WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

Committee Substitute for
SENATE BILL NO. 238

(By Mr. )

PASSED March 11, 1983
In Effect...
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.

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 by the archives and history division, on lands owned or leased by the state, or on private lands where investigation and development rights have been acquired by the state by lease or contract, shall not be disturbed, developed or destroyed except with permission of the commissioner.

(b) Any object or material of historical or archaeological value or interest found on an archaeological site or
land owned or controlled by the state is the property of the state and shall be placed under the charge of the commissioner. The commissioner shall have the authority to enter into agreements with private persons, and accept gifts and donations, for the purpose of establishing state ownership and custody of any object or material of historical or archaeological value or interest. The commissioner shall have authority to enter into agreements with the federal government to ensure in-state curation of artifacts found on federal lands in this state.

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

(d) No person may excavate, remove, destroy, injure or deface any historical or prehistoric ruins, burial grounds, archaeological site, relics or inscriptions, bones, petroglyphs or pictographs or any other such features which may be found at any location in this state, except a cave as defined in section one, article seven-a, chapter twenty of this code, without obtaining the prior written permission of the commissioner. The commissioner is authorized and required to enter into an agreement with the director of the department of natural resources for the purpose of advising said department on the protection of such features found in caves within this state. Blennerhassett Historical Park Commission, West Virginia Geological Survey, and entities controlled by the West Virginia Board of Regents shall be exempt from this section. Any persons undertaking an archaeological project prior to the effective date of this section shall be exempt from the requirements of this section for the duration of such project.
(e) A permit to excavate or remove archaeological, paleontological, prehistoric and historic features may be obtained from the commissioner upon payment of twenty-five dollars. Such permit shall be issued for a period of two years and may be renewed at expiration. Such permit shall not be transferable: Provided, That no permit shall be required of persons working under the direct supervision of the permit holder. A person applying for such a permit shall:

1. Provide a detailed statement to the commissioner giving the reasons and objectives for excavation or removal, the benefits expected to be obtained from the contemplated work and the qualifications of the individuals conducting the work.

2. Provide data and results of any completed excavation, study or collection at the first of each calendar year.

3. Obtain the prior written permission of the commissioner if the site of the proposed excavation is on state-owned lands and prior written permission of the owner if the site of such proposed excavation is on privately owned lands.

4. Carry the permit while exercising the privileges granted.

(f) Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned. Upon conviction, any permit issued to such person may be revoked.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

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

[Signature]
Governor