

# 40:10D-1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2004 **CHAPTER:** 170

**NJSA:** 40:10D-1 (Protection of certain publicly owned archeological sites)

**BILL NO:** A1930 (Substituted for S1053)

**SPONSOR(S):** Van Drew and Diegnan

**DATE INTRODUCED:** January 26, 2004

**COMMITTEE:** **ASSEMBLY:** Agriculture and Natural Resources

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** June 17, 2004

**SENATE:** October 25, 2004

**DATE OF APPROVAL:** December 7, 2004

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) Assembly Committee Substitute (1<sup>st</sup> Reprint) enacted

### A1930

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** No

[FLOOR AMENDMENT STATEMENTS:](#) [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

### S1053

[SPONSORS STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** [Yes](#)

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

Title 40.  
Chapter 10D. (New)  
Archaeological Sites  
Protection  
§§1,6 - C.40:10D-1  
& 40:10D-2  
§4 - C.23:7-1.2  
§5 - C.58:4-14  
§7 - C.27:5J-1

P.L. 2004, CHAPTER 170, *approved December 7, 2004*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, No. 1930

1 AN ACT providing for the protection of certain <sup>1</sup>[publicly-owned]  
2 publicly owned<sup>1</sup> archaeological findings and archaeological sites,  
3 and amending P.L.1983, c.324 and supplementing Title 23, <sup>1</sup>Title  
4 27,<sup>1</sup> Title 40, and Title 58 of the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) The Legislature finds and declares that it is of  
10 critical importance to protect archaeological sites in New Jersey to  
11 prevent their despoliation; that archaeological sites in the State have  
12 been pillaged by relic hunters; that these collectors generally dig  
13 without permission, almost always lack the technical training required  
14 to conduct scientific archaeological excavations, and seldom conduct  
15 legitimate research; and that illicit diggings have resulted in the loss of  
16 scientific data and archaeological findings that would make these sites  
17 invaluable to cultural research and to the State's heritage, destroying  
18 irreplaceable records of human activities and history.

19 The Legislature therefore determines that it is in the State's historic  
20 and cultural interests to prevent the unauthorized excavation and  
21 removal of archaeological findings from certain public lands in New  
22 Jersey.

23

24 2. Section 10 of P.L.1983, c.324 (C.13:1L-10) is amended to read  
25 as follows:

26 10. [No] a. <sup>1</sup>(1)<sup>1</sup> Except as may be provided pursuant to  
27 subsection c. or subsection d. of this section, no person may alter,  
28 [mutilate,] deface, destroy, [alter or move] disturb, or remove any  
29 State park or forest property, whether man-made or natural, or any  
30 animal, or any archaeological findings [, which shall include, but not  
31 be limited to, relics, objects or artifacts of an historical, prehistorical,  
32 geological, archaeological or anthropological nature,] on State park

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly floor amendments adopted June 10, 2004.

1 or forest property or which are held by the department pursuant to the  
2 provisions of [this amendatory and supplementary act] P.L.1983,  
3 c.324 (C.13:1L-1 et seq.), without the [department's] written  
4 permission of the department. As used in this section, "archaeological  
5 findings" shall include, but need not be limited to, relics, objects,  
6 fossils, or artifacts of an historical, prehistorical, geological,  
7 paleontological, archaeological or anthropological nature .

8 (2) No person may sell, transfer, exchange, transport, purchase,  
9 receive or offer to sell, transfer, exchange, transport, purchase or  
10 receive any archaeological findings originating in a State park or forest  
11 property without the written permission of the department.

12 b. No person may litter or abandon any material on State park or  
13 forest property held pursuant to the provisions of [this amendatory  
14 and supplementary act] P.L.1983, c.324 (C.13:1L-1 et seq.).

15 c. The department shall provide for exceptions to the prohibitions  
16 concerning archaeological findings set forth in subsection a. of this  
17 section for archaeological findings of de minimis value innocently  
18 discovered on any State park or forest property.

19 d. No provision of this section shall be construed to restrict or  
20 affect in any way fishing, hunting, trapping, or other such activities or  
21 related activities otherwise authorized or permitted on State park or  
22 forest property by the Department of Environmental Protection.

23 <sup>1</sup>e. Notwithstanding any provision of this section to the contrary,  
24 examination or retrieval of artifacts, or scientific research, conducted  
25 by a State department, agency, commission, authority or corporation  
26 otherwise required or permitted by federal or State law are exempt  
27 from the provisions of this section.<sup>1</sup>

28 (cf: P.L.1983, c.324, s.10)

29  
30 3. Section 23 of P.L.1983, c.324 (C.13:1L-23) is amended to read  
31 as follows:

32 23. a. If any person violates any of the provisions of [this  
33 amendatory and supplementary act] P.L.1983, c.324 (C.13:1L-1 et  
34 seq.) or any rule, regulation or order promulgated pursuant thereto,  
35 the department may institute a civil action in a court of competent  
36 jurisdiction for injunctive relief to prohibit and prevent the violation  
37 and the court may proceed in a summary manner.

38 Any person who violates any of the provisions of [this amendatory  
39 and supplementary act] P.L.1983, c.324 (C.13:1L-1 et seq.) or any  
40 rule, regulation or order promulgated pursuant thereto shall be liable  
41 to a penalty of not more than [\$1,000.00] \$1,000 for each offense,  
42 except as otherwise provided under subsection b. of this section, to be  
43 collected in a civil action by a summary proceeding under ["the  
44 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] <sup>1</sup>["The Penalty]  
45 the "Penalty<sup>1</sup> Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-

1 10 et seq.) or in any case before a court of competent jurisdiction  
2 wherein injunctive relief has been requested. The Superior Court and  
3 municipal courts shall have jurisdiction to hear and determine  
4 violations of the provisions of [this amendatory and supplementary  
5 act] P.L.1983, c.324 (C.13:1L-1 et seq.). If the violation is of a  
6 continuing nature, each day during which it continues shall constitute  
7 an additional, separate and distinct offense. If the damage resulting  
8 from any violation of [this amendatory and supplementary act]  
9 P.L.1983, c.324 (C.13:1L-1 et seq.) or from any violation of any rule,  
10 regulation or order promulgated pursuant thereto exceeds [\$1,000.00]  
11 \$1,000, the person causing the damage shall be liable to a penalty  
12 equal to the value of the damage [so] caused.

13 b. A person who knowingly violates, or who solicits or employs  
14 any other person to violate, the provisions of subsection a. of section  
15 10 of P.L.1983, c.324 (C.13:1L-10) shall be subject to the following  
16 penalties: a fine of not less than \$750 nor more than \$1,500 for the  
17 first offense; a fine of not less than \$1,500 nor more than \$3,000 for  
18 the second offense; and a fine of not less than \$3,000 nor more than  
19 \$5,000 for any subsequent offense. Penalties assessed pursuant to this  
20 subsection shall be collected in a civil action by a summary proceeding.  
21 Any vessel, vehicle or equipment used in the commission of the  
22 violation shall be subject to confiscation and forfeiture to the State, if  
23 warranted, as determined by the courts. Further, in addition to any  
24 penalty provided pursuant to subsection a. of this section, restitution  
25 and damages may be ordered to compensate the State for the cost of  
26 remediating any violation of this section and for the value of any lost,  
27 damaged, or destroyed archaeological findings. All fines, restitution  
28 payments, and damages collected shall be remitted to the department  
29 to be used for the preservation, remediation or protection of State  
30 archaeological sites. Any archaeological findings obtained as a result  
31 of a violation of this section shall be subject to confiscation,  
32 forfeiture, and return to the State and, upon recovery, shall be  
33 deposited with the <sup>1</sup>[department. The department shall adopt,  
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
35 (C.52:14B-1 et seq.), rules and regulations to ensure the appropriate  
36 disposition of any confiscated, forfeited, or returned archaeological  
37 findings.] New Jersey State Museum.

38 c. Notwithstanding any provision of this section to the contrary,  
39 examination or retrieval of artifacts, or scientific research, conducted  
40 by a State department, agency, commission, authority or corporation  
41 otherwise required or permitted by federal or State law are exempt  
42 from the provisions of this section.<sup>1</sup>  
43 (cf: P.L.1991,c.91,s.225)

44  
45 4. (New section) a. (1) Except as may be provided pursuant to  
46 subsection c. of this section, no person may alter, deface, destroy,

1 disturb, or remove any archaeological findings in any wildlife  
2 management area administered by the Department of Environmental  
3 Protection, without the written permission of the department. As used  
4 in this section, "archaeological findings" shall include, but need not be  
5 limited to, relics, objects, fossils, or artifacts of an historical,  
6 prehistorical, geological, paleontological, archaeological or  
7 anthropological nature.

8 (2) No person may sell, transfer, exchange, transport, purchase,  
9 receive or offer to sell, transfer, exchange, transport, purchase or  
10 receive any such archaeological findings originating in a wildlife  
11 management area without the written permission of the Department of  
12 Environmental Protection.

13 b. A person who knowingly violates, or who solicits or employs  
14 any other person to violate, the provisions of subsection a. of this  
15 section shall be subject to the following penalties: a fine of not less  
16 than \$750 nor more than \$1,500 for the first offense; a fine of not less  
17 than \$1,500 nor more than \$3,000 for the second offense; and a fine  
18 of not less than \$3,000 nor more than \$5,000 for any subsequent  
19 offense. Penalties assessed pursuant to this subsection shall be  
20 collected in a civil action by a summary proceeding. Any vessel,  
21 vehicle or equipment used in the commission of the violation shall be  
22 subject to confiscation and forfeiture to the State, if warranted, as  
23 determined by the courts. Further, restitution and damages may be  
24 ordered to compensate the State for the cost of remediating any  
25 violation of this section and for the value of any lost, damaged, or  
26 destroyed archaeological findings. All fines, restitution payments, and  
27 damages collected shall be remitted to the Department of  
28 Environmental Protection to be used for the preservation, remediation  
29 or protection of State archaeological sites. Any archaeological  
30 findings obtained as a result of a violation of this section shall be  
31 subject to confiscation, forfeiture, and return to the State and, upon  
32 recovery, shall be deposited with the <sup>1</sup>[Department of Environmental  
33 Protection. The Department of Environmental Protection shall adopt,  
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
35 (C.52:14B-1 et seq.), rules and regulations to ensure the appropriate  
36 disposition of any confiscated, forfeited, or returned archaeological  
37 findings] New Jersey State Museum<sup>1</sup>.

38 c. The Department of Environmental Protection shall provide for  
39 exceptions to the prohibitions set forth in subsection a. of this section  
40 for archaeological findings of de minimis value innocently discovered  
41 in any wildlife management area.

42 <sup>1</sup>d. Notwithstanding any provision of this section to the contrary,  
43 examination or retrieval of artifacts, or scientific research, conducted  
44 by a State department, agency, commission, authority or corporation  
45 otherwise required or permitted by federal or State law are exempt  
46 from the provisions of this section.<sup>1</sup>

1       5. (New section) a. (1) Except as may be provided pursuant to  
2 subsection c. of this section, no person may alter, deface, destroy,  
3 disturb, or remove any archaeological findings on any reservoir lands  
4 administered by the Department of Environmental Protection or by a  
5 State authority or commission, without written permission from the  
6 department or the respective administrative body as appropriate. As  
7 used in this section, "archaeological findings" shall include, but need  
8 not be limited to, relics, objects, fossils, or artifacts of an historical,  
9 prehistorical, geological, paleontological, archaeological or  
10 anthropological nature.

11       (2) As a condition of granting permission pursuant to paragraph  
12 (1) of this subsection, the Department of Environmental Protection  
13 or the respective administrative body shall require that all excavation  
14 and exploration for archaeological findings be conducted in the least  
15 destructive manner possible. The administering authority or  
16 commission may also, in its discretion, require a person or persons  
17 granted such permission to consult with the Department of  
18 Environmental Protection prior to undertaking an approved project to  
19 verify that the methods and techniques selected are the least  
20 destructive and most appropriate to the site.

21       (3) No person may sell, transfer, exchange, transport, purchase,  
22 receive or offer to sell, transfer, exchange, transport, purchase or  
23 receive any archaeological findings originating on any reservoir lands  
24 administered by the Department of Environmental Protection or by a  
25 State authority or commission without the written permission of the  
26 department or the respective administrative body as appropriate.

27       b. A person who knowingly violates, or who solicits or employs  
28 any other person to violate, the provisions of subsection a. of this  
29 section shall be subject to the following penalties: a fine of not less  
30 than \$750 nor more than \$1,500 for the first offense; a fine of not less  
31 than \$1,500 nor more than \$3,000 for the second offense; and a fine  
32 of not less than \$3,000 nor more than \$5,000 for any subsequent  
33 offense. Penalties assessed pursuant to this subsection shall be  
34 collected in a civil action by a summary proceeding. Any vessel,  
35 vehicle or equipment used in the commission of the violation shall be  
36 subject to confiscation and forfeiture to the department or to the State  
37 authority or commission, if warranted, as determined by the courts.  
38 All fines collected shall be remitted to the Department of  
39 Environmental Protection to be used for Statewide preservation,  
40 remediation or protection of archaeological sites. Further, restitution  
41 and damages may be ordered to compensate the department or State  
42 authority or commission for the cost of remediating any violation of  
43 this section and for the value of any lost, damaged, or destroyed  
44 archaeological findings. The State authority or commission shall  
45 consult with the department for proper remediation of affected lands.  
46 Any archaeological findings obtained as a result of a violation of this

1 section shall be subject to confiscation, forfeiture, and return to the  
2 proper owner. Upon recovery, the archaeological findings shall be  
3 deposited with the Department of Environmental Protection for  
4 verification of ownership. The Department of Environmental  
5 Protection shall adopt, pursuant to the "Administrative Procedure  
6 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to  
7 ensure the appropriate disposition of any confiscated, forfeited, or  
8 returned archaeological findings. The return of archaeological findings  
9 to a State authority or commission shall be made upon verification of  
10 ownership by the Department of Environmental Protection that the  
11 State authority or commission owns the archaeological findings.

12 c. The Department of Environmental Protection and each State  
13 authority and commission administering reservoir lands shall provide  
14 for exceptions to the prohibitions set forth in subsection a. of this  
15 section for archaeological findings of de minimis value innocently  
16 discovered on any reservoir lands.

17 <sup>1</sup>d. Notwithstanding any provision of this section to the contrary,  
18 examination or retrieval of artifacts, or scientific research, conducted  
19 by a State department, agency, commission, authority or corporation  
20 otherwise required or permitted by federal or State law are exempt  
21 from the provisions of this section.<sup>1</sup>

22

23 6. (New section) a. (1) Except as may be provided pursuant to  
24 subsection c. of this section, no person may alter, deface, destroy,  
25 disturb or remove any archaeological findings on lands owned by a  
26 county, municipality, or any political subdivision thereof, without  
27 written permission from the respective county, municipality, or  
28 political subdivision thereof. As used in this section, "archaeological  
29 findings" shall include, but not need be limited to, relics, objects,  
30 fossils, or artifacts of an historical, prehistorical, geological,  
31 paleontological, archaeological or anthropological nature.

32 (2) As a condition of granting permission pursuant to paragraph  
33 (1) of this subsection, the respective county, municipality, or political  
34 subdivision thereof shall require that all excavation and exploration for  
35 archaeological findings be conducted in the least destructive manner  
36 possible. The county, municipality, or political subdivision thereof  
37 may also, in its discretion, require a person or persons granted such  
38 permission to consult with the Department of Environmental  
39 Protection prior to undertaking an approved project to verify that the  
40 methods and techniques selected are the least destructive and most  
41 appropriate to the site.

42 (3) No person may sell, transfer, exchange, transport, purchase,  
43 receive or offer to sell, transfer, exchange, transport, purchase or  
44 receive any such archaeological finding originating on lands owned by  
45 a county, municipality, or any political subdivision thereof, without  
46 the written permission of the respective county, municipality, or



1 political subdivision thereof.

2 b. A person who knowingly violates, solicits or employs any other  
3 person to violate the provisions of subsection a. of this section shall be  
4 subject to the following penalties: a fine of not less than \$750 nor  
5 more than \$1,500 for the first offense; a fine of not less than \$1,500  
6 nor more than \$3,000 for the second offense; and a fine of not less  
7 than \$3,000 nor more than \$5,000 for any subsequent offense.  
8 Penalties assessed pursuant to this subsection shall be collected in a  
9 civil action by a summary proceeding. Any vessel, vehicle or  
10 equipment used in the commission of the violation shall be subject to  
11 confiscation and forfeiture to the county, municipality, or political  
12 subdivision thereof, if warranted, as determined by the courts. All  
13 fines collected shall be remitted to the Department of Environmental  
14 Protection to be used for Statewide preservation, remediation or  
15 protection of archaeological sites. Further, restitution and damages  
16 may be ordered to compensate the county, municipality, or political  
17 subdivision thereof, for the cost of remediating any violation of this  
18 section and for the value of any lost, damaged, or destroyed  
19 archaeological findings. The county, municipality, or political  
20 subdivision thereof shall consult with the department for proper  
21 remediation of affected lands. Any archaeological findings obtained  
22 as a result of a violation of this section shall be subject to confiscation,  
23 forfeiture, and return to the proper owner. Upon recovery, the  
24 archaeological findings shall be deposited with the Department of  
25 Environmental Protection for verification of ownership. The  
26 Department of Environmental Protection shall adopt, pursuant to the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), rules and regulations to ensure the appropriate disposition of  
29 any confiscated, forfeited, or returned archaeological findings. The  
30 return of archaeological findings to a county, municipality, or political  
31 subdivision thereof shall be made upon verification of ownership by  
32 the Department of Environmental Protection that the county,  
33 municipality, or political subdivision thereof owns the archaeological  
34 findings.

35 c. A county, municipality, or any applicable political subdivision  
36 thereof shall provide for exceptions to the prohibitions set forth in  
37 subsection a. of this section for archaeological findings of de minimis  
38 value innocently discovered on lands owned by the respective local  
39 governmental entity.

40 <sup>1</sup>d. Notwithstanding any provision of this section to the contrary,  
41 examination or retrieval of artifacts, or scientific research, conducted  
42 by a State department, agency, commission, authority or corporation  
43 otherwise required or permitted by federal or State law are exempt  
44 from the provisions of this section.<sup>1</sup>

45

46 <sup>17.</sup> (New section) a. (1) Except as may be provided pursuant to

1 subsection c. of this section, no person may alter, deface, destroy,  
2 disturb, or remove any archaeological findings on any lands or rights  
3 of way owned by the Department of Transportation, the New Jersey  
4 Transit Corporation, the New Jersey Turnpike Authority, or the South  
5 Jersey Transportation Authority, without written permission from the  
6 respective administrative body as appropriate. As used in this section,  
7 "archaeological findings" shall include, but need not be limited to,  
8 relics, objects, fossils, or artifacts of an historical, prehistorical,  
9 geological, paleontological, archaeological or anthropological nature.

10 (2) As a condition of granting permission pursuant to paragraph  
11 (1) of this subsection, the owner of the property or right-of-way shall  
12 require that all excavation and exploration for archaeological findings  
13 be conducted in the least destructive manner possible. The owner of  
14 the property or right-of-way may also, in its discretion, require a  
15 person or persons granted such permission to consult with the owner  
16 of the property or right-of-way prior to undertaking an approved  
17 project to verify that the methods and techniques selected are the least  
18 destructive and most appropriate to the site.

19 (3) No person may sell, transfer, exchange, transport, purchase,  
20 receive or offer to sell, transfer, exchange, transport, purchase or  
21 receive any archaeological findings originating on any lands or right-  
22 of-ways owned by the Department of Transportation, the New Jersey  
23 Transit Corporation, the New Jersey Turnpike Authority or the South  
24 Jersey Transportation Authority without the written permission of the  
25 owner of the property or right-of-way as appropriate.

26 b. A person who knowingly violates, or who solicits or employs  
27 any other person to violate, the provisions of subsection a. of this  
28 section shall be subject to the following penalties: a fine of not less  
29 than \$750 nor more than \$1,500 for the first offense; a fine of not less  
30 than \$1,500 nor more than \$3,000 for the second offense; and a fine  
31 of not less than \$3,000 nor more than \$5,000 for any subsequent  
32 offense. Penalties assessed pursuant to this subsection shall be  
33 collected in a civil action by a summary proceeding. Any vessel,  
34 vehicle or equipment used in the commission of the violation shall be  
35 subject to confiscation and forfeiture to the owner of the property or  
36 right-of-way, if warranted, as determined by the courts. All fines  
37 collected shall be remitted to the Department of Environmental  
38 Protection to be used for Statewide preservation, remediation or  
39 protection of archaeological sites. Further, restitution and damages  
40 may be ordered to compensate the owner of the property or right-of-  
41 way for the cost of remediating any violation of this section and for  
42 the value of any lost, damaged, or destroyed archaeological findings.  
43 The owner of the property or right-of-way shall consult with the  
44 Department of Environmental Protection for proper remediation of  
45 affected lands. Any archaeological findings obtained as a result of a  
46 violation of this section shall be subject to confiscation, forfeiture, and

1 return to the proper owner. Upon recovery, the archaeological  
2 findings shall be deposited with the Department of Environmental  
3 Protection for verification of ownership. The Department of  
4 Environmental Protection shall adopt, pursuant to the "Administrative  
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
6 regulations to ensure the appropriate disposition of any confiscated,  
7 forfeited, or returned archaeological findings. The return of  
8 archaeological findings to the owner of the property or right-of-way  
9 shall be made upon verification of ownership by the Department of  
10 Environmental Protection that the owner of the property or right-of-  
11 way owns the archaeological findings.

12 c. The owner of the property or right-of-way shall provide for  
13 exceptions to the prohibitions set forth in subsection a. of this section  
14 for archaeological findings of de minimis value innocently discovered  
15 on any lands or right-of-ways.

16 d. Notwithstanding any provision of this section to the contrary,  
17 examination or retrieval of artifacts, or scientific research, conducted  
18 by a State department, agency, commission, authority or corporation  
19 otherwise required or permitted by federal or State law are exempt  
20 from the provisions of this section.<sup>1</sup>

21

22 <sup>1</sup>[7.] §.<sup>1</sup> This act shall take effect immediately.

23

24

25

26

27 Provides for protection of certain publicly owned archaeological sites  
28 and findings by various State and local government entities.

# ASSEMBLY, No. 1930

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 26, 2004

**Sponsored by:**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman PATRICK DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Provides for the protection of certain publicly-owned archaeological sites and findings, and establishes penalties.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/6/2004)**

1 AN ACT providing for the protection of certain publicly-owned  
2 archaeological sites and findings and establishing penalties,  
3 amending P.L.1983, c.324, and supplementing Titles 23 and 40 of  
4 the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. The Legislature finds and declares that it is of critical  
10 importance to protect archaeological sites in New Jersey to prevent  
11 their despoliation; that prehistoric archaeological sites in the State  
12 have been pillaged by relic hunters; that these collectors generally dig  
13 without permission, almost always lack the technical training required  
14 to conduct scientific archaeological excavations, and seldom conduct  
15 legitimate research; and that illicit diggings have resulted in the loss of  
16 scientific data and archaeological findings that make these sites  
17 invaluable to cultural research and to our heritage, destroying non-  
18 renewable records of human activities.

19 The Legislature therefore determines that it is in our historic and  
20 cultural interests to prevent the unauthorized excavation and removal  
21 of archaeological findings from certain public lands in New Jersey.

22

23 2. Section 10 of P.L.1983, c.324 (C.13:1L-10) is amended to read  
24 as follows:

25 10.a. (1) No person may ~~alter, [mutilate,] deface, destroy, [alter~~  
26 ~~or move]~~ disturb or remove from any State park or forest property,  
27 [whether man-made or natural, or any animal, or any] archaeological  
28 findings [, which shall include, but not be limited to, relics, objects or  
29 artifacts of an historical, prehistorical, geological, archaeological or  
30 anthropological nature,] which are held by the department pursuant to  
31 the provisions of [this amendatory and supplementary act] P.L.1983,  
32 c.324 (C.13:1L-1 et seq.) , without the department's permission. As  
33 used in this section "archaeological finding" shall include, but need not  
34 be limited to relics, objects or artifacts of an historical, prehistorical,  
35 geological, archaeological or anthropological nature.

36 (2) No person may sell, transfer, exchange, transport, purchase,  
37 receive or offer to sell, transfer, exchange, transport, purchase or  
38 receive any archaeological finding without the permission of the  
39 department.

40 b. No person may litter or abandon any material on State park or  
41 forest property held pursuant to the provisions of [this amendatory  
42 and supplementary act] P.L.1983, c.324 (C.13:1L-1 et seq.) .

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1     c. No person may harm or remove any animal on State park or  
2 forest property held pursuant to the provisions of P.L.1983, c.324  
3 (C.13:1L-1 et seq.), without the department's permission.

4     d. A person who knowingly violates, solicits or employs any other  
5 person to violate the provisions of subsection a. shall be subject to the  
6 following penalties: a fine of not less than \$750 or more than \$1,500  
7 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
8 for the second offense and a fine of not less than \$3,000 or more than  
9 \$5,000 for any subsequent offense. Penalties provided within this  
10 subsection shall be collected in a civil action by a summary proceeding.  
11 Any vessel, vehicle or equipment used in the commission of the  
12 violation shall be subject to confiscation and forfeiture to the State, if  
13 warranted, as determined by the courts. Further, restitution may be  
14 ordered to compensate the State for the cost of remediating any  
15 violation of this provision. All fines shall be remitted to the  
16 department to be used for the preservation, remediation or protection  
17 of State archaeological sites. Any archaeological finding obtained as  
18 a result of violation of these provisions shall be subject to forfeiture  
19 and return to the State and shall be deposited with the department,  
20 which shall adopt rules or regulations to ensure their appropriate  
21 disposition.

22 (cf: P.L.1983, c.324, s.10)

23  
24     3. (New section) a. (1) No person may alter, deface, destroy,  
25 disturb or remove archaeological findings from wildlife management  
26 areas or reservoir lands administered by the Department of  
27 Environmental Protection, without the department's permission. As  
28 used in this section "archaeological finding" shall include, but need not  
29 be limited to relics, objects or artifacts of an historical, prehistorical,  
30 geological, archaeological or anthropological nature.

31     (2) No person may sell, transfer, exchange, transport, purchase,  
32 receive or offer to sell, transfer, exchange, transport, purchase or  
33 receive any archaeological finding without the permission of the  
34 department.

35     b. A person who knowingly violates, solicits or employs any other  
36 person to violate the provisions of subsection a. shall be subject to the  
37 following penalties: a fine of not less than \$750 or more than \$1,500  
38 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
39 for the second offense and a fine of not less than \$3,000 or more than  
40 \$5,000 for any subsequent offense. Penalties provided within this  
41 subsection shall be collected in a civil action by a summary proceeding.  
42 Any vessel, vehicle or equipment used in the commission of the  
43 violation shall be subject to confiscation and forfeiture to the State, if  
44 warranted, as determined by the courts. Further, restitution may be  
45 ordered to compensate the State for the cost of remediating any  
46 violation of this provision. All fines shall be remitted to the

1 department to be used for the preservation, remediation or protection  
2 of State archaeological sites. Any archaeological finding obtained as  
3 a result of violation of these provisions shall be subject to forfeiture  
4 and return to the State and shall be deposited with the department,  
5 which shall adopt rules or regulations to ensure their appropriate  
6 disposition.

7

8 4. (New section) a. (1) No person may alter, deface, destroy,  
9 disturb or remove archaeological findings from lands owned by a  
10 county, municipality, or any political subdivision thereof, without  
11 permission from the respective administrative body. As used in this  
12 section, "archaeological findings" shall include, but not need be limited  
13 to, relics, objects or artifacts of an historical, prehistorical, geological,  
14 archaeological or anthropological nature.

15 (2) No person may sell, transfer, exchange, transport, purchase,  
16 receive or offer to sell, transfer, exchange, transport, purchase or  
17 receive any archaeological finding without the permission of the  
18 department.

19 b. A person who knowingly violates, solicits or employs any other  
20 person to violate the provisions of subsection a. shall be subject to the  
21 following penalties: a fine of not less than \$750 or more than \$1,500  
22 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
23 for the second offense and a fine of not less than \$3,000 or more than  
24 \$5,000 for any subsequent offense. Any penalty provided by this act  
25 shall be collected in a civil action by a summary proceeding. Any  
26 vessel, vehicle or equipment used in the commission of the violation  
27 shall be subject to confiscation and forfeiture to the county or  
28 municipality, if warranted, as determined by the courts. All fines shall  
29 be remitted to the department to be used for state-wide preservation,  
30 remediation or protection of archaeological sites. Further, restitution  
31 may be ordered to compensate the county or municipality for the cost  
32 of remediating any violation of this provision. The county or  
33 municipality shall consult with the department for proper remediation  
34 of effected lands. Any archaeological finding obtained as a result of  
35 violation of these provisions shall, upon recovery, be placed in the  
36 custody of the Department of Environmental Protection for  
37 appropriate disposition. The return of archeological findings to  
38 counties or municipalities shall be made upon verification of ownership  
39 by the department.

40

41 5. This act shall take effect immediately.

42

43

#### STATEMENT

44

45 This bill would prohibit altering, defacing, disturbing, destroying  
46 or removing archaeological findings from State parks, forest

1 properties, wildlife management areas or reservoir lands, and lands  
2 owned by counties or municipalities, or any political subdivision  
3 thereof, without the permission of the Department of Environmental  
4 Protection, or the respective municipal or county administrative body.

5 The bill would also prohibit the sale, transfer, exchange, transport,  
6 purchase or receipt of any archaeological finding without permission  
7 of the department, and would provide for: the confiscation of  
8 archaeological findings or artifacts obtained in violation of the act; the  
9 forfeiture of equipment and materials used in the pursuit of prohibited  
10 activities; and the imposition of penalties and restitution for any person  
11 who knowingly violates or solicits or employs others to violate the act.  
12 Such persons would be subject to the following penalties: a fine of not  
13 less than \$750 or more than \$1,500 for the first offense; a fine of not  
14 less than \$1,500 or more than \$3,000 for the second offense and a fine  
15 of not less than \$3,000 or more than \$5,000 for any subsequent  
16 offense.

17 The bill would further require any archaeological finding obtained  
18 in State parks, forest properties, wildlife management areas or  
19 reservoir lands, and lands owned by counties or municipalities, or any  
20 political subdivision thereof, to be forfeited and returned to the State  
21 Department of Environmental Protection, which would adopt rules or  
22 regulations to ensure their appropriate disposition; or in the case of a  
23 county or municipality or subdivision thereof, findings would be placed  
24 in the custody of the department and returned to the appropriate party  
25 on verification of ownership.



ASSEMBLY AGRICULTURE AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1930**

**STATE OF NEW JERSEY**

DATED: MAY 6, 2004

The Assembly Agriculture and Natural Resources Committee reports favorably Assembly Bill No. 1930 as the Assembly Committee Substitute for Assembly Bill No. 1930.

This committee substitute would prohibit the altering, defacing, disturbing, destroying or removing of archaeological findings from any State park or forest property, in any wildlife management area, on any reservoir lands administered by the Department of Environmental Protection (DEP) or by a State authority or commission, or on any lands owned by a county or municipality, or any political subdivision thereof, without the written permission of the DEP, the State authority or commission, or the county, municipality, or political subdivision thereof, as the case may be. The committee substitute would also prohibit the sale, transfer, exchange, transport, purchase or receipt of any archaeological findings originating from the property, area, or lands without the written permission of the appropriate entity that owns or administers the property, area or lands. However, the committee substitute also provides for exceptions to be made by the appropriate entity for archaeological findings of de minimus value that have been innocently discovered on the property, in the area, or on the lands." Archaeological findings," as provided in the committee substitute, would include such things as relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

The committee substitute would provide the following penalties for violations of these provisions: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. The committee substitute provides for the forfeiture of vessels, vehicles or equipment used in the pursuit of prohibited activities, and for the imposition of penalties and restitution against any person who knowingly violates or solicits or employs others to violate the provisions of the committee substitute. The committee substitute

would further require any archaeological findings on State park or forest property, in a wildlife management area, on reservoir lands administered by the DEP or by a State authority or commission, or on any lands owned by a county or municipality, or any political subdivision thereof, to be confiscated, forfeited, and returned to the proper owner. The committee substitute directs DEP to adopt rules and regulations to ensure their appropriate disposition. In the case of reservoir lands administered by a State authority or commission, or lands owned by a county, municipality, or political subdivision thereof, the archaeological findings would be returned to the appropriate entity upon DEP verification of ownership.

Finally, this committee substitute clarifies that the current provisions of law prohibiting the removal of animals from State park or forest property without DEP permission in no way restricts or affects fishing, hunting, trapping, or other such activities or related activities on State park or forest property that may be otherwise authorized or permitted by the DEP.

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1930**

with Assembly Floor Amendments  
(Proposed By Assemblyman VAN DREW)

ADOPTED: JUNE 10, 2004

These floor amendments would expand the areas covered under this bill to include lands and right-of-ways owned by the Department of Transportation, the New Jersey Transit Corporation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority. These floor amendments would also change the depository for recovered archaeological findings originating on State park or forest property or in wildlife management areas, from the Department of Environmental Protection to the State Museum.

Further, these amendments would specifically exempt the examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law, from the provisions of the bill.

**SENATE, No. 1053**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED FEBRUARY 9, 2004

**Sponsored by:**

**Senator BARBARA BUONO**

**District 18 (Middlesex)**

**Senator NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Provides for protection of certain publicly-owned archaeological sites and findings, and establishes penalties.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/8/2004)**

S1053 BUONO, ASSELTA

2

1 AN ACT providing for the protection of certain publicly-owned  
2 archaeological sites and findings and establishing penalties,  
3 amending P.L.1983, c.324, and supplementing Titles 23 and 40 of  
4 the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. The Legislature finds and declares that it is of critical  
10 importance to protect archaeological sites in New Jersey to prevent  
11 their despoliation; that prehistoric archaeological sites in the State  
12 have been pillaged by relic hunters; that these collectors generally dig  
13 without permission, almost always lack the technical training required  
14 to conduct scientific archaeological excavations, and seldom conduct  
15 legitimate research; and that illicit diggings have resulted in the loss of  
16 scientific data and archaeological findings that make these sites  
17 invaluable to cultural research and to our heritage, destroying non-  
18 renewable records of human activities.

19 The Legislature therefore determines that it is in our historic and  
20 cultural interests to prevent the unauthorized excavation and removal  
21 of archaeological findings from certain public lands in New Jersey.

22

23 2. Section 10 of P.L.1983, c.324 (C.13:1L-10) is amended to read  
24 as follows:

25 10. a. (1) No person may ~~alter, [mutilate,] deface, destroy, [alter~~  
26 ~~or move] disturb or remove from~~ any State park or forest property,  
27 ~~[whether man-made or natural, or any animal, or any] archaeological~~  
28 ~~findings [, which shall include, but not be limited to, relics, objects or~~  
29 ~~artifacts of an historical, prehistorical, geological, archaeological or~~  
30 ~~anthropological nature,] which are held by the department pursuant to~~  
31 ~~the provisions of [this amendatory and supplementary act] P.L.1983,~~  
32 ~~c.324 (C.13:1L-1 et seq.), without the department's permission. As~~  
33 ~~used in this section "archaeological finding" shall include, but need not~~  
34 ~~be limited to relics, objects or artifacts of an historical, prehistorical,~~  
35 ~~geological, archaeological or anthropological nature.~~

36 (2) ~~No person may sell, transfer, exchange, transport, purchase,~~  
37 ~~receive or offer to sell, transfer, exchange, transport, purchase or~~  
38 ~~receive any archaeological finding without the permission of the~~  
39 ~~department.~~

40 ~~b. No person may litter or abandon any material on State park or~~  
41 ~~forest property held pursuant to the provisions of [this amendatory~~  
42 ~~and supplementary act] P.L.1983, c.324 (C.13:1L-1 et seq.) .~~

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       c. No person may harm or remove any animal on State park or  
2 forest property held pursuant to the provisions of P.L.1983, c.324  
3 (C.13:1L-1 et seq.), without the department's permission.

4       d. A person who knowingly violates, solicits or employs any other  
5 person to violate the provisions of subsection a. shall be subject to the  
6 following penalties: a fine of not less than \$750 or more than \$1,500  
7 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
8 for the second offense and a fine of not less than \$3,000 or more than  
9 \$5,000 for any subsequent offense. Penalties provided within this  
10 subsection shall be collected in a civil action by a summary proceeding.  
11 Any vessel, vehicle or equipment used in the commission of the  
12 violation shall be subject to confiscation and forfeiture to the State, if  
13 warranted, as determined by the courts. Further, restitution may be  
14 ordered to compensate the State for the cost of remediating any  
15 violation of this provision. All fines shall be remitted to the  
16 department to be used for the preservation, remediation or protection  
17 of State archaeological sites. Any archaeological finding obtained as  
18 a result of violation of these provisions shall be subject to forfeiture  
19 and return to the State and shall be deposited with the department,  
20 which shall adopt rules or regulations to ensure their appropriate  
21 disposition.

22 (cf: P.L.1983, c.324, s.10)

23  
24       3. (New section) a. (1) No person may alter, deface, destroy,  
25 disturb or remove archaeological findings from wildlife management  
26 areas or reservoir lands administered by the Department of  
27 Environmental Protection, without the department's permission. As  
28 used in this section "archaeological finding" shall include, but need not  
29 be limited to relics, objects or artifacts of an historical, prehistorical,  
30 geological, archaeological or anthropological nature.

31       (2) No person may sell, transfer, exchange, transport, purchase,  
32 receive or offer to sell, transfer, exchange, transport, purchase or  
33 receive any archaeological finding without the permission of the  
34 department.

35       b. A person who knowingly violates, solicits or employs any other  
36 person to violate the provisions of subsection a. shall be subject to the  
37 following penalties: a fine of not less than \$750 or more than \$1,500  
38 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
39 for the second offense and a fine of not less than \$3,000 or more than  
40 \$5,000 for any subsequent offense. Penalties provided within this  
41 subsection shall be collected in a civil action by a summary proceeding.  
42 Any vessel, vehicle or equipment used in the commission of the  
43 violation shall be subject to confiscation and forfeiture to the State, if  
44 warranted, as determined by the courts. Further, restitution may be  
45 ordered to compensate the State for the cost of remediating any  
46 violation of this provision. All fines shall be remitted to the

1 department to be used for the preservation, remediation or protection  
2 of State archaeological sites. Any archaeological finding obtained as  
3 a result of violation of these provisions shall be subject to forfeiture  
4 and return to the State and shall be deposited with the department,  
5 which shall adopt rules or regulations to ensure their appropriate  
6 disposition.

7  
8 4. (New section) a. (1) No person may alter, deface, destroy,  
9 disturb or remove archaeological findings from lands owned by a  
10 county, municipality, or any political subdivision thereof, without  
11 permission from the respective administrative body. As used in this  
12 section, "archaeological findings" shall include, but not need be limited  
13 to, relics, objects or artifacts of an historical, prehistorical, geological,  
14 archaeological or anthropological nature.

15 (2) No person may sell, transfer, exchange, transport, purchase,  
16 receive or offer to sell, transfer, exchange, transport, purchase or  
17 receive any archaeological finding without the permission of the  
18 department.

19 b. A person who knowingly violates, solicits or employs any other  
20 person to violate the provisions of subsection a. shall be subject to the  
21 following penalties: a fine of not less than \$750 or more than \$1,500  
22 for the first offense; a fine of not less than \$1,500 or more than \$3,000  
23 for the second offense and a fine of not less than \$3,000 or more than  
24 \$5,000 for any subsequent offense. Any penalty provided by this act  
25 shall be collected in a civil action by a summary proceeding. Any  
26 vessel, vehicle or equipment used in the commission of the violation  
27 shall be subject to confiscation and forfeiture to the county or  
28 municipality, if warranted, as determined by the courts. All fines shall  
29 be remitted to the department to be used for state-wide preservation,  
30 remediation or protection of archaeological sites. Further, restitution  
31 may be ordered to compensate the county or municipality for the cost  
32 of remediating any violation of this provision. The county or  
33 municipality shall consult with the department for proper remediation  
34 of effected lands. Any archaeological finding obtained as a result of  
35 violation of these provisions shall, upon recovery, be placed in the  
36 custody of the Department of Environmental Protection for  
37 appropriate disposition. The return of archaeological findings to  
38 counties or municipalities shall be made upon verification of ownership  
39 by the department.

40  
41 5. This act shall take effect immediately.

42  
43 STATEMENT

44  
45 This bill would prohibit altering, defacing, disturbing, destroying  
46 or removing archaeological findings from State parks, forest

**S1053 BUONO, ASSELTA**

1 properties, wildlife management areas or reservoir lands, and lands  
2 owned by counties or municipalities, or any political subdivision  
3 thereof, without the permission of the Department of Environmental  
4 Protection, or the respective municipal or county administrative body.

5 The bill would also prohibit the sale, transfer, exchange, transport,  
6 purchase or receipt of any archaeological finding without permission  
7 of the department, and would provide for: the confiscation of  
8 archaeological findings or artifacts obtained in violation of the act; the  
9 forfeiture of equipment and materials used in the pursuit of prohibited  
10 activities; and the imposition of penalties and restitution for any person  
11 who knowingly violates or solicits or employs others to violate the act.  
12 Such persons would be subject to the following penalties: a fine of not  
13 less than \$750 or more than \$1,500 for the first offense; a fine of not  
14 less than \$1,500 or more than \$3,000 for the second offense and a fine  
15 of not less than \$3,000 or more than \$5,000 for any subsequent  
16 offense.

17 The bill would further require any archaeological finding obtained  
18 in State parks, forest properties, wildlife management areas or  
19 reservoir lands, and lands owned by counties or municipalities, or any  
20 political subdivision thereof, to be forfeited and returned to the State  
21 Department of Environmental Protection, which would adopt rules or  
22 regulations to ensure their appropriate disposition; or in the case of a  
23 county or municipality or subdivision thereof, findings would be placed  
24 in the custody of the department and returned to the appropriate party  
25 on verification of ownership.



SENATE WAGERING, TOURISM AND HISTORIC  
PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1053**

**STATE OF NEW JERSEY**

DATED: JUNE 7, 2004

The Senate Wagering, Tourism and Historic Preservation Committee reports favorably the Senate Committee Substitute for Senate, No. 1053.

This substitute would prohibit altering, defacing, disturbing, destroying or removing archaeological findings from State parks, forest properties, wildlife management areas or reservoir lands, and lands owned by counties or municipalities, or any political subdivision thereof, or lands and right-of-ways owned by the Department of Transportation and other State transportation entities without the permission of the Department of Environmental Protection or Transportation, or the respective municipal or county administrative body, or State transportation entity.

The substitute would also prohibit the sale, transfer, exchange, transport, purchase or receipt of any archaeological finding without permission, and would provide for: the confiscation of archaeological findings or artifacts obtained in violation of the act; the forfeiture of equipment and materials used in the pursuit of prohibited activities; and the imposition of penalties and restitution for any person who knowingly violates or solicits or employs others to violate the act. Such persons would be subject to the following penalties: a fine of not less than \$750 or more than \$1,500 for the first offense; a fine of not less than \$1,500 or more than \$3,000 for the second offense and a fine of not less than \$3,000 or more than \$5,000 for any subsequent offense.

The substitute would further require any archaeological finding obtained in State parks, forest properties, wildlife management areas or reservoir lands, and lands owned by counties or municipalities, or any political subdivision thereof, and lands and right-of-ways owned by the Department of Transportation and other State transportation entities to be forfeited and returned to the State Museum or the property owner upon verification of ownership by the State Department of Environmental Protection.

The examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this substitute.