

1 **NATIVE AMERICAN REMAINS AND**
2 **HISTORIC ARTIFACTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Eli H. Anderson**

6 AN ACT RELATING TO THE CRIMINAL CODE; AMENDING THE CRIME OF ABUSE OR
7 DESECRATION OF A DEAD HUMAN BODY INCLUDING CLARIFYING ITS
8 APPLICATION TO ANCIENT HUMAN REMAINS; INCREASING PENALTIES FOR
9 ANTIQUITIES CRIME; AND MAKING TECHNICAL CORRECTIONS.

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

11 AMENDS:

12 **76-6-903**, as last amended by Chapter 241, Laws of Utah 1991

13 **76-9-704**, as last amended by Chapter 241, Laws of Utah 1992

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

15 Section 1. Section **76-6-903** is amended to read:

16 **76-6-903. Penalties.**

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

18 (a) violates this part; or [who]

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

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

21 if:

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

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

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

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

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

29 [~~(2)~~] (4) (a) All property used in conjunction with the criminal activity, together with all
30 photographs and records, shall be forfeited to the state~~[, and all]~~.

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

33 Section 2. Section **76-9-704** is amended to read:

34 **76-9-704. Abuse or desecration of a dead human body -- Penalties.**

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

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

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

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

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

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

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

49 [~~(2)~~] (3) A person does not [~~commit an offense under~~] violate this section if when [~~he~~] that
50 person directs or carries out procedures regarding a dead human body, [~~he is acting lawfully under~~
51 any of the following provisions:] that person complies with:

52 (a) Title 58, Chapter 9, Funeral Service License Act;

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

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

55 (d) Title 58, Chapter 12, Part 5, Utah Medical Practice Act, which concerns licensing to
56 practice medicine;

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

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

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

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

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

Legislative Review Note
as of 11-19-98 12:52 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel