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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

Committee Substitute for

SENATE BILL NO. 238

(By Mr. *Innovich*)

PASSED March 11 1983

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 738
(MR. TONKOVICH, original sponsor)

[Passed March 11, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, requiring that artifacts found on property owned by the state would come under the charge of the commissioner of culture and history; providing for permits to conduct archaeological excavations; fee; providing for criminal penalties and the revocation of permits.

W. J. J.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. DEPARTMENT OF CULTURE AND HISTORY.

§29-1-7. Protection of archaeological sites; penalties.

1 (a) Archaeological sites and districts, identified as such
2 by the archives and history division, on lands owned or
3 leased by the state, or on private lands where investiga-
4 tion and development rights have been acquired by the
5 state by lease or contract, shall not be disturbed, devel-
6 oped or destroyed except with permission of the commis-
7 sioner.

8 (b) Any object or material of historical or archaeolog-
9 ical value or interest found on an archaeological site or

10 land owned or controlled by the state is the property of
11 the state and shall be placed under the charge of the
12 commissioner. The commissioner shall have the authority
13 to enter into agreements with private persons, and accept
14 gifts and donations, for the purpose of establishing state
15 ownership and custody of any object or material of his-
16 torical or archaeological value or interest. The commis-
17 sioner shall have authority to enter into agreements with
18 the federal government to ensure in-state curation of arti-
19 facts found on federal lands in this state.

20 (c) The director of the archives and history division,
21 under the direction of the commissioner, shall have re-
22 sponsibility to assure that any such object or material of
23 historical or archaeological value or interest is properly
24 and adequately safeguarded. The director of the archives
25 and history division may, whenever it is in furtherance of
26 of the purposes of the division, approve and permit the
27 loan of such objects and materials to nonprofit scientific
28 organizations, public agencies, museums, and institutions
29 of higher learning both within and without the state for
30 purposes of research or public education.

31 (d) No person may excavate, remove, destroy, injure
32 or deface any historical or prehistoric ruins, burial
33 grounds, archaeological site, relics or inscriptions, bones,
34 petroglyphs or pictographs or any other such features
35 which may be found at any location in this state, except
36 a cave as defined in section one, article seven-a, chapter
37 twenty of this code, without obtaining the prior written
38 permission of the commissioner. The commissioner is
39 authorized and required to enter into an agreement with
40 the director of the department of natural resources for
41 the purpose of advising said department on the protec-
42 tion of such features found in caves within this state.
43 Blennerhassett Historical Park Commission, West Vir-
44 ginia Geological Survey, and entities controlled by the
45 West Virginia Board of Regents shall be exempt from this
46 section. Any persons undertaking an archeological pro-
47 ject prior to the effective date of this section shall be
48 exempt from the requirements of this section for the
49 duration of such project.

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50 (e) A permit to excavate or remove archaeological,
51 palentological, prehistoric and historic features may be
52 obtained from the commissioner upon payment of twenty-
53 five dollars. Such permit shall be issued for a period of
54 two years and may be renewed at expiration. Such permit
55 shall not be transferable: *Provided*, That no permit shall
56 be required of persons working under the direct super-
57 vision of the permit holder. A person applying for such
58 a permit shall:

59 (1) Provide a detailed statement to the commissioner
60 giving the reasons and objectives for excavation or
61 removal, the benefits expected to be obtained from the
62 contemplated work and the qualifications of the in-
63 dividuals conducting the work.

64 (2) Provide data and results of any completed excava-
65 tion, study or collection at the first of each calendar year.


66 (3) Obtain the prior written permission of the com-
67 missioner if the site of the proposed excavation is on
68 state-owned lands and prior written permission of the
69 owner if the site of such proposed excavation is on pri-
70 vately owned lands.

71 (4) Carry the permit while exercising the privileges
72 granted.

73 (f) Any person violating the provisions of this section
74 shall be guilty of a misdemeanor, and, upon conviction
75 thereof, shall be fined not more than five hundred
76 dollars, or imprisoned in the county jail not more than
77 six months, or both fined and imprisoned. Upon convic-
78 tion, any permit issued to such person may be revoked.


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

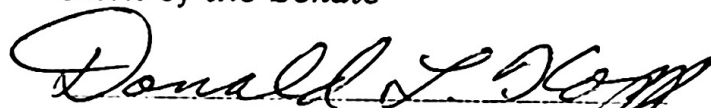

Chairman Senate Committee

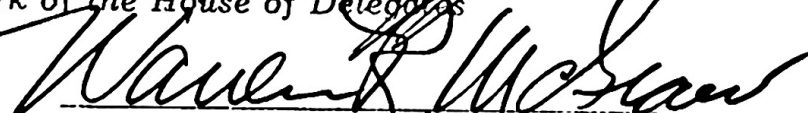

Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 26
day of March, 1983.


Governor

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