

Amendment No. 519

Assembly Amendment to Assembly Bill No. 152	(BDR 33-868)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amendment Box:</b> Replaces Amendment No. 193.	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





ASSEMBLY BILL NO. 152—ASSEMBLYMEN MONROE-MORENO; COHEN, FUMO,  
PETERS, SPRINKLE AND SWANK

FEBRUARY 15, 2019

JOINT SPONSORS: SENATORS CANCELA AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to cultural resources ~~and~~ and certain grave sites. (BDR 33-868)FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to historic preservation; revising and increasing the penalties for crimes related to certain actions which ~~tend to~~ injure or destroy the cairn or grave of a native Indian or an historic or prehistoric ~~sites or~~ site and crimes related to the trafficking of cultural property obtained from state land without a permit; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law makes it a gross misdemeanor for a person to willfully remove without obtaining any required permit, mutilate, deface, injure or destroy the cairn or grave of a native Indian. Under existing law, a first such offense is punishable by a fine of \$2,000 and a second or subsequent such offense is punishable by a fine of not more than \$4,500, and may be further punished by imprisonment in a county jail for not more than 364 days. Section 1 of this bill increases the penalties for these offenses by providing that a first such offense is a gross misdemeanor, a second such offense is a category E felony and a third or subsequent such offense is a category C felony. Section 1 also requires a court, in addition to any other penalty, to order a person who committed such an offense to pay restitution for the cost to reinter with appropriate dignity all artifacts and human remains associated with the cairn or grave.

Existing law makes it a crime for a person to knowingly and willfully remove, mutilate, deface, excavate, injure or destroy a historic or prehistoric site or resource on state land or to receive, traffic in or sell cultural property appropriated from state land without a valid permit. Under existing law, a first such offense is a misdemeanor punishable by a fine of \$1,000 and a second or subsequent such offense is a gross misdemeanor punishable by imprisonment in the county jail for not more than 364 days or by a fine of not more than \$3,500, or by both fine and imprisonment. (NRS 383.435)

**Section ~~1.5~~ 1.5** of this bill increases the penalties for these offenses by providing that ~~for the first offense: (1) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property is \$500 or less, the first offense is a category E felony, punishable by~~

imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 2 years, or by a fine of not more than \$5,000, or by both fine and imprisonment; or (2) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property is more than \$500, the first offense is a category C felony, punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years, or by a fine of not more than \$10,000, or by both fine and imprisonment. Section 1 further provides that if for any second or subsequent offense: (1) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property is \$500 or less, the offense is a category C felony, punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years, or by a fine of not more than \$5,000, or by both fine and imprisonment; or (2) the sum of the commercial and paleontological value of the site or cultural property and the cost of the restoration, stabilization and interpretation of the site or cultural property more than \$500, the offense is a category B felony, punishable by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

~~Section 2 of this bill makes a conforming change.~~ a first such offense is a gross misdemeanor, a second such offense is a category E felony and a third or subsequent such offense is a category C felony. Section 1.5 also requires a court, in addition to any other penalty, to order a person who committed such an offense to pay restitution for the cost of restoration, stabilization and interpretation of the site or cultural property.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 383.180 is hereby amended to read as follows:

383.180 1. Except as otherwise provided in NRS 383.170, a person who willfully removes without obtaining any required permit, mutilates, defaces, injures or destroys the cairn or grave of a native Indian ~~is guilty of a gross misdemeanor and shall be~~;

(a) ~~[Punished by a fine of \$2,000 for the]~~ For a first offense, ~~for by a fine of not more than \$4,500 for]~~ is guilty of a gross misdemeanor.

(b) For a second [or subsequent] offense, [and may be further punished by imprisonment in the county jail for not more than 364 days; and

~~— (b) Ordered to pay for the costs]~~ is guilty of a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

↪ In addition to any other penalty, the court shall order a person found guilty of any violation of this subsection to pay restitution for the cost to reinter with appropriate dignity all artifacts and human remains associated with the cairn or grave.

2. A person who fails to notify the Office of the discovery and location of an Indian burial site in violation of NRS 383.170 is guilty of a gross misdemeanor and shall be punished by a fine of \$500 for the first offense, or by a fine of not more than \$1,500 for a second or subsequent offense, and may be further punished by imprisonment in the county jail for not more than 364 days.

3. A person who:

(a) Possesses any artifact or human remains taken from the cairn or grave of a native Indian on or after October 1, 1989, in a manner other than that authorized by NRS 383.170;

(b) Publicly displays or exhibits any of the human remains of a native Indian, except during a funeral ceremony; or

(c) Sells any artifact or human remains taken from the cairn or grave of a native Indian,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. This section does not apply to:

(a) The possession or sale of an artifact:

(1) Discovered in or taken from a location other than the cairn or grave of a native Indian; or

(2) Removed from the cairn or grave of a native Indian by other than human action; or

(b) Action taken by a peace officer in the performance of his or her duties.

~~[Section 1.]~~ **Sec. 1.5.** NRS 383.435 is hereby amended to read as follows:

383.435 1. Except as otherwise provided in this section, a person who knowingly and willfully removes, mutilates, defaces, excavates, injures or destroys a historic or prehistoric site or resource on state land or who receives, traffics in or sells cultural property appropriated from state land without a valid permit, unless a greater penalty is provided by a specific statute:

(a) For a first offense , is guilty of a gross misdemeanor . ~~and shall be punished by a fine of \$1,000. \*~~

~~(1) If the sum of the commercial and paleontological value of the site or cultural property, as applicable, and the cost of the restoration, stabilization and interpretation of the site or cultural property, as applicable, is not more than \$500, is guilty of a category E felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 2 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.~~

~~(2) If the sum of the commercial and paleontological value of the site or cultural property, as applicable, and the cost of the restoration, stabilization and interpretation of the site or cultural property, as applicable, is more than \$500, is guilty of a category C felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.]~~

(b) For a second ~~[or subsequent]~~ offense , is guilty of a [gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days or by a fine of not more than \$3,500, or by both fine and imprisonment. \*

~~(1) If the sum of the commercial and paleontological value of the site or cultural property, as applicable, and the cost of the restoration, stabilization and interpretation of the site or cultural property, as applicable, is not more than \$500, is guilty of a category C felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.~~

~~(2) If the sum of the commercial and paleontological value of the site or cultural property, as applicable, and the cost of the restoration, stabilization and interpretation of the site or cultural property, as applicable, is more than \$500, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$20,000, or by both fine and imprisonment.] category E felony and shall be punished as provided in NRS 193.130.~~

(c) For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

➔ In addition to any other penalty, the court shall order a person found guilty of any violation of this subsection to pay restitution for the cost of restoration, stabilization and interpretation of the site or cultural property, as applicable.

2. This section does not apply to any action taken:

(a) In accordance with an agreement with the Office entered into pursuant to NRS 383.430; or

(b) In accordance with the provisions of NRS 381.195 to 381.227, inclusive, by the holder of a permit issued pursuant to those sections.

3. In addition to any other penalty, a person who violates a provision of this section is liable for civil damages to the state agency or political subdivision which has jurisdiction over the state land in an amount equal to the cost or, in the discretion of the court, an amount equal to twice the cost of the restoration, stabilization and interpretation of the site plus any court costs and fees.

**Sec. 2.** ~~NRS 193.130 is hereby amended to read as follows:~~

~~193.130 1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. [The] Except as otherwise provided by NRS 383.435, the minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.~~

~~2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:~~

~~(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.~~

~~(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.~~

~~(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.~~

~~(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.~~

~~(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not~~

~~more than \$5,000, unless a greater penalty is authorized or required by statute.]~~  
(Deleted by amendment.)

**Sec. 3.** This act becomes effective on July 1, 2019.