

Senator Pete Suazo proposes to substitute the following bill:

1                   **NATIVE AMERICAN REMAINS AND HISTORIC ARTIFACTS**

2                                   1999 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Sponsor: Eli H. Anderson**

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

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

11 AMENDS:

12           **76-6-902**, as enacted by Chapter 277, Laws of Utah 1990

13           **76-6-903**, as last amended by Chapter 241, Laws of Utah 1991

14           **76-9-704**, as last amended by Chapter 241, Laws of Utah 1992

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

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

17           **76-6-902. Prohibitions.**

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

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

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

25           **76-6-903. Penalties.**

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

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

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

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

30 if:

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

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

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

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

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

38 ~~[(2)]~~ (4) (a) All property used in conjunction with the criminal activity, together with all  
39 photographs and records, shall be forfeited to the state[; and all].

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

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

43 **76-9-704. Abuse or desecration of a dead human body -- Penalties.**

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

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

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

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

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

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

55 ~~[(d)]~~ (e) commits, or attempts to commit upon any dead human body sexual penetration  
56 or intercourse, object rape, sodomy, or object sodomy, as these acts are described in Title 76,

57 Chapter 5, Offenses Against the Person.

58 ~~[(2)]~~ (3) A person does not ~~[commit an offense under]~~ violate this section if when ~~[he]~~ that  
59 person directs or carries out procedures regarding a dead human body, ~~[he is acting lawfully under~~  
60 ~~any of the following provisions:]~~ that person complies with:

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

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

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

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

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

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

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

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

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