

## 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, ARMSTRONG, GEIST AND CIVERA,  
FEBRUARY 8, 1993

AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL  
DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED,  
APRIL 28, 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 LOT." AN INDIVIDUAL BURIAL SITE WITHIN A

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1 HISTORIC BURIAL PLACE.

2 "Historic burial place." A tract of land that has been in  
3 existence as a burial ground for more than 100 years wherein  
4 there have been no burials for at least 50 years and wherein  
5 there will be no future burials OR LISTED IN OR ELIGIBLE FOR THE <—  
6 NATIONAL REGISTER OF HISTORIC PLACES AS DETERMINED BY THE  
7 PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION.

8 "Tomb." A vault containing the remains of a deceased person.

9 Section 3. Restriction on alienation and use of historic burial  
10 places.

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

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

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

30 (a) General rule.--No fence, tomb, monument or gravestone or

1 fragment thereof within a historic burial place shall be  
2 destroyed. No fence, tomb, monument or gravestone or fragment  
3 thereof within any historic burial place shall be removed except  
4 in accordance with the provisions of this section.

5 (b) Procedure or lawful removal.--A gravestone or other  
6 memorial for the dead may be removed for the purpose of repair  
7 or replacement, reproduction or preservation and display in an  
8 accredited museum with:

9 (1) the consent of the owner of the historic burial lot  
10 in which the gravestone or memorial is placed or the consent  
11 of a lineal descendant of the deceased or, if such owner or  
12 lineal descendant is unknown, the consent of the burial  
13 ground authority; and

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

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

#### 24 Section 5. Offenses.

25 (a) Destruction of tombs, monuments, gravestones, etc.--A  
26 person who, without authorization of the owner of a historic  
27 burial lot or a lineal descendant of the deceased or of the  
28 historic burial ground authority, commits a misdemeanor of the  
29 second degree if:

30 (1) he intentionally destroys, mutilates, defaces or

1 removes any tomb, monument, gravestone or other structure or  
2 any portion or fragment thereof, placed or designed as a  
3 memorial for the dead, or any fence, railing, curb or other  
4 enclosure for the burial of the dead in a historic burial  
5 place; or

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

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

15 Section 6. Effective date.

16 This act shall take effect in 60 days.