

Enrolled
Senate Bill 144

Sponsored by Senator FERRIOLI, Representative STARK, Senator ROBLAN, Representative MCKEOWN; Representative SPRENGER (Presession filed.)

CHAPTER

AN ACT

Relating to archaeological objects; creating new provisions; and amending ORS 358.915 and 358.924.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 358.915 is amended to read:

358.915. The provisions of ORS 192.005, 192.501 to 192.505, 273.990, 358.905 to 358.961 and 390.235 do not apply to a person who unintentionally discovers an archaeological object that has been exposed by the forces of nature on [*public land or*] private property and retains the object for personal use, except for sacred objects, human remains, funerary objects or objects of cultural patrimony.

SECTION 2. ORS 358.924 is amended to read:

358.924. (1) Archaeological objects, funerary objects, human remains, sacred objects and objects of cultural patrimony that are held in violation of the provisions of ORS 358.920 or 390.235 are contraband. A police officer shall seize all items declared to be contraband under the provisions of this section if the police officer has reasonable cause to believe the items are held in violation of the provisions of ORS 358.920 or 390.235.

(2) A law enforcement agency employing a police officer who seizes contraband items under this section shall give notice of the seizure to the district attorney for the county in which the items are seized **and the Commission on Indian Services**. The district attorney shall promptly investigate to determine whether any person **or Indian tribe** claims the items seized. **The commission shall designate any appropriate Indian tribe and give notice to the tribe of the seizure.**

(3) If any person claims items seized under this section, the district attorney shall file a petition with the circuit court for the county for an expedited hearing on the claim. The court shall conduct a hearing for the sole purposes of determining:

(a) Whether the items are archaeological objects, funerary objects, human remains, sacred objects or objects of cultural patrimony;

(b) Whether any arrowheads seized under this section were collected in compliance with ORS 358.920 (1)(b); and

(c) Whether a person claiming an item other than an arrowhead can lawfully possess the item under ORS 358.905 to 358.961.

(4) If items seized under this section are not claimed by any person, or the circuit court determines that the items may not be returned to the claimant under the provisions of subsection (3) of this section:

(a) Archaeological objects shall be delivered to the Oregon State Museum of Anthropology and curated as described in ORS 358.920 (4)(a).

(b) Funerary objects, human remains, sacred objects and objects of cultural patrimony shall be returned to the appropriate tribe for reinterment or other disposition as provided in ORS 358.940.

SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS 358.905 to 358.961.

SECTION 4. (1)(a) If a district attorney of a county declines to prosecute a violation of ORS 358.920 or 390.235 for a reason other than insufficient admissible evidence, within 30 days of the declination the district attorney shall give written notice of the declination to the Attorney General. The notice must contain the reasons underlying the declination to prosecute. Upon receipt of the notice, the Attorney General may take full charge of any investigation of, or prosecution for, conduct in violation of ORS 358.920 or 390.235.

(b) The Attorney General may require the aid and assistance of the district attorney in all matters pertaining to any investigation or prosecution authorized under this section and to the duties of the Attorney General in the county in which the district attorney holds office.

(2) If the Attorney General chooses to investigate or prosecute under this section, the Attorney General shall have all the powers of a district attorney including:

(a) The power to issue subpoenas;

(b) The power to prepare charging instruments; and

(c) All other powers incidental to an investigation or a prosecution authorized under this section.

(3) All costs, fees and other expenses related to the investigation or prosecution authorized under this section shall be paid by the county in which the investigation or prosecution occurs, to the same extent as if conducted by the district attorney of that county.

(4) Except as otherwise provided by law, a local law enforcement agency investigating a violation of ORS 358.920 or 390.235 shall provide copies of all investigatory reports to the Commission on Indian Services.

(5) The power granted to the Attorney General by this section does not deprive a district attorney of any authority or relieve a district attorney from any duty to prosecute criminal violations of law and advise the officers of the county in which the district attorney holds office.

Passed by Senate April 25, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 25, 2017

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Tina Kotek, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State