

[Note: emphasis added to certain sections]

CHAPTER 184a
NATIVE AMERICAN CULTURES.
POLICY CONCERNING ARCHAEOLOGICAL
INVESTIGATIONS

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Sec. 10-381. Definitions. As used in sections 10-382 to 10-391, inclusive:

- (1) "Native American" means people who occupied Connecticut prior to European settlement and their historic descendants, Indians as defined by section 47-63, who are residents of this state and all members of other tribes recognized by the United States or by Canada or its Provinces who are residents of this state;
- (2) "Archaeological site" means a location where there exists material evidence that is not less than fifty years old of the past life and culture of human beings in the state;
- (3) "Archaeological artifact" means material evidence that is not less than fifty years old of past life and culture in the state that is found in connection with an archaeological site;
- (4) "Archaeological investigation" means any subsurface tests or excavation or other activity resulting in the disturbance or removal of artifacts or data from an archaeological site;
- (5) "Sacred site" or "sacred land" means any space, **including an archaeological site**, of ritual or traditional significance in the culture and religion of Native Americans that is listed or eligible for listing on the National Register of Historic Places (16 USC 470a, as amended) or the state register of historic places defined in section 10-320c, including, but not limited to, marked and unmarked human burials, burial areas and cemeteries, monumental geological or natural features with sacred meaning or a meaning central to a group's oral traditions; sites of ceremonial structures, including sweat lodges; rock art sites, and sites of great historical significance to a tribe native to this state;
- (6) "Sacred object" means any archaeological artifact or other object associated with a sacred site;
- (7) "State lands" mean lands owned, leased, or administered by the state or in the custody or control of any state agency, department or instrumentality of the state.

(P.A. 89-368, S. 1.)

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Sec. 10-382. Native American Heritage Advisory Council. There is established a Native American Heritage Advisory Council to evaluate and make recommendations on the Native American heritage to the State Archaeologist and the Connecticut Historical Commission. Such council shall consist of the following members: One representing each of the following Indian tribes, appointed by the tribe: The Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett; one representing the Indian Affairs Council, appointed by the

chairperson of the council; one representing the Commissioner of Environmental Protection, appointed by said commissioner; one representing the Archaeological Society of Connecticut, appointed by the president pro tempore of the Senate; and three who are knowledgeable in Native American history, traditions and archaeology, one appointed by the speaker of the House of Representatives, one appointed by the minority leader of the House of Representatives and one appointed by the minority leader of the Senate.

(P.A. 89-368, S. 2.)

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Sec. 10-383. Museum of Natural History designated as repository for artifacts found during archaeological investigation of state land. (a) The State Museum of Natural History shall be the state repository for all artifacts found and data gathered during archaeological investigations on state lands.

(b) On or before July 1, 1990, the board of directors of the State Museum of Natural History shall establish a collections policy which shall include procedures for (1) acquisition of material and the acceptance of gifts appropriate to the public trust, (2) the preservation, care and display of sacred objects, and the use of sacred objects for religious and ceremonial purposes and (3) loans and transfers of sacred objects and other materials, including archaeological artifacts, to Native American museums or other institutions.

(P.A. 89-368, S. 5.)

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Sec. 10-384. Designation of site as state archaeological preserve. The Connecticut Historical Commission, with the concurrence of the State Archaeologist, may examine sites and lands to determine if such sites or lands are of state or national archaeological importance and meet all the requirements for listing on the National Register (16 USC 470a) or the state register of historic places defined in section 10-320c. Upon determination that any site or land investigated is of state or national archaeological importance, the commission may declare such site or land to be a state archaeological preserve, provided (1) each property owner of any private site or land proposed for designation has been informed of the implications of the designation and consented in writing to such designation, (2) the state agency with custody or control of any public land has been notified in writing of the proposed designation and (3) written recommendations on the proposal have been sent to the commission by the State Archaeologist and, if there is evidence of Native American activity, the Native American Heritage Advisory Council established pursuant to section 10-382. The commission shall cause notice of such designation to be filed on the land records in the town where such preserve is located.

(P.A. 89-368, S. 6.)

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Sec. 10-385. Regulations. (a) The Connecticut Historical Commission shall adopt regulations in accordance with the provisions of chapter 54 for the establishment, care, use and management of sites or lands designated as state archaeological preserves pursuant to section 10-384.

(b) On and after the effective date of designation of sites or lands as a state archaeological preserve, no person may conduct any archaeological investigation, initiate construction or demolition activities or undertake any other activity which would endanger the archaeological integrity or sacred importance of such preserve without complying with the provisions of section 10-386 except if the commission declares an emergency.

(P.A. 89-368, S. 7.)

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Sec. 10-386. Permit for archaeological investigation on state lands. Regulations. (a) No person may conduct an archaeological investigation on state lands or on a state archaeological preserve without a permit from the Connecticut Historical Commission. Any such permit shall be issued with the concurrence of the State Archaeologist. The applicant shall submit an application on such form as the commission may prescribe and with such information as the commission, after consultation with the State Archaeologist and the advisory council established pursuant to section 10-382, deems necessary, including, but not limited to, the time, scope, location and specific purpose of the proposed research. The applicant shall submit (1) evidence satisfactory to the commission of qualifications to perform the excavation, including evidence of experience, training and knowledge; (2) an excavation plan for the site satisfactory to the commission which includes provisions on the method of excavation and (3) a written statement that upon completion of the excavation the applicant shall submit a report of the investigation which shall include a description of archaeological artifacts discovered and relevant maps, documents, drawings and photographs. No permit shall be issued for an investigation that would disturb a known Native American cemetery, burial site or other sacred site without the review of the advisory council established pursuant to section 10-382. Failure to comply with the terms of a permit issued under this section shall be grounds to deny a subsequent permit.

(b) The commission shall adopt regulations in accordance with the provisions of chapter 54 establishing procedures for the issuance of permits required under this section. Such regulations shall be developed with the concurrence of the State Archaeologist.

(c) Notwithstanding the provisions of this section, the commission, in consultation with the State Archaeologist, may authorize an archaeological investigation without a permit if time for investigation is limited.

(d) The applicant shall pay the cost of reburial of any human skeletal remains discovered in accordance with the terms and conditions of a permit issued under this section.

(P.A. 89-368, S. 8.)

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Sec. 10-387. Review by state agencies of policies and practices for consistency with archaeological preservation. Each state department, institution and agency shall review, in consultation with the Connecticut Historical Commission, their policies and practices for consistency with the preservation and study of the state's archaeological sites and sacred lands and sites. Such review shall include preparation of an evaluation document which specifies projects and programs requiring detailed consultation to identify and protect archaeological sites and sacred lands and sites. Any project submitted to the commission for review under the provisions of sections 22a-1a to 22a-1f, inclusive, is exempt from the provisions of this section.

(P.A. 89-368, S. 9.)

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Sec. 10-388. Human burials. (a) Any person who knows or reasonably believes that any human burials or human skeletal remains are being or about to be disturbed, destroyed, defaced, removed or exposed shall immediately notify the Chief Medical Examiner and State Archaeologist of such fact. If human burials or human skeletal remains are encountered during construction or agricultural, archaeological or other activity that might alter, destroy or otherwise impair the integrity of such burials or remains, the activity shall cease and not resume unless authorized by the Chief Medical Examiner and the State Archaeologist provided such authorization shall be made within five days of completion of the investigation of the Chief Medical Examiner pursuant to subsection (b) of this section.

(b) After notification under subsection (a) of this section, the Chief Medical Examiner shall determine if the remains represent a human death required to be investigated under section 19a-406. After completion of his investigation, if the Chief Medical Examiner determines that the remains may be the remains of a Native American or were found in the subsurface and buried for more than fifty years, the Chief Medical Examiner shall notify the State Archaeologist of such fact. The State Archaeologist, upon such notification, shall in consultation with the Connecticut Historical Commission, the Native American Heritage Advisory Council, established under section 10-382, the Commissioner of Environmental Protection, and the landowner determine, within seventy-two hours, if the site where such remains were discovered can be preserved in situ and protected by a preservation restriction as defined in section 47-42a.

(c) If in situ preservation is not prudent and feasible or not agreed to by the landowner, the State Archaeologist, upon consultation with the landowner and, if appropriate, the Native American Heritage Advisory Council, the Connecticut Historical Commission, and the Commissioner of Environmental Protection shall, if feasible, provide for removal and reburial of the remains at another location or for additional archaeological investigations and scientific analysis prior to reburial. Any excavation and recovery of remains by the State Archaeologist shall be completed not more than five business days after notification by the Chief Medical Examiner under this section unless the landowner consents to additional days.

(d) Human skeletal remains discovered during archaeological investigation shall be excavated under the supervision of the State Archaeologist, pursuant to a written agreement between the State Archaeologist and the holder of the permit specifying the excavation, methods to be used and data to be collected. Due care shall be exercised during excavation, subsequent transport and storage of skeletal remains to insure that the sacred meanings of the remains for Native Americans are respected and protected.

(e) The provisions of this section shall not be construed to require the owner of private lands on which human skeletal remains are found to pay the costs of excavation, removal analysis or reburial of such remains.

(P.A. 89-368, S. 10.)

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Sec. 10-389. Regulations establishing procedures for storage, analysis and reburial of human skeletal remains. (a) Notwithstanding the provisions of sections 7-67 and 7-69, the State Archaeologist, in consultation with the Connecticut Historical Commission, the Native American Heritage Advisory Council established under section 10-382, the Commissioner of Environmental Protection and the archaeological community, shall adopt regulations in accordance with the provisions of chapter 54 establishing procedures for the storage, analysis and reburial of human skeletal remains discovered during an archaeological investigation.

(b) The Commissioner of Environmental Protection shall designate state lands for use as sites for the reburial of Native American human skeletal remains. Such sites shall be deemed sacred lands and designated as state archaeological preserves in accordance with section 10-384.

(c) Any such human remains discovered on and after October 1, 1989, shall be reburied. The State Archaeologist, the Native American Heritage Advisory Council and the Commissioner of Environmental Protection shall jointly determine the contents and organization of each reburial ceremony for Native Americans.

(P.A. 89-368, S. 11.)

History: In 1995 the word "Heritage" was inserted editorially by the Revisors in Subsec. (c) after the words "Native American" for accuracy of reference.

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Sec. 10-390. Penalty. (a) No person shall excavate, damage or otherwise alter or deface any archaeological or sacred site on state lands or within a state archaeological preserve unless such activity is in accordance with the terms and conditions of a permit issued under section 10-386 or in the case of an emergency.

(b) No person shall sell, exchange, transport, receive or offer to sell, any archaeological artifact or human remains collected, excavated or otherwise removed from state lands or a state archaeological preserve in violation of subsection (a) of this section.

(c) No person shall engage in any activity that will desecrate, disturb or alter **any Native American burial, sacred site or cemetery** including any associated objects, unless the activity is engaged in pursuant to a permit issued under section 10-386 or under the direction of the State Archaeologist.

(d) Any person who violates any provision of this section shall be fined not more than five thousand dollars or twice the value of the site or artifact that was the subject of the violation, whichever is greater, and **imprisoned not more than five years** or both.

(e) Any person who violates any provision of this section shall be liable to the state for the reasonable costs and expenses of the state in restoring the site and any associated sacred objects or archaeological artifacts.

(P.A. 89-368, S. 12.)

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Sec. 10-391. Inventory of Native American burial sites and cemeteries. On or before January 1, 1991, the Connecticut Historical Commission, in consultation with the State Archaeologist, the Native American Heritage Advisory Council established under section 10-382 and the Commissioner of Environmental Protection, shall develop procedures to inventory Native American burial sites and cemeteries. Such procedures shall provide for the availability of the inventory to state agencies, departments and institutions.

(P.A. 89-368, S. 13.)

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