

NATIVE AMERICAN REMAINS AND HISTORIC ARTIFACTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Eli H. Anderson

Perry L. Buckner

AN ACT RELATING TO THE CRIMINAL CODE; MODIFYING PROHIBITIONS GOVERNING ANTIQUITIES; AMENDING THE CRIME OF ABUSE OR DESECRATION OF A DEAD HUMAN BODY INCLUDING CLARIFYING ITS APPLICATION TO ANCIENT HUMAN REMAINS; INCREASING PENALTIES FOR ANTIQUITIES CRIME; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-6-902, as enacted by Chapter 277, Laws of Utah 1990

76-6-903, as last amended by Chapter 241, Laws of Utah 1991

76-9-704, as last amended by Chapter 241, Laws of Utah 1992

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-902** is amended to read:

76-6-902. Prohibitions.

(1) It is unlawful for any person to intentionally alter, remove, injure, or destroy antiquities without the landowner's consent.

(2) It is unlawful to intentionally reproduce, rework, or forge any antiquities or make any object, whether copies or not, or falsely label, describe, identify, or offer for sale or exchange any object with the intent to represent the object as original and genuine, nor may any person offer any object for sale or exchange that was collected or excavated in violation of this chapter.

Section 2. Section **76-6-903** is amended to read:

76-6-903. Penalties.

(1) [~~(a) Any~~] A person [who] is guilty of a class B misdemeanor if that person:

(a) violates this part; or [who]

(b) counsels, procures, solicits, or employs any other person to violate this part.

~~(2) A person is guilty of a [class B misdemeanor. (b) In the case of]~~ third degree felony if:

~~(a) that person commits a second or subsequent violation[, the person is guilty of a third degree felony.]~~ described in Subsection (1); or

~~(b) the amount calculated under Subsection (3) for a violation described in Subsection (1) exceeds \$500.~~

~~(3) The amount described in Subsection (2)(b) is calculated by adding the:~~

~~(a) commercial or archaeological value of the antiquities involved in the violation; and~~

~~(b) cost of the restoration and repair of the antiquities involved in the violation.~~

~~[(2)] (4) (a) All property used in conjunction with the criminal activity, together with all photographs and records, shall be forfeited to the state[, and all].~~

~~(b) All~~ All articles and material discovered, collected, excavated, or offered for sale or exchange shall be surrendered to the landowner.

Section 3. Section **76-9-704** is amended to read:

76-9-704. Abuse or desecration of a dead human body -- Penalties.

(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains.

(2) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully:

(a) ~~[removes, conceals,]~~ fails to report the finding of a dead human body to a local law enforcement agency;

~~(b) disturbs, moves, removes, conceals,~~ or destroys a dead human body or any part of it;

~~[(b)] (c) disinters a buried or otherwise interred dead human body, without authority of a court order;~~

~~[(c)] (d) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or~~

~~[(d)] (e) commits, or attempts to commit upon any dead human body sexual penetration or intercourse, object rape, sodomy, or object sodomy, as these acts are described in Title 76, Chapter 5, Offenses Against the Person.~~

~~[(2)]~~ (3) A person does not ~~[commit an offense under]~~ violate this section if when ~~[he]~~ that person directs or carries out procedures regarding a dead human body, ~~[he is acting lawfully under any of the following provisions:]~~ that person complies with:

(a) Title 58, Chapter 9, Funeral ~~[Service License]~~ Services Licensing Act;

(b) Title 26, Chapter 28, Uniform Anatomical Gift Act;

(c) Title 26, Chapter 4, Utah Medical Examiner Act;

(d) Title 58, ~~[Chapter 12, Part 5]~~ Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine;

(e) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes; or

(f) Title 9, Chapter 8, Part 3, Antiquities.

~~[(3) Abuse or desecration]~~

(4) (a) Failure to report the finding of a dead human body [is a third degree felony except failing to report a finding of a human body] as required under Subsection (2)(a) is a class B misdemeanor.

(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.