

FINAL BILL REPORT

SHB 1189

C 211 L 02

Synopsis as Enacted

Brief Description: Enforcing protection of archaeological sites.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Lantz (co-prime sponsor), Dunn (co-prime sponsor), Edmonds, Hunt, Dunshee, Ogden, Kenney and Wood; by request of Department of Community, Trade, and Economic Development).

House Committee on Judiciary
Senate Committee on State & Local Government

Background:

The state's archaeological sites and resources law contains provisions for the identification, protection, inventory, excavation, and study of the state's archaeological resources. The Office of Archaeology and Historic Preservation, located within the Office of Community Development (OCD), is the agency that carries out these responsibilities.

A person or entity must obtain a permit from the director of the OCD before removing, altering, digging, or excavating archaeological objects or sites, glyptics or painted records of tribes or people, or native Indian cairns or graves. The director must obtain the consent of the private or public property owner or agency responsible for management of the land before issuing the permit. Guidelines for the issuance and processing of permits are contained in rules adopted by the OCD.

A person or entity that knowingly removes, alters, digs, excavates, damages, defaces, or destroys any historic or prehistoric archaeological resource or site, or removes any archaeological object from a site, without a written permit from the director, is guilty of a misdemeanor. If the violation occurs with respect to Indian graves or cairns, glyptic or painted records of tribes or peoples, or historic graves, the violation is a class C felony. This provision does not apply to the removal of artifacts from the surface of the ground which are not historic archaeological resources or sites.

Qualified and professional archaeologists may enter on public lands for the purpose of doing archaeological resource location and evaluation studies. Scientific excavations may be carried out only upon agreement between the archaeologist or a higher education institution and the agency or political subdivision that is responsible for the public lands.

Summary:

The director of the OCD may impose a civil penalty of up to \$5,000 for a violation of the provisions on archaeological sites and resources. A person who violates these provisions is subject also to reasonable investigative and site restoration costs.

A person who incurs a penalty may request an adjudicative proceeding and subsequent review under the Administrative Procedure Act. A penalty imposed by final order is due upon service of the final order. The Attorney General may bring an action to recover the penalty imposed and to enforce a requirement that all artifacts in the possession of the violator become the property of the state until proper ownership can be determined. A penalty overturned on appeal entitles the appealing party to fees and other expenses, including reasonable attorneys' fees.

When a person or entity applies for a permit, the director must give great weight to the applicant's record of previous civil or criminal violations under state or federal archaeological resources laws in determining whether to grant or condition the permit. A denial of a permit may be appealed under the provisions of the Administrative Procedure Act.

An archaeologist conducting archaeological resource location and evaluation studies on public lands must first notify the entity that is responsible for managing those lands. In addition, the results of these studies must be made known to the Office of Archaeology and Historic Preservation and are confidential unless the director of the OCD declares in writing otherwise.

Amateur societies that engage in archaeological studies on public lands are subject to conditions designed to protect the archaeological resource and ensure compliance with the law. The results of these studies must be made known to the agency and the Office of Archaeology and Historic Preservation.

References to "Washington Archaeological Research Center" are replaced with "Office of Archaeology and Historic Preservation."

Votes on Final Passage:

House 87 9

Senate 40 8

Effective: June 13, 2002