

SB 144 A STAFF MEASURE SUMMARY

Carrier: Sen. Ferrioli

Senate Committee On Judiciary

Action Date: 04/13/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-0-1-0

Yeas: 4 - Dembrow, Linthicum, Manning Jr, Prozanski

Exc: 1 - Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Removes exemption from prosecution for possession of archeological objects unintentionally discovered on public lands. Requires district attorney to determine whether Indian tribes claim seized contraband and to notify Commission of Indian Services upon recovery. Requires district attorney provide written notice to Attorney General within 30 days if district attorney declines to prosecute, for a reason other than insufficient evidence, for damaging or unlawfully excavating archeological site. Gives Attorney General authority to prosecute.

ISSUES DISCUSSED:

- Drought allowing for discovery of burial grounds
- Concerns that district attorneys have declined to prosecute
- Effort to protect culturally significant artifacts and sites
- Effects of the -2 amendment

EFFECT OF AMENDMENT:

Requires district attorney to provide written notice to the Attorney General within 30 days if the district attorney declines to prosecute under ORS 358.920 or 390.235 for a reason other than insufficient admissible evidence and gives the Attorney General authority to prosecute.

BACKGROUND:

ORS 358.915 allows individuals to take an unintentionally discovered archeological object from public lands or the individual's private property, so long as the object has been exposed by the forces of nature. Additionally, that archeological object must only be retained for personal use and cannot be a sacred object, human remains, funerary object or object of cultural patrimony. Those objects are contraband. When contraband is seized, the district attorney for the county where the seizure occurred must investigate to determine whether any person claims the seized items.

Senate Bill 144-A removes the current exemption for archeological objects unintentionally discovered on public lands. In addition, it requires the district attorney to determine whether an Indian tribe claims the seized items. It also requires law enforcement to notify the Commission on Indian Services whenever contraband items are seized. The Commission must then designate an appropriate Indian tribe and give notice of the seizure to that tribe. Finally, if a district attorney declines to prosecute for unlawfully excavating or removing archeological objects or artifacts, the district attorney must provide written notice to the Attorney General within 30 days of the decision. The Attorney General may then investigate and prosecute. Notification is not required if the district attorney declines to prosecute

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for insufficient admissible evidence.