



Rep. Mark L. Walker

Filed: 3/2/2023

10300HB3413ham001

LRB103 30307 RLC 57840 a

1 AMENDMENT TO HOUSE BILL 3413

2 AMENDMENT NO. _____. Amend House Bill 3413 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Archaeological and Paleontological
5 Resources Protection Act is amended by changing Sections .02
6 and 5 as follows:

7 (20 ILCS 3435/.02) (from Ch. 127, par. 133c.02)

8 Sec. .02. For purposes of this Act:

9 (a) "Archaeological resource" means any significant
10 material remains or localities of past human life or
11 activities on public land, including but not limited to
12 artifacts, historic and prehistoric human ~~skeletal~~ remains,
13 mounds, earthworks, shipwrecks, forts, village sites or mines.

14 (b) "Disturb" includes defacing, mutilating, injuring,
15 exposing, removing, destroying, desecrating or molesting in
16 any way.

1 (c) "Paleontological resource" means any significant
2 fossil or material remains on public lands including traces or
3 impressions of animals or plants that occur as part of the
4 geological record that are known and are included in the files
5 maintained by the Illinois State Museum under Section 10.

6 (d) "Person" means any natural individual, firm, trust,
7 estate, partnership, association, joint stock company, joint
8 venture, corporation or a receiver, trustee, guardian or other
9 representative appointed by order of any court, the federal
10 and State governments, including State universities created by
11 statute or any city, town, county or other political
12 subdivision of this State.

13 (e) "Public land" means any land owned, but does not
14 include land leased as lessee, by the State of Illinois or its
15 agencies, a State university created by statute, a
16 municipality or a unit of local government.

17 (Source: P.A. 86-459; 86-707.)

18 (20 ILCS 3435/5) (from Ch. 127, par. 133c5)

19 Sec. 5. Any violation of Section 3 not involving the
20 disturbance of human ~~skeletal~~ remains is a Class A misdemeanor
21 and the violator shall be subject to imprisonment and a fine
22 not in excess of \$5,000; any subsequent violation is a Class 4
23 felony. Any violation of Section 3 involving disturbance of
24 human ~~skeletal~~ remains is a Class 4 felony. Each disturbance
25 of an archaeological site or a paleontological site shall

1 constitute a single offense. Persons convicted of a violation
2 of Section 3 shall also be liable for civil damages to be
3 assessed by the land managing agency and the Department of
4 Natural Resources. Civil damages may include:

5 (a) forfeiture of any and all equipment used in
6 acquiring the protected material;

7 (b) any and all costs incurred in cleaning, restoring,
8 analyzing, accessioning and curating the recovered
9 materials;

10 (c) any and all costs associated with restoring the
11 land to its original contour;

12 (d) any and all costs associated with recovery of data
13 and analyzing, publishing, accessioning and curating
14 materials when the prohibited activity is so extensive as
15 to preclude the restoration of the archaeological or
16 paleontological site;

17 (e) any and all costs associated with the
18 determination and collection of the civil damages.

19 When civil damages are recovered through the Attorney
20 General, the proceeds shall be deposited into the Historic
21 Sites Fund; when civil damages are recovered through the
22 State's Attorney, the proceeds shall be deposited into the
23 county fund designated by the county board.

24 (Source: P.A. 100-695, eff. 8-3-18.)

25 Section 10. The Human Skeletal Remains Protection Act is

1 amended by changing Sections 0.01, 1, 3, 4, 4.5, 5, 6, 7, 8, 9,
2 10, 12, 13, 14, 15, and 16 and by adding Sections 3.5, 17, and
3 18 as follows:

4 (20 ILCS 3440/0.01) (from Ch. 127, par. 2660)

5 Sec. 0.01. Short title. This Act may be cited as the Human
6 ~~Skeletal~~ Remains Protection Act.

7 (Source: P.A. 86-1324.)

8 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

9 Sec. 1. Definitions. For the purposes of this Act:

10 (a) "Human ~~skeletal~~ remains" include the bones and
11 decomposed fleshy parts of a deceased human body.

12 (b) "Unregistered graves" are any graves or locations
13 where a human body has been buried or deposited; is over 100
14 years old; and is not in a cemetery registered with or licensed
15 by the State Comptroller under the Cemetery Care Act or under
16 the authority of the Illinois Department of Financial and
17 Professional Regulation pursuant to the Cemetery Oversight
18 Act, whichever is applicable.

19 (c) "Grave artifacts" are any item of human manufacture or
20 use that is associated with the human skeletal remains in an
21 unregistered grave.

22 (d) "Grave markers" are any tomb, monument, stone,
23 ornament, mound, or other item of human manufacture that is
24 associated with an unregistered grave.

1 (e) "Person" means any natural individual, firm, trust,
2 estate, partnership, association, joint stock company, joint
3 venture, corporation or a receiver, trustee, guardian or other
4 representatives appointed by order of any court, the Federal
5 and State governments, including State Universities created by
6 statute or any city, town, county or other political
7 subdivision of this State.

8 (f) "Disturb" includes excavating, removing, exposing,
9 defacing, mutilating, destroying, molesting, or desecrating in
10 any way human skeletal remains, unregistered graves, and grave
11 markers.

12 (g) "Consultation" means a formal, two-way,
13 government-to-government dialogue between official
14 representatives of federally recognized tribes and the United
15 States Department of Interior to discuss federal proposals
16 before the United States Department of the Interior makes
17 decisions on those proposals. The United States Department of
18 the Interior, the Department of Natural Resources, and the
19 Illinois State Museum shall provide sufficient notice to
20 appropriate federally recognized tribal leaders of upcoming
21 consultation sessions and, following the consultations
22 sessions, report to those tribal leaders how the final
23 decision incorporates tribal input.

24 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

1 Sec. 3. Notification to coroner. Any person who discovers
2 human ~~skeletal~~ remains subject to this Act shall promptly
3 notify the coroner within 48 hours. Any person who knowingly
4 fails to report such a discovery within 48 hours is guilty of a
5 Class C misdemeanor, unless such person has reasonable cause
6 to believe that the coroner had already been so notified. If
7 the human ~~skeletal~~ remains appear to be from an unregistered
8 grave, the coroner shall ~~promptly~~ notify the Department of
9 Natural Resources prior to their removal. Nothing in this Act
10 shall supersede applicable federal law, including the Native
11 American Graves Protection and Repatriation Act of 1990 and
12 the National Historic Preservation Act of 1966 ~~shall be~~
13 ~~construed to apply to human skeletal remains subject to "An~~
14 ~~Act to revise the law in relation to coroners"~~.

15 (Source: P.A. 100-695, eff. 8-3-18.)

16 (20 ILCS 3440/3.5 new)

17 Sec. 3.5. Native American Review Group. The State of
18 Illinois presents a unique situation in that it has not
19 maintained meaningful consulting relationships with tribal
20 nations aboriginal to the land now known as the State of
21 Illinois. Without meaningful relationships between the State
22 of Illinois and tribal nations, there has been harm caused to
23 tribal nations and trust needs to be rebuilt as the State works
24 to correct those harmful mistakes. As tribal nations
25 strengthen their histories, it is of utmost importance to

1 uphold federal law and policy in relation to the sovereign
2 status of tribes. For the purpose of this Act, federal laws
3 related to Native Americans, including the Native American
4 Graves Protection and Repatriation Act of 1990 and the
5 National Historic Preservation Act of 1966, shall take
6 precedence over State law. Despite the State of Illinois' long
7 history of removing tribal nations, this Act requires that a
8 project that may affect a historical property of religious and
9 cultural significance to the affected tribe or tribes be
10 subject to consultation and review from the Native American
11 Review Group at the Illinois State Museum. Historical
12 properties of religious and ceremonial significance include:
13 archeological sites, burial grounds, mounds, sacred landscapes
14 or features, plant and animal communities, and buildings and
15 structures with significant tribal association. The types of
16 activities that may affect properties of religious and
17 cultural significance include: ground disturbance (digging);
18 new construction in underdeveloped natural areas; introduction
19 of incongruent visual, audible, or atmospheric changes; work
20 on a building with significant tribal association; and
21 transfer, lease, or sale of properties of the types listed.

22 The Native American Review Group shall be appointed by the
23 Director of Natural Resources and shall consist of at least
24 one tribal representative from each one of the over 30 tribal
25 nations that have been identified as having historical
26 presence in Illinois. These representatives shall be a tribal

1 chairperson, tribal historic preservation officer, or
2 designated official for the respective tribe. The Native
3 American Review Group shall be notified immediately and all
4 activity on the property shall immediately cease if: (1)
5 remains are found; (2) any property with religious and
6 cultural significance will be disturbed; and (3) any property
7 with religious and cultural significance is accidentally
8 disturbed. This group shall convene and review any request
9 made to the Department of Natural Resources for a land permit.
10 The Department of Natural Resources may issue a land permit
11 only after the Native American Review Group has reviewed the
12 proposal and approved the request or provided revisions to the
13 request.

14 (20 ILCS 3440/4) (from Ch. 127, par. 2664)

15 Sec. 4. Human burial sites; knowingly disturbing human
16 skeletal remains; penalty; permit. It is unlawful for any
17 person, either by oneself ~~himself~~ or through an agent, to
18 knowingly disturb human skeletal remains, grave markers, and
19 grave artifacts in unregistered graves protected by this Act
20 unless such person obtains a permit issued by the Department
21 of Natural Resources. Any person who violates this Section
22 commits a Class 4 felony. When grave disturbances must occur a
23 land permit must be obtained from the Department of Natural
24 Resources. When a land permit request is received, the
25 Department of Natural Resources shall immediately contact the

1 Director of Tribal Relations at the Illinois State Museum who
2 shall immediately engage the Native American Review Group who
3 shall approve or deny the request.

4 (Source: P.A. 100-695, eff. 8-3-18.)

5 (20 ILCS 3440/4.5)

6 Sec. 4.5. O'Hare Modernization.

7 The O'Hare Modernization Act shall be subject to this Act
8 and all provisions of the Native American Graves Protection
9 and Repatriation Act of 1990. Any future O'Hare developments
10 must be reviewed and approved by the Native American Review
11 Group. ~~Nothing in this Act limits the authority of the City of~~
12 Chicago to exercise its powers under the O'Hare Modernization
13 Act or requires that City, or any person acting on behalf of
14 that City, to obtain a permit under this Act when acquiring
15 property or otherwise exercising its powers under the O'Hare
16 Modernization Act.

17 (Source: P.A. 93-450, eff. 8-6-03.)

18 (20 ILCS 3440/5) (from Ch. 127, par. 2665)

19 Sec. 5. Human burial sites; appropriation for sale;
20 penalty. It is unlawful for any person, either by himself or
21 through an agent, to recklessly appropriate for profit, use
22 for profit, sell, purchase, or transport for sale or profit
23 any human remains, grave artifacts, or grave markers. A person
24 who violates this Section commits a Class A misdemeanor for a

1 first violation and a Class 4 felony for a second or subsequent
2 violation knowingly disturb a grave marker protected by this
3 Act unless such person obtains a permit issued by the
4 Department of Natural Resources.

5 (Source: P.A. 100-695, eff. 8-3-18.)

6 (20 ILCS 3440/6) (from Ch. 127, par. 2666)

7 Sec. 6. Human burial sites; unknowingly disturb; actions;
8 permits. Due to the need for infrastructure repair, renovation
9 and improvement, it is highly likely that an unregistered
10 grave, human remains, or grave marker could be disturbed. In
11 such cases, any and all work must immediately cease. Within 48
12 hours the Department of Natural Resources must be notified and
13 the formal Section 106 consultation process with Native
14 American nations, as provided in the National Historic
15 Preservation Act of 1966, must take place before any work can
16 resume. For work to proceed, a land permit must be issued by
17 the Department of Natural Resources after appropriate tribal
18 review and consultation has been completed. A person who
19 violates this Section commits a Class A misdemeanor for a
20 first violation and a Class 4 felony for a second or subsequent
21 violation. It is unlawful for any person, either by himself or
22 through an agent, to offer any human skeletal remains, grave
23 artifacts or grave markers for sale or exchange with the
24 knowledge that they have been collected or excavated in
25 violation of this Act.

1 (Source: P.A. 86-151.)

2 (20 ILCS 3440/7) (from Ch. 127, par. 2667)

3 Sec. 7. Human burial sites-knowingly disturb private
4 property, permitting, penalties. It is unlawful for any
5 person, either by himself or through an agent, to knowingly
6 allow the disturbance of human ~~skeletal~~ remains, unregistered
7 graves, grave artifacts or grave markers on property
8 controlled by that person unless such disturbance is
9 authorized by a permit issued by the Historic Preservation
10 Agency. A person who violates this Section commits a Class A
11 misdemeanor for a first violation and a Class 4 felony for a
12 second or subsequent violation. When grave disturbances must
13 occur a land permit must be obtained from the Department of
14 Natural Resources. When a land permit request is received, the
15 Department of Natural Resources shall immediately contact the
16 Director of Tribal Relations at the Illinois State Museum who
17 shall immediately engage the Native American Review Group who
18 shall approve or deny the request.

19 (Source: P.A. 86-151.)

20 (20 ILCS 3440/8) (from Ch. 127, par. 2668)

21 Sec. 8. Criminal prosecutions for violations of Act. The
22 State's Attorney of the county in which a violation of Section
23 4, 5, 6, 7, or 8 ~~Sections 4, 5, 6, or 7~~ of this Act is alleged
24 to have occurred, or the Attorney General, may be requested by

1 the Department ~~Director~~ of Natural Resources to initiate
2 criminal prosecutions or to seek civil damages, injunctive
3 relief and any other appropriate relief. The Department of
4 Natural Resources shall co-operate with the State's Attorney
5 or the Attorney General. Persons aware of any violations of
6 this Act shall contact the Department of Natural Resources.

7 (Source: P.A. 100-695, eff. 8-3-18.)

8 (20 ILCS 3440/9) (from Ch. 127, par. 2669)

9 Sec. 9. Reward for information leading to arrest and
10 conviction of offenders. The Department of Natural Resources
11 is authorized to offer a reward of up to \$5,000 ~~\$2000~~ for
12 information leading to the arrest and conviction of persons
13 who violate Section 4, 5, 6, 7, or 8 ~~Sections 4, 5, 6, and 7~~ of
14 this Act.

15 (Source: P.A. 100-695, eff. 8-3-18.)

16 (20 ILCS 3440/10) (from Ch. 127, par. 2670)

17 Sec. 10. Registry of offenders. The Department of Natural
18 Resources shall create a registry of offenders who violate
19 this Act and shall impose additional penalties on repeat
20 offenders ~~Any violation of Sections 4, 6 or 7 of this Act is a~~
21 ~~Class A misdemeanor and the violator shall be subject to~~
22 ~~imprisonment for not more than 1 year and a fine not in excess~~
23 ~~of \$10,000; any subsequent violation is a Class 4 felony. Each~~
24 ~~disturbance of an unregistered grave constitutes a separate~~

1 ~~offense.~~

2 (Source: P.A. 86-151.)

3 (20 ILCS 3440/12) (from Ch. 127, par. 2672)

4 Sec. 12. Civil damages. Persons convicted of a violation
5 of Section 4, ~~or~~ 5, 6, 7, or 8 of this Act shall also be liable
6 for civil damages to be assessed by the Department of Natural
7 Resources in consultation with Native American tribes ~~Historic~~
8 ~~Preservation Agency~~. Civil damages may include:

9 (a) forfeiture of any and all equipment used in disturbing
10 the protected unregistered graves or grave markers;

11 (b) any and all costs incurred in cleaning, restoring,
12 analyzing, accessioning, traveling for tribal nation
13 representatives, and curating the recovered materials;

14 (c) any and all costs associated with restoring the land
15 to its original contour or the grave marker to its original
16 condition in consultation with federally recognized tribes;

17 (d) any and all costs associated with recovery of data,
18 and analyzing, publishing, accessioning and curating materials
19 when the prohibited activity is so extensive as to preclude
20 the restoration of the unregistered burials or grave markers;

21 (e) any and all costs for the State of Illinois and
22 affected tribal nations associated with the reinterment of the
23 human ~~skeletal~~ remains in consultation with federally
24 recognized tribes;

25 (f) any and all costs associated with the determination

1 and collection of the civil damages.

2 When civil damages are recovered through the Attorney
3 General, the proceeds shall be deposited into the Tribal
4 Repatriation ~~Historic Sites~~ Fund, which is created in the
5 State treasury. The moneys in the Fund shall be used for tribal
6 repatriation or interment; when civil damages are recovered
7 through the State's Attorney, the proceeds shall be deposited
8 into the county funds designated by the county board
9 specifically and only used for tribal repatriation or
10 reinterment.

11 (Source: P.A. 86-151.)

12 (20 ILCS 3440/13) (from Ch. 127, par. 2673)

13 Sec. 13. Permits for the disturbance or removal of human
14 remains.

15 (a) The Director ~~Department~~ of Natural Resources shall
16 develop regulations, in consultation with the Illinois State
17 Museum and federally recognized Native American nations
18 geographically and culturally affiliated with Illinois,
19 whereby permits may be issued for the disturbance or removal,
20 or both, of human ~~skeletal~~ remains and grave artifacts from
21 unregistered graves or the disturbance or removal, or both, of
22 grave markers.

23 (b) Each permit shall specify all terms and conditions
24 under which the removal of human ~~skeletal~~ remains, grave
25 artifacts, or grave markers shall be carried out. All costs

1 accrued in the removal of the aforementioned materials shall
2 be borne by the permit applicant. Upon completion of the
3 project, the permit holder shall submit a report of the
4 results to the Department of Natural Resources, the Director
5 of the Illinois State Museum, and any affiliated federally
6 recognized Native American nations geographically and
7 culturally affiliated with Illinois.

8 (c) If such human remains are not Native American or their
9 ethnic identity cannot be ascertained, as determined by the
10 State Burial Law Coordinator, the human remains shall be dealt
11 with in accordance with provisions established by the State
12 Archaeologist and other appropriate authority. If such burials
13 are Native American, as determined by the Illinois State
14 Archaeologist, efforts shall be made by the Illinois State
15 Archaeologist, in consultation with the Native American tribe
16 having a probable historical and cultural heritage with the
17 burial site, to ascertain their tribal identity. If their
18 probable tribal identity can be determined and the remains
19 have been removed from their original context, such remains
20 shall be turned over to contemporary tribal leaders for
21 disposition.

22 (d) If tribal identity cannot be determined, the Native
23 American remains must be dealt with in accordance with
24 provisions established by the State Burial Law Coordinator
25 consistent with the requirements of the Native American Graves
26 Protection and Repatriation Act of 1990 if they are from

1 public land. If removed Native American remains are from
2 private land they shall be dealt with in accordance with
3 provisions established by the State Burial Law Coordinator. If
4 it is deemed desirable by the Illinois State Archaeologist,
5 removed remains shall be studied in a timely and respectful
6 manner by a qualified professional archaeologist or a
7 qualified physical anthropologist before being delivered to
8 tribal leaders or before being reburied.

9 (Source: P.A. 100-695, eff. 8-3-18.)

10 (20 ILCS 3440/14) (from Ch. 127, par. 2674)

11 Sec. 14. Human remains in unregistered graves. All human
12 ~~skeletal~~ remains and grave artifacts in unregistered graves
13 are the property of the Native American nations geographically
14 and culturally affiliated with Illinois. The Department of
15 Natural Resources and the Illinois State Museum shall have the
16 right to maintain and care for, in compliance with the Native
17 American Graves Protection and Repatriation Act of 1990,
18 Native American property until appropriate and tribal
19 consultation has been completed and tribes have made the final
20 decision for repatriation or reinterment of the property. The
21 Illinois State Museum shall maintain records, conduct tribal
22 consultation, provide reports to tribal nations, and lead
23 repatriation and reinterment efforts with tribal approval ~~held~~
24 ~~in trust for the people of Illinois by the State and are under~~
25 ~~the jurisdiction of the Department of Natural Resources. All~~

1 ~~materials collected under this Act shall be maintained, with~~
2 ~~dignity and respect, for the people of the State under the care~~
3 ~~of the Illinois State Museum.~~

4 (Source: P.A. 100-695, eff. 8-3-18.)

5 (20 ILCS 3440/15) (from Ch. 127, par. 2675)

6 Sec. 15. Rules. The Department of Natural Resources, in
7 consultation with federally recognized Native American nations
8 shall adopt ~~promulgate~~ such rules ~~regulations~~ as may be
9 necessary to carry out the purposes of this Act.

10 (Source: P.A. 100-695, eff. 8-3-18.)

11 (20 ILCS 3440/17 new)

12 Sec. 17. Creation of cemetery. The Director of Natural
13 Resources, in cooperation with the Illinois State Museum and
14 in consultation with the federally recognized tribes with
15 geographical and cultural affiliation with Illinois, may
16 create a cemetery on existing State lands for the reburial of
17 repatriated Native American remains and materials. The
18 cemetery shall not be used by the public and shall be protected
19 by the State of Illinois. The Director of Natural Resources
20 shall cooperate with the Illinois State Archaeologist and the
21 Illinois State Museum to coordinate reinterment in the
22 cemetery.

23 (20 ILCS 3440/18 new)

1 Sec. 18. Role of the Native American Graves Protection and
2 Repatriation Act officer and Director of Tribal Relations. In
3 partnership with the Illinois State Museum, the Department of
4 Natural Resources shall cooperate with the Director of Tribal
5 Relations and the Native American Graves Protection and
6 Repatriation Act officer to monitor sites and persons across
7 this State that are receiving federal funds to ensure
8 compliance with the requirements of the Native American Graves
9 Protection and Repatriation Act of 1990. The Department of
10 Natural Resources shall provide access to the offenders
11 registry and the Native American Graves Protection and
12 Repatriation Act officer shall maintain accuracy and tracking
13 of penalties. The Director of Tribal Relations shall serve as
14 the intermediary between the Department of Natural Resources,
15 the Illinois State Museum, and tribal nations to ensure the
16 directives of tribal nations are being followed and that
17 tribal nations are informed of actions taken by the State of
18 Illinois.

19 (20 ILCS 3440/2 rep.)

20 (20 ILCS 3440/11 rep.)

21 Section 15. The Human Skeletal Remains Protection Act is
22 amended by repealing Sections 2 and 11.

23 Section 20. The State Finance Act is amended by adding
24 Section 5.990 as follows:

1 (30 ILCS 105/5.990 new)

2 Sec. 5.990. The Tribal Repatriation Fund."