

105th CONGRESS

1st Session

H.R. 2893

To amend the Native American Graves Protection and Repatriation Act to provide for appropriate study and repatriation of remains for which a cultural affiliation is not readily ascertainable.

IN THE HOUSE OF REPRESENTATIVES

November 7, 1997

Mr. HASTINGS of Washington 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 appropriate study and repatriation of remains for which a cultural affiliation is not readily ascertainable.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OWNERSHIP.

(a) REPEAL OF OWNERSHIP BASED ON ABORIGINAL LANDS- Paragraph (2) of section 3(a) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(a)) is amended by inserting or' at the end of subparagraph (A), by striking ; or' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(b) INADVERTENT DISCOVERY- Subsection (d) of section 3 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002) is amended--

(1) in paragraph (1), by inserting those' before Federal lands'; and

(2) in paragraph (2), by adding at the end the following new sentence: Any person or entity that disposes of or controls a cultural item referred to in the preceding sentence shall comply with the applicable requirements of subsection (c).'

(c) RECORDING AND STATUS OF ITEMS EXCAVATED OR DISCOVERED AFTER NOVEMBER 16, 1990- Section 3 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002) is amended by adding at the end the following new subsection:

(f) RECORDING AND STATUS OF ITEMS EXCAVATED OR DISCOVERED AFTER NOVEMBER 16, 1990- Cultural items excavated or discovered after November 16, 1990, except those items whose ownership or control is established under paragraph (1) or paragraph (2)(A) of subsection (a)--

(1) shall be reasonably recorded according to generally accepted scientific standards;

(2) shall remain under the control of the agency having primary management authority for the land on which the cultural item was excavated or discovered until 90 days after the publication in the Federal Register of a notice setting out a general description of the item, its estimated age, and the general area of discovery; and

(3) are subject to the study provisions of subsection 7(b).'

SEC. 2. LIMITED AUTHORIZATION FOR STUDY.

The last sentence of section 5(b) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3003(b)) is amended by inserting , except as expressly set forth in sections 3(f) and 7(b),' after mean, and'.

SEC. 3. STUDY AND RECORDING.

Subsection (b) of section 7 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3005) is amended to read as follows:

(b) STUDY AND RECORDING- (1) In cases of human remains and associated funerary objects for which no lineal descendants have been identified and in cases of other cultural items:

(A) If the cultural affiliation of a cultural item has not been established, studies may be conducted in an attempt to establish such an affiliation or to obtain scientific, historical, or cultural information. If the cultural affiliation of a cultural item is determined pursuant to this subparagraph, the Federal agency or museum having custody of the cultural item shall, not later than 90 days after such determination, notify any culturally affiliated Indian tribe or Native Hawaiian organization of their affiliation. Such notice shall be given in the manner specified in paragraphs (2) and (3) of section 5(d).

(B) If the cultural affiliation of a cultural item has been established with an Indian tribe or Native Hawaiian organization, studies of such item may be conducted if needed for the completion of a specific scientific study, the outcome of which is reasonably expected to provide significant new information concerning the history or prehistory of the United States. If the culturally affiliated tribe or organization requests the return of the cultural item, the Federal agency or museum shall return such item to the Indian tribe or Native Hawaiian organization not later than 90 days after the date on which the scientific study is completed. Study of a cultural item under this subparagraph shall not be permitted to delay return of the item for more than 180 days after the item is made available for study, unless a longer period of study is agreed upon by the culturally affiliated tribe or organization that has requested return of the cultural item.

(2) Not later than 180 days after a study conducted under this subsection is completed, the Federal agency or museum with custody of the cultural item shall provide a report of the results of the study to any Indian tribe or Native Hawaiian organization that has an established cultural affiliation with the cultural item studied.

(3) If study of a cultural item pursuant to subparagraph (A) or (B) of paragraph (1) is requested, the Federal agency or museum with custody of such item must make such item reasonably available for such study unless the Secretary determines that the Federal agency or museum has presented clear and convincing evidence that the potential scientific benefit of the requested study is substantially outweighed under the circumstances by curatorial, cultural, or other reasonable considerations.

(4) Nothing in this subsection shall be construed to require any museum to undertake or permit any study of a cultural item that is contrary to policies of the museum or to its prior agreements.'.