN ARCHAEOLOGY STATUTES

2019 Wisconsin Statutes & Annotations

Chapter 44. Historical societies and historical preservation.

<https://law.justia.com/codes/wisconsin/2019/chapter-44/section-44-47/>

The universal citation: WI Stat § 44.47 (2019)

§44.47 Field archaeology.

This state reserves to itself the exclusive right and privilege of field archaeology on state sites and establishes regulations for field archaeology on sites owned by political subdivisions, in order to protect and preserve archaeological and scientific information, matter and objects. It is a declaration of legislative intent that persons practicing field archaeology on privately owned land are encouraged to pursue their field archaeology in accordance with this section, and that the looting of all archaeological remains be strongly discouraged. Persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the state archaeologist. This section is not intended to burden persons who wish to use state public property for recreational and other lawful purposes or to unnecessarily restrict the use of state public property.

(1) Definitions. As used in this section:

- (a) "Archaeological methods" means scientific procedures used in field archaeology by recognized professional authorities on archaeology.
- (b) "Archaeological site" means any land or the bed of any stream or lake where there are objects or other evidence of archaeological interest, aboriginal mounds and earthworks, ancient burial grounds, prehistoric and historical ruins, Indian mounds, historic and prehistoric watercraft and associated objects, aircraft and other archaeological and historical features.
- (c) "Data" means field notes, photographs, maps, and other records relating to field archaeology.
- (d) "Field archaeology" means the study of the traces of human culture by means of surveying, digging, sampling, excavating, or removing objects.
- (e) "Local site" or "local archaeological site" means an archaeological site owned by a political subdivision.
- (f) "Object" means an article, implement or other item of archaeological interest. "Object" does not include human remains, as defined in §157.70 (1) (f), or a sunken log, as defined in §170.12 (1) (b).
- (g) "Scientific institutions" means museums, historical societies, foundations for archaeological study, state agencies and scholarly groups with professional standing and physical facilities for the display, study, and preservation of objects of archaeological interest.
- (h) "State site" or "state archaeological site" means an archaeological site owned by this state.
- (i) "Submerged cultural resource" means an archaeological site or historic property that is located beneath the surface of a lake or stream.

(2) Unlicensed field archaeology prohibited. No person other than the state archaeologist and individuals licensed by the director may engage in any field archaeology on any state site or site owned by a political subdivision.

(3) State archaeologist.

- (a) Appointment. The state archaeologist shall be a qualified archaeologist residing in this state and shall be appointed by the director.
- (b) Duties and powers of state archaeologist. The state archaeologist shall:
 - 1. Sponsor, engage in and direct fundamental research into the archaeology of this state and encourage and coordinate archaeological research and investigation undertaken within the state.

2. Cooperate with other state agencies and political subdivisions which have authority in areas where archaeological sites are located, or which have the responsibility for marking sites or arranging for their being viewed by the public.
3. Encourage the preservation of archaeological sites located on privately owned property.
4. Protect objects of archaeological significance discovered by field archaeology at state sites or discovered during the course of any public construction or demolition work on state sites and encourage the protection of such objects discovered during the course of any other construction or demolition work.
5. Cooperate with the historical society, public and private institutions of higher education in this state, and other custodians to preserve objects of archaeological significance, together with the data relating thereto.
6. Encourage the dissemination of archaeological facts through the publication of reports of archaeological research conducted within the state.
7. Approve permits for qualified persons to engage in field archaeology as provided in sub. (4) and to otherwise carry out and enforce this section.
8. Administer the state archaeology program under §44.48 (2).

(4) Permits:

- (a) The director, acting as an agent of this state, may issue upon such terms and conditions, including restriction to a specific state site on land, as he or she designates, to a qualified natural person approved by the state archaeologist, a permit to engage in field archaeology on state sites and sites owned by political subdivisions. If a state site or the area described in an application is under the jurisdiction of any other state agency or if the field archaeology to be licensed interferes with a project of any other state agency, the director shall first obtain the approval of that state agency. The director may not issue a permit for field archaeology on a site owned by a political subdivision without the written approval of the political subdivision which owns the site. No state agency or political subdivision may withhold that approval without good cause. The director by rule may establish fees for processing applications, for permits or for renewal of permits.
- (b) If a site is located on privately owned land, any person wishing to dig or excavate at such a site is strongly encouraged to secure a permit under this section. The applicant for a permit must submit the written consent of the owner.
- (c) The director may waive sub. (3) (b) 7. in an emergency in which objects of archaeological interest are found in the course of construction or demolition work, or in other situations in which time is of the essence to save objects or gather data.
- (d) The director, upon the recommendation of the state archaeologist, the state agency administering the state site or the political subdivision which owns the site, may revoke or suspend a permit because of the improper conduct of the permittee, the use of improper or substandard archaeological methods or for other good cause.

(5) Ownership, custody and use of objects and data. Except as provided in sub. (5r) and s. 170.12, the state reserves to itself the title to all objects found and data gathered in field archaeology on state sites. Although a permit may name a custodian other than the historical society, title to the objects and data discovered at state sites is reserved to the historical society as trustee for the state. Physical possession of such objects shall revert to the state if such custodian ceases to exist, or if the director, on the recommendation of the state archaeologist, finds that the custodian is not properly caring for them or keeping them conveniently available for study by students of archaeology.

(6) Cooperation of state agencies and political subdivisions. All state agencies and political subdivisions whose activities may be affected under this section shall cooperate with the historical society and the state archaeologist to carry out this section.

(7) Penalties.

(a) 1. Whoever violates sub. (2) or any rules promulgated under sub. (5m) (e) shall forfeit not less than \$100 nor more than \$500.

(a) 2. Whoever intentionally defaces, injures, destroys, displaces or removes any archaeological object or data belonging to the state, or intentionally interferes with evidence or work on any state site or site owned by a political subdivision for which a permit has been issued under this section or intentionally violates any other provision of this section or any rules promulgated under sub. (5m) (e) shall be fined not less than \$1,000 nor more than \$5,000.

(a) 3. Whoever removes any archaeological object from a state site or site owned by a political subdivision for commercial gain in violation of this section or any rules promulgated under sub. (5m) (e) shall forfeit an amount not to exceed 2 times the gross value gained or the gross loss caused by the disturbance, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(b) The director may refuse to issue or renew or may suspend or revoke the permit of any person who has violated this section, or any rules promulgated under sub. (5m) (e). The director may refuse to name a school or scientific institution as the custodian of objects or data under any permit or agreement, if that school or scientific institution has failed in its duty to care for and preserve objects or data belonging to the state or has failed to make such objects or data conveniently available to the public.

(8) Review board. Appeals from decisions of the director shall be made to a review board composed of 3 persons: a member of the Wisconsin archaeological society, a member of the Wisconsin archaeological survey, and a member of the board of curators of the historical society. Each board member shall be chosen by the organization which the board member represents and shall serve without compensation. The review board shall submit its recommendations on all appeals to the board of curators of the historical society for final decision.

(9) Human burial sites. If a permit is required for field archaeology activities at a human burial site under §157.70, this section applies to any objects not related to the burial except that a permit is not required under this section.

§44.48 Archaeological resources.

(1) Mapping.

(a) The state historical society shall prepare maps of the archaeological resources of this state.

(b) Using the best methods practicable with the funds available for that purpose, the state historical society shall prepare:

1. Initial archaeological resources maps based on currently available information.

2. Updated archaeological resources maps based on any additional information that is available, including onsite surveys.

(c) The director may keep any specific information regarding archaeological resources closed to the public if the director determines that disclosure of the information would be likely to result in disturbance of the archaeological resources.

(2) State archaeology program. The state historical society shall establish and administer a state archaeology program. The state historical society may designate qualified archaeologists or institutions to undertake on behalf of the historical society specified archaeological surveys, studies, excavations, or other activities. The state historical society may designate regions of the state within which the designated archaeologists or institutions may work.

WYOMING DOES NOT HAVE ANY CAVE PROTECTION STATUTES

WYOMING ARCHAEOLOGY STATUTES

2019 Wyoming Statutes

Title 36 - State Lands, Chapter 1 - General Provisions, Article 1 - In General

Section 36-1-114 - Protection of Prehistoric Ruins; Permits to Excavate, Regulations and Violations.

<https://law.justia.com/codes/wyoming/2019/title-36/chapter-1/article-1/section-36-1-114/>

The universal citation: WY Stat § 36-1-114 (2019)

§36-1-114. Protection of prehistoric ruins; permits to excavate, regulations and violations.

Before any excavation on any prehistoric ruins, pictographs, hieroglyphics, or any other ancient markings, or writing or archaeological and paleontological deposits in the state of Wyoming on any state or federal lands, shall be undertaken, a permit shall first be obtained from the state board of land commissioners. The state board of land commissioners is hereby authorized to promulgate and enforce such regulations as it may deem needful to protect from vandalism or injury the prehistoric ruins, relics, archaeological and paleontological deposits of the state, as well as all natural bridges and natural scenic features and formations. Any violation of such regulations shall be a misdemeanor.

§36-1-115. Protection of prehistoric ruins; consent to removal from state.

No person shall remove from the state of Wyoming any part of any such ruins or deposit except with the consent of the state board of land commissioners. Said board may require, as a condition to such consent, that such portion of such relics, materials, or deposit as said board shall require, shall forever remain the property of the state of Wyoming.

§36-1-116. Protection of prehistoric ruins; penalty.

(a) Except as provided by subsection (d) of this section, any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00), or imprisoned in the county jail not more than six (6) months, or by both fine and imprisonment, and shall forfeit to the state all articles and materials discovered by or through his efforts.

(b) Persons holding permits or leases on state lands may not sublease or subcontract archeological or paleontological removal without prior written approval of the board.

(c) All state leases are subject to inspection by state or county law enforcement agencies or their designees for violation of W.S. §36-1-114 and §36-1-115.

(d) Any person who, for monetary gain or for commercial or any other purpose, removes any archeological or paleontological artifacts in violation of W.S. §36-1-114 or §36-1-115 with a cumulative value in excess of five hundred (\$500.00), shall be guilty of a felony and upon conviction shall be fined up to ten thousand dollars (\$10,000.00), imprisoned for up to ten (10) years, or both.

2019 Wyoming Statutes

Title 16 - City, County, State and Local Powers, Chapter 4 - Uniform Municipal Fiscal Procedures; Public Records, Documents and Meetings, Article 2 - Public Records

The universal citation: WY Stat § 16-4-203 (2019)

§16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

- (i) The inspection would be contrary to any state statute;
- (ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.

ADDITIONAL REFERENCES

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Zellmer, Linda R., 2017, Protected Places: A Survey of Laws on Archaeological Site and Cave Location Confidentiality and Their Potential Impact on Library Reference Policies and Services, *Journal of Map & Geography Libraries*, 13:2, 148-174.

Lera, Thomas "The Virginia Cave Protection Act: A Review (1966 – 2009)," *Journal of Cave and Karst Studies*, 2009, Vol. 71, No.3: 204 – 209. This paper focuses on the history of the Virginia Cave Protection Act, the Virginia Cave Board, and the activities taken to protect caves and karst resources in Virginia. It can be found on the Virginia Cave Board Web Page. <https://www.dcr.virginia.gov/natural-heritage/document/the-virginia-cave-protection-act.pdf>

Proceedings of the National Cave and Karst Management Symposia also discuss state laws and regulations. Some recent NCKMS Proceedings are also available <http://nckms.org/proceedings> :

- [2017 Proceedings](#) (12.2 Mb pdf)
- [2015 Proceedings](#) (10 mb pdf)
- [2013 Proceedings](#) (39.1 mb pdf)
- [2011 Proceedings](#) (7.9 mb pdf file)
- 2009 Proceedings (part of the 15th International Congress of Speleology, Kerrville, TX) [vol. 1](#), [vol. 2](#), [vol. 3](#)
- 2007 Proceedings (available from the [NSS Bookstore](#))
- [2005 Proceedings](#)
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- [2001 Proceedings](#)
- [1999 Proceedings](#)
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