

105TH CONGRESS
1ST SESSION

H. R. 749

To amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mr. ABERCROMBIE (for himself and Mr. FALEOMAVAEGA) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Native American Graves Protection and Repatriation Act to provide for improved notification and consent, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS TO THE NATIVE AMERICAN**
4 **GRAVES PROTECTION AND REPATRIATION**
5 **ACT.**

6 (a) WRITTEN CONSENT REQUIRED IF NATIVE AMER-
7 ICAN REMAINS ARE EXCAVATED OR REMOVED FOR PUR-
8 POSES OF STUDY.—Section 3(c) of the Native American
9 Graves Protection and Repatriation Act (25 U.S.C.
10 3002(c)) is amended—

1 (1) in paragraph (3), by striking “and” at the
2 end of the paragraph;

3 (2) in paragraph (4), by striking the period and
4 inserting “; and”; and

5 (3) by adding at the end the following:

6 “(5) in the case of any intentional excavation or
7 removal of Native American human remains for pur-
8 poses of study, such remains are excavated or re-
9 moved after written consent is obtained from—

10 “(A) lineal descendants, if known or read-
11 ily ascertainable; or

12 “(B) in any case in which lineal descend-
13 ants cannot be readily ascertained, each appro-
14 priate Indian tribe or Native Hawaiian organi-
15 zation.

16 “The requirement under paragraph (1) shall not be inter-
17 preted as allowing or requiring, in the absence of the con-
18 sent of each appropriate Indian tribe or Native Hawaiian
19 organization, any recordation or analysis that is in addi-
20 tion to any recordation or analysis that is otherwise al-
21 lowed or required under this Act.”.

22 (b) REQUIREMENTS FOR INADVERTENT DISCOV-
23 ERIES.—Section 3(d) of the Native American Graves Pro-
24 tection and Repatriation Act (25 U.S.C. 3002(d)) is
25 amended—

1 (1) in paragraph (1)—

2 (A) in the first sentence, by striking “with
3 respect to Federal lands” and inserting “with
4 respect to those Federal lands”; and

5 (B) by inserting after the first sentence
6 the following: “In any case in which a Federal
7 agency or instrumentality receives notice of a
8 discovery of Native American cultural items on
9 lands with respect to which the Federal agency
10 or instrumentality has primary management au-
11 thority, the appropriate official of the Federal
12 agency or instrumentality shall notify, in writ-
13 ing, each appropriate Indian tribe or Native
14 Hawaiian organization. The notification re-
15 quired under the preceding sentence shall be
16 provided not later than 3 business days after
17 the date on which the Federal agency or instru-
18 mentality receives notification of the discov-
19 ery.”; and

20 (2) in paragraph (2), by adding at the end the
21 following new sentence: “Any person or entity that
22 controls a cultural item referred to in the preceding
23 sentence shall comply with the applicable require-
24 ments of subsection (c).”.

1 (c) REVIEW COMMITTEE.—Section 8(c)(5) of the Na-
2 tive American Graves Protection and Repatriation Act (25
3 U.S.C. 3006(c)(5)) is amended—

4 (1) by inserting “and associated funerary ob-
5 jects” after “culturally unidentifiable human re-
6 mains”; and

7 (2) by striking “for developing a process for
8 disposition of such remains” and inserting “for de-
9 veloping a process for the disposition of such re-
10 mains and associated funerary objects”.

11 (d) ENFORCEMENT.—Section 9 of the Native Amer-
12 ican Graves Protection and Repatriation Act (25 U.S.C.
13 3007) is amended by adding at the end the following:

14 “(e) ENFORCEMENT.—(1) Subject to paragraph (2)
15 and further appropriations by Congress, the amounts col-
16 lected by the Secretary as penalties under this section
17 shall be used to supplement the amounts made available
18 by appropriations for conducting enforcement activities re-
19 lated to this section.

20 “(2) In carrying out enforcement activities related to
21 this section, the Secretary may—

22 “(A) pay any person who furnishes information
23 that leads to the assessment of a civil penalty under
24 this section (other than an officer or employee of the
25 Federal Government or a State or local government,

1 including a tribal government, who furnishes or who
2 renders service in the performance of official duties)
3 the lesser of—

4 “(i) half of the amount of the civil penalty;
5 or

6 “(ii) \$1,000; and

7 “(B) reduce the amount of a civil penalty that
8 would otherwise be assessed under this section if the
9 violator against whom the civil penalty is assessed
10 agrees to pay to the aggrieved parties involved an
11 aggregate amount of restitution not to exceed the
12 amount of such reduction.”.

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