
HOUSE BILL No. 1258

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2-53; IC 14-9-8-1; IC 14-21-1; IC 14-22-40-5; IC 23-14-57-4.

Synopsis: Archeology. Defines "artifact" as a significant object made by a human before December 31, 1870. Requires a person who disturbs buried human remains or artifacts to cease disturbing the area within 100 feet of the remains or artifacts. Makes it a Class A infraction to violate certain duties concerning the unintentional discovery of artifacts. Allows confidentiality of location information of historical or archeological sites. Allows certain persons to accompany a conservation officer to investigate a violation of a historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with a plan. Allows the court to order restitution for certain costs related to the violation of the historic preservation and archeology law. Makes it a Class D felony to possess looted property and provides that the offense is a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan approved by the department of natural resources is exempt from other disinterment procedures. Establishes the historic and archeological site data base advisory task force. Makes conforming changes. Repeals a definition of "conservation officer", and reenacts the definition to make it apply throughout the natural resources title.

Effective: Upon passage; July 1, 2006.

Yount, Saunders

January 10, 2006, read first time and referred to Committee on Natural Resources.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1258



A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-53 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 53. "Conservation
3 officer" for purposes of IC 14-9-8; has the meaning set forth in
4 IC 14-9-8-1; **refers to an officer employee of the law enforcement**
5 **division.**

6 SECTION 2. IC 14-21-1-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this
8 chapter, "artifact" means an object made or shaped by human
9 workmanship before December 11, 1816. **31, 1870, that the division**
10 **determines is significant.**

11 SECTION 3. IC 14-21-1-27 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) A person who
13 disturbs buried human remains shall do the following:

- 14 (1) **Immediately cease disturbing the human remains and the**
15 **area within one hundred (100) feet of the human remains.**
- 16 (2) **Notify the department within two (2) business days of the**
17 **time of the disturbance.**



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- (3) Refrain from covering over the human remains.**
- (4) Submit a development plan to the department under section 26.5 of this chapter.**
- ~~(2)~~ **(5) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.**

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

SECTION 4. IC 14-21-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. (a) A person who discovers an artifact or burial object while disturbing the ground for a purpose other than the discovery of artifacts or burial objects shall do the following:

- (1) Immediately cease disturbing the ground **and the area within one hundred (100) feet of the artifact or burial object.**
- (2) Refrain from covering over the artifact or burial object.**
- ~~(2)~~ **(3) Notify the department within two (2) business days after the time of the disturbance.**

(b) After notification under subsection (a) the department may do any of the following:

- (1) Authorize the person to continue the ground disturbing activity, with or without conditions.
- (2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after thirty (30) days from the date that the department receives notice.

(c) A person who violates subsection (a) commits a Class A infraction.

SECTION 5. IC 14-21-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. **(a) Except as provided in subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:**

- (1) risk harm to the historic or archeological site;**
- (2) cause a significant invasion of privacy; or**
- (3) impede the use of a traditional religious site by practitioners.**

(b) The division may not disclose reports and information required to be confidential under federal law.

(c) If the director of the division determines that reports and

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1 information should be confidential under subsection (a), the
 2 director of the department, in consultation with the director of the
 3 division, shall determine who may have access to the confidential
 4 reports and information.

5 SECTION 6. IC 14-21-1-33 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2006]: **Sec. 33. An employee of the division or a person
 8 authorized by the department may accompany a conservation
 9 officer on public or private property to determine if there is a
 10 violation of this article.**

11 SECTION 7. IC 14-21-1-34 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2006]: **Sec. 34. (a) The division may conduct a program to assist
 14 private homeowners who have accidentally discovered an artifact,
 15 a burial object, or human remains and who need assistance to
 16 comply with an approved plan to excavate or secure the site from
 17 further disturbance. The division may conduct the program alone
 18 or by entering into an agreement with one (1) or more of the
 19 following entities:**

- 20 (1) The Indiana historical society established under IC 23-6-3.
- 21 (2) A historical society (as defined in IC 36-10-13-3).
- 22 (3) The Historic Landmarks Foundation of Indiana.
- 23 (4) A professional archeologist or historian associated with a
 24 college or university.
- 25 (5) Any other entity that the division selects.

26 (b) In conducting a program under subsection (a), the division
 27 may receive gifts and grants under terms, obligations, and
 28 liabilities that the director of the division considers appropriate.
 29 The director shall use a gift or grant received under this
 30 subsection:

- 31 (1) to carry out subsection (a); and
- 32 (2) according to the terms and obligations of the gift or grant.

33 (c) The auditor of state shall establish the archeology
 34 preservation trust fund for purposes of holding money received
 35 under subsection (b).

36 (d) The director of the division shall administer the archeology
 37 preservation trust fund established under subsection (c). The
 38 expenses of administering the archeology preservation trust fund
 39 shall be paid from money in the trust fund.

40 (e) The treasurer of state shall invest the money in the
 41 archeology preservation trust fund established under subsection (c)
 42 that is not currently needed to meet the obligations of the trust

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1 fund in the same manner as other public trust funds may be
2 invested. The treasurer of state shall deposit in the archeology
3 preservation trust fund the interest that accrues from the
4 investment of the trust fund.

5 (f) Money in the archeology preservation trust fund at the end
6 of a state fiscal year does not revert to the state general fund.
7 There is annually appropriated to the division the money in the
8 archeology preservation trust fund for the division's use in
9 carrying out the purposes of this section.

10 (g) The division may adopt rules under IC 4-22-2 to govern the
11 administration of this section.

12 SECTION 8. IC 14-21-1-35 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2006]: **Sec. 35. (a) In addition to:**

- 15 (1) a:
- 16 (A) sentence imposed under this chapter for a felony or
- 17 misdemeanor; or
- 18 (B) judgment imposed under this chapter for an infraction;
- 19 and

20 (2) an order for restitution to a victim;
21 the court may order an individual to make restitution to the
22 archeology preservation trust fund under section 34 of this chapter
23 for the division's cost incurred because of the offense committed by
24 the individual.

25 (b) In ordering restitution under this section, the court shall
26 consider the following:

- 27 (1) The schedule of costs submitted to the court by the
- 28 division.
- 29 (2) The cost to the property owner to restore or repair the
- 30 damaged area of an archeological site or burial ground and
- 31 place the property in the property's original condition as
- 32 nearly as practicable.
- 33 (3) The amount of restitution that the individual is or will be
- 34 able to pay.

35 (c) The court shall immediately forward a copy of an order for
36 restitution made under this section to the division.

37 SECTION 9. IC 14-21-1-36 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2006]: **Sec. 36. A person who knowingly or intentionally receives,**
40 **retains, or disposes of an artifact, a burial object, or human**
41 **remains that have been obtained in violation of this chapter**
42 **commits possession of looted property, a Class D felony. However,**

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1 the offense is a Class C felony if the fair market cost of carrying
2 out a scientific archeological investigation of the area that was
3 damaged to obtain the artifact, burial object, or human remains is
4 at least one hundred thousand dollars (\$100,000).

5 SECTION 10. IC 14-22-40-5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this
7 chapter, "law enforcement officer" has the meaning set forth in
8 IC 35-41-1-17. The term includes a conservation officer. ~~(as defined in~~
9 ~~IC 14-9-8-1).~~

10 SECTION 11. IC 23-14-57-4 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. This chapter does not
12 apply to the following:

- 13 (1) The disinterment, disentombment, or disurnment of remains
14 upon the written order of the coroner of the county in which the
15 cemetery is situated.
- 16 (2) The removal of human remains under a plan approved by
17 the division of historic preservation and archeology under
18 IC 14-21-1.

19 SECTION 12. IC 14-9-8-1 IS REPEALED [EFFECTIVE JULY 1,
20 2006].

21 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this
22 SECTION, "department" refers to the department of natural
23 resources.

24 (b) As used in this SECTION, "task force" refers to the historic
25 and archeological site data base advisory task force established by
26 subsection (c).

27 (c) The historic and archeological site data base advisory task
28 force is established.

29 (d) The task force consists of the following individuals:

- 30 (1) The director of the department or the director's designee,
31 who shall serve as the chairperson of the task force.
- 32 (2) The state archeologist or the state archeologist's designee.
- 33 (3) The state geologist of the Indiana geological survey or the
34 state geologist's designee.
- 35 (4) The commissioner of the Indiana department of
36 transportation or the commissioner's designee.
- 37 (5) Three (3) individuals, appointed by the director of the
38 department, who are from Indiana universities or colleges and
39 who have expertise in geographic information systems, public
40 information technology, or information management or other
41 similar expertise.
- 42 (6) Three (3) individuals, appointed by the director of the

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- 1 department, who are archeologists with experience in
2 archeology in Indiana.
- 3 (e) The task force shall advise the department on the creation of
4 an integrated data base of historic and archeological sites,
5 including cemeteries and burial grounds (as defined in
6 IC 14-21-1-3) and associated documentation. The data base must
7 be designed to include the following:
- 8 (1) Site record forms.
9 (2) Reports of investigation.
10 (3) Accidental site discovery summaries.
11 (4) Site location data.
12 (5) Location data for areas of previous investigation.
13 (6) United States Geological Survey topographical map data.
14 (7) Other information and documents that the task force
15 determines are relevant.
- 16 (f) The task force shall investigate the following:
- 17 (1) Ways the data base under subsection (e) can be developed
18 and operated in collaboration with universities and other state
19 entities.
20 (2) Ways to limit access to certain information in the data
21 base to prevent:
- 22 (A) damage, looting, or destruction of a historic site; and
23 (B) a significant invasion of privacy to a property owner.
- 24 (3) Ways to provide professional archeologists with secure
25 and timely access to information in the data base.
26 (4) Ways to submit new archeological site or burial ground
27 information, survey information, and archeological reports to
28 the data base.
29 (5) Ways to fund the construction, implementation, and
30 maintenance of the data base with grants and other nonstate
31 government sources of money.
- 32 (g) Members of the task force are not entitled to per diem or
33 travel reimbursement.
- 34 (h) The department shall provide staff support for the task
35 force.
- 36 (i) A majority of the members of the task force constitutes a
37 quorum. Official action by the task force must be approved by at
38 least six (6) members.
- 39 (j) The department shall provide the natural resources study
40 committee with an annual progress report concerning activities
41 under this SECTION.
- 42 (k) The task force shall complete its work before July 1, 2008.

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1 **(l) This SECTION expires July 1, 2008.**
2 **SECTION 14. An emergency is declared for this act.**

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