

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 290 Session of
1993

INTRODUCED BY SCHULER, NAILOR, HERSHEY, REBER, PITTS, STABACK,
SCHEETZ, STRITTMATTER, DALEY, MICOZZIE, HASAY, ULIANA,
MIHALICH, KREBS, CORNELL, ALLEN, TOMLINSON, PESCI, TRELLO,
OLASZ, PHILLIPS, NICKOL, STURLA, BARLEY, LaGROTTA, BUNT,
VANCE, CAPPABIANCA, LAUGHLIN AND ARMSTRONG, FEBRUARY 8, 1993

REFERRED TO TOURISM AND RECREATIONAL DEVELOPMENT,
FEBRUARY 8, 1993

AN ACT

1 Providing for the preservation of historic burial places and
2 tombs, monuments and gravestones; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

12 "Burial ground authority." An individual, municipality,
13 ecclesiastical society, cemetery association or other entity
14 which has charge of a historic burial place.

15 "Historic burial place." A tract of land that has been in
16 existence as a burial ground for more than 100 years wherein

1 there have been no burials for at least 50 years and wherein
2 there will be no future burials.

3 "Tomb." A vault containing the remains of a deceased person.
4 Section 3. Restriction on alienation and use of historic burial
5 places.

6 (a) Restriction.--No municipality shall alienate or condemn
7 through eminent domain proceedings a historic burial place or
8 appropriate a historic burial place to any use other than that
9 of a burial ground. No portion of any such burial place shall be
10 taken for public use without the approval of the Pennsylvania
11 Historical and Museum Commission. Should such approval not be
12 granted within a time period, not to exceed one year from the
13 date approval was sought, approval shall be sought from the
14 General Assembly.

15 (b) Record of removal.--If any historic burial place is
16 appropriated for any other use and the tombs, monuments,
17 gravestones or other memorials are removed from it, the burial
18 ground authority shall preserve a record of the removal
19 indicating the date of the removal and the site or place to
20 which the removal was made. The authority shall send copies of
21 such records to the recorder of deeds in the county in which the
22 burial place is located and to the Pennsylvania Historical and
23 Museum Commission.

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

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

30 (b) Procedure or lawful removal.--A gravestone or other

1 memorial for the dead may be removed for the purpose of repair
2 or replacement, reproduction or preservation and display in an
3 accredited museum with:

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

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

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

19 Section 5. Offenses.

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

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

1 (2) he wantonly or maliciously disturbs the contents of
2 any tomb or grave in a historic burial place.

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

10 Section 6. Effective date.

11 This act shall take effect in 60 days.