

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 204 Session of
1991

INTRODUCED BY SCHULER, NICKOL, NAILOR, SCHEETZ, CIVERA, STURLA,
BILLOW, STRITTMATTER, NOYE, BUNT, SAURMAN, KOSINSKI, BARLEY,
VROON, HASAY, GEIST, KAISER, FAIRCHILD, COLAFELLA,
E. Z. TAYLOR, TRELLO, BATTISTO, TELEK, KING, DAVIES AND
STEELMAN, FEBRUARY 4, 1991

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 7, 1991

AN ACT

1 Providing for the preservation of historic burial places and
2 tombs, monuments and gravestones; REQUIRING THE PENNSYLVANIA <—
3 HISTORICAL AND MUSEUM COMMISSION TO CAUSE THE GRAVES OF
4 FORMER GOVERNORS OF PENNSYLVANIA TO BE DECORATED WITH FLAGS
5 ON MEMORIAL DAY; and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Historic
10 Burial Places Preservation Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Burial ground authority." A AN INDIVIDUAL, municipality, <—
16 ecclesiastical society, cemetery association or other entity
17 ~~that~~ WHICH has charge of a historic burial place. <—

1 "Historic burial place." A tract of land that has been in
2 existence as a burial ground for more than 100 years wherein
3 there have been no burials for at least 50 years and wherein
4 there will be no future burials.

5 "TOMB." A VAULT CONTAINING THE REMAINS OF A DECEASED PERSON. <—
6 Section 3. Restriction on alienation and use of historic burial
7 places.

8 (A) RESTRICTION.--No municipality shall alienate or condemn <—
9 through eminent domain proceedings a historic burial place or
10 appropriate a historic burial place to any use other than that
11 of a burial ground. No portion of any such burial place shall be
12 taken for public use without the approval of the General
13 Assembly. ~~If any~~ <—

14 (B) RECORD OF REMOVAL.--IF ANY historic burial place is <—
15 appropriated for any other use and the ~~bodies buried in the~~ <—
16 ~~historic burial place or the~~ TOMBS, monuments, gravestones or <—
17 other memorials are removed FROM IT, the burial ground authority <—
18 shall preserve a record of the removal indicating the date of
19 the removal and the site or place to which the removal was made.
20 THE AUTHORITY SHALL SEND COPIES OF SUCH RECORDS TO THE RECORDER <—
21 OF DEEDS IN THE COUNTY IN WHICH THE BURIAL PLACE IS LOCATED AND
22 TO THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION.

23 Section 4. Restrictions on removal of tombs, monuments, etc.

24 (a) General rule.--No fence, tomb, monument or gravestone or
25 fragment thereof within a historic burial place shall be
26 destroyed. No fence, tomb, monument or gravestone or fragment
27 thereof within any historic burial place shall be removed except
28 in accordance with the provisions of this section.

29 (b) Procedure or lawful removal.--A gravestone or other
30 memorial for the dead may be removed for the purpose of repair

1 or replacement, reproduction or preservation and display in an
2 accredited museum with:

3 (1) the consent of the owner of the historic burial lot
4 in which the gravestone or memorial is placed or the consent
5 of a lineal descendant of the deceased or, if such owner or
6 lineal descendant is unknown, the consent of the burial
7 ground authority; and

8 (2) an order of the court of common pleas of the county
9 in which the historic burial place is located.

10 (c) Court order for removal.--Upon written application of
11 the consenting owner, lineal descendant or burial ground
12 authority, the court of common pleas may, after a hearing, with
13 notice of the hearing having been given to interested parties
14 and otherwise as the court deems appropriate, order the removal
15 of the gravestone or memorial if it finds that the removal is
16 necessary or desirable for the protection and preservation of
17 the gravestone or memorial.

18 Section 5. Offenses.

19 (a) Destruction of tombs, monuments, gravestones, etc.--A
20 person who, without authorization of the owner of a historic
21 burial lot or a lineal descendant of the deceased or of the
22 historic burial ground authority, commits a misdemeanor of the
23 second degree if:

24 (1) he intentionally destroys, mutilates, defaces or
25 removes any tomb, monument, gravestone or other structure or
26 any portion or fragment thereof, placed or designed as a
27 memorial for the dead, or any fence, railing, curb or other
28 enclosure for the burial of the dead in a historic burial
29 place; or

30 (2) he wantonly or maliciously disturbs the contents of

any tomb or grave in a historic burial place.

(b) Unlawful possession of monuments, gravestones or certain other structures.--A person commits a misdemeanor of the second degree if he possesses or sells, offers for sale or attempts to sell or transfers or disposes of any monument, gravestone or other structure or any portion or fragment thereof, placed or designed for a memorial of the dead, knowing that it has been unlawfully removed from a historic burial place.

SECTION 6. DUTY OF PENNSYLVANIA HISTORICAL AND MUSEUM
COMMISSION.

IT SHALL BE THE DUTY OF THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION TO PROVIDE FLAGS TO LOCAL HISTORICAL SOCIETIES ON EACH MEMORIAL DAY WITH WHICH TO DECORATE THE GRAVES OF FORMER GOVERNORS OF PENNSYLVANIA BURIED WITHIN THIS COMMONWEALTH.

SECTION 7. FLAGS.

THE FLAGS TO BE USED FOR SUCH PURPOSES SHALL BE THE OFFICIAL FLAG OF THE COMMONWEALTH WITH AN INSCRIPTION EITHER ON THE FLAG OR ON AN ATTACHED BANNER, AS PRESCRIBED BY THE SECRETARY OF THE COMMONWEALTH BEARING THE WORDS "FORMER GOVERNOR OF PENNSYLVANIA." THE FLAGS AND BANNERS SHALL BE OF ONE STANDARD SIZE, AS PRESCRIBED BY THE SECRETARY OF THE COMMONWEALTH, AND SHALL BE PURCHASED AT THE EXPENSE OF THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION.

SECTION 8. DETERMINATION OF GRAVE SITES.

THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION, IN COOPERATION WITH THE LOCAL HISTORICAL SOCIETY IN EACH COUNTY, IS HEREBY AUTHORIZED AND DIRECTED TO DETERMINE IF ANY PERSONS ELECTED GOVERNOR OF THE COMMONWEALTH SINCE 1790 ARE BURIED IN THE COUNTY AND THE LOCATIONS WHERE THE BODIES ARE INTERRED.

SECTION 9. PLACEMENT OF FLAGS.

1 THE FLAGS SHALL BE FURNISHED TO THE LOCAL HISTORICAL SOCIETY
2 FOR PLACEMENT ON THE GRAVES, WITH SUCH ACCOMPANYING CEREMONIES
3 IT MAY DEEM APPROPRIATE. HOWEVER, THE FAILURE OF A LOCAL
4 HISTORICAL SOCIETY TO CARRY OUT THIS FUNCTION SHALL NOT RELIEVE
5 THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION FROM THE
6 RESPONSIBILITY TO SEE THAT THE FLAGS ARE PLACED ON THE GRAVES.
7 SECTION 10. REMOVAL OF FLAGS.

8 THE AUTHORITIES IN CHARGE OF ANY CEMETERY ARE AUTHORIZED TO
9 REMOVE SUCH FLAGS WHEN THE FLAGS BECOME UNSIGHTLY OR WEATHERWORN
10 AT ANY TIME NOT LESS THAN 90 DAYS AFTER THE FLAGS HAVE BEEN
11 PLACED ON GRAVES.

12 Section ~~6~~ 11. Effective date.

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13 This act shall take effect in 60 days.