

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 105
Committee Substitute Favorable 4/24/07

Short Title: Modify Laws for Desecrating Graves.

(Public)

Sponsors:

Referred to:

February 8, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE LAW REGARDING THE DESECRATION OF A
3 GRAVE, AS RECOMMENDED BY THE HOUSE STUDY COMMITTEE ON
4 ABANDONED CEMETERIES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 14-148 reads as rewritten:

7 "§ 14-148. Defacing or desecrating grave sites.

8 (a) It is unlawful to willfully:

9 (1) Throw, place or put any refuse, garbage or trash in or on any ~~eemetery;~~
10 cemetery.

11 (2) Take away, disturb, vandalize, destroy or change the location of any
12 stone, brick, iron or other material or fence enclosing a cemetery
13 without authorization of law or consent of the surviving spouse or next
14 of kin of the ~~deceased thereby causing damage of less than one~~
15 ~~thousand dollars (\$1,000); or deceased.~~

16 (3) Take away, disturb, vandalize, destroy, or tamper with ~~or deface~~ any
17 ~~tombstone, headstone, monument, grave marker, grave ornamentation,~~
18 ~~grave artifacts,~~ shrubbery, flowers, plants or other articles ~~within any~~
19 ~~eemetery erected~~ planted or placed within any cemetery to designate
20 where a ~~body is~~ human remains are interred or to preserve and
21 perpetuate the memory and name of any person, without authorization
22 of law or the consent of the surviving spouse or next of kin, ~~thereby~~
23 ~~causing damage of less than one thousand dollars (\$1,000).~~ kin.

24 (b) The provisions of this section shall not apply ~~to a~~ to:

25 (1) Ordinary maintenance and care of a cemetery by the owner, caretaker,
26 or other person acting to facilitate cemetery operations by keeping the
27 cemetery free from accumulated debris or other signs of neglect.

28 (2) Conduct that is punishable under G.S. 14-149.

1 (3) A professional archaeologist as defined in G.S. 70-28(4) acting
2 pursuant to the provisions of Article 3 of Chapter 70 of the General
3 Statutes.

4 (c) Violation of this section is a Class I felony if the damage caused by the
5 violation is one thousand dollars (\$1,000) or more. Any other violation of this section is
6 a Class 1 misdemeanor. In passing sentence, the court shall consider the appropriateness
7 of restitution or reparation as a condition of probation under G.S. 15A-1343(b)(6)
8 15A-1343(b)(9) as an alternative to actual imposition of a fine, jail term, or both."

9 **SECTION 2.** G.S. 14-149 reads as rewritten:

10 **"§ 14-149. Desecrating, plowing over or covering up graves; desecrating**
11 **human remains.**

12 (a) It is a Class I felony, without authorization of law or the consent of the
13 surviving spouse or next of kin of the deceased, to knowingly and willfully:

14 (1) ~~Open, disturb, destroy, remove, vandalize or desecrate any easket,~~
15 ~~human remains or any portion thereof or the~~ casket or other repository
16 of any such human remains, by any means including plowing under,
17 tearing up, covering over or otherwise obliterating or removing any
18 grave; grave or any portion thereof.

19 (2) ~~Take away, vandalize or destroy any stone, brick, iron or other~~
20 ~~material or fence enclosing a cemetery, causing damage of more than~~
21 ~~one thousand dollars (\$1,000); or~~ Take away, disturb, vandalize,
22 destroy, tamper with, or deface any tombstone, headstone, monument,
23 grave marker, grave ornamentation, or grave artifacts erected or placed
24 within any cemetery to designate the place where human remains are
25 interred or to preserve and perpetuate the memory and the name of any
26 person. This subdivision shall not apply to the ordinary maintenance
27 and care of a cemetery.

28 (3) ~~Take away, vandalize, destroy or deface any tombstone, headstone,~~
29 ~~monument, grave marker, grave ornamentation, grave artifacts,~~
30 ~~shrubby, flowers, plants or other articles within any cemetery erected~~
31 ~~or placed to designate the place where any dead body is interred or to~~
32 ~~preserve and perpetuate the memory and the name of any person,~~
33 ~~causing damage of more than one thousand dollars (\$1,000).~~

34 (a1) It is a Class H felony, without authorization of law or the consent of the
35 surviving spouse or next of kin of the deceased, to knowingly and willfully disturb,
36 destroy, remove, vandalize, or desecrate any human remains that have been interred in a
37 cemetery.

38 (b) The provisions of this section shall not apply to a professional archaeologist
39 as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70
40 of the General Statutes."

41 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
42 offenses committed on or after that date.