

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2740

4  
5 By: Representative Pace  
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## For An Act To Be Entitled

8  
9 AN ACT TO PROTECT CEMETERIES FROM DESECRATION AND  
10 DISPLACEMENT; TO PROVIDE FUNDS FOR UPKEEP OF  
11 CEMETERIES; AND FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO PROTECT CEMETERIES FROM  
15 DESECRATION AND DISPLACEMENT AND TO  
16 PROVIDE FUNDS FOR UPKEEP OF CEMETERIES.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 5-39-211(a), concerning unlawful mining and  
22 entries into cemeteries, is amended to read as follows:

23 (a) It shall be unlawful for any corporation, company, or individual  
24 to:

25 (1) Mine, extract, or remove coal or any other mineral ~~or~~  
26 substance from under, ~~or~~ beneath, or within fifty feet (50') of the boundary  
27 of any cemetery, graveyard, or burying place in this state;

28 (2) Make, place, or drive any slope, pit, or entry of any kind  
29 into, under, through, or across any cemetery, graveyard, or other burying  
30 place in this state.  
31

32 SECTION 2. Arkansas Code § 5-39-212 is amended to read as follows:

33 5-39-212. Cemeteries - Access - Debris - Disturbance.

34 (a)(1) It shall be unlawful for any person, firm, corporation,  
35 partnership, or association to:

36 (2) ~~Construct~~ construct any fence on any property in such manner



1 as to enclose any cemetery unless ~~suitable~~ reasonable access by automobile to  
2 the cemetery is provided by gate or otherwise. ~~The word "cemetery", as used~~  
3 ~~in this subsection, is not intended to apply to any private family burial~~  
4 ~~plot which contains fewer than six (6) commercial grave markers and has not~~  
5 ~~been used for burial purposes for at least twenty five (25) years and which~~  
6 ~~has not had an access road to the burial plot for at least thirty (30) years.~~

7 (3) Nothing in this section prohibits the placement of a fence  
8 around any cemetery for the purpose of defining boundaries or protection of  
9 grave sites, if all fences and gates are sufficiently maintained.

10 (b)(1) Any person, firm, corporation, partnership, or association  
11 violating any of the provisions of this section shall be guilty of a  
12 misdemeanor and upon conviction shall be fined in any sum not less than ten  
13 dollars (\$10.00) nor more than one hundred dollars (\$100), and every day that  
14 the violation shall exist shall be a separate offense.

15 (2) Fines collected shall be used by the local government toward  
16 upkeep, maintenance, and administrative costs of abandoned cemeteries.

17 (c) As used in this section, "cemetery" means any burying place for  
18 the dead, a burial plot, or a graveyard on any land, public or private, that  
19 includes one (1) or more grave sites, whether marked or unmarked, by  
20 commercial or native stone.

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22 SECTION 3. Arkansas Code § 5-39-401 is amended to read as follows:  
23 5-39-401. Destruction or removal.

24 It is unlawful for any person, corporation, company, or other entity to  
25 destroy or carry away any cemetery marker or grave marker.  
26

27 SECTION 4. Arkansas Code § 5-71-215(a), concerning defacing of objects  
28 of public respect, is amended to read as follows:

29 (a) A person commits the offense of defacing objects of public respect  
30 if he or she purposely:

31 (1) Defaces, mars, or otherwise damages any public monument;

32 (2) Defaces, mars, or otherwise damages a work of art on display  
33 in any public place; ~~or~~

34 (3) Defaces, mars, desecrates, or otherwise damages any place of  
35 worship, cemetery, or burial monument; ~~or~~

36 (4) Removes broken or unbroken, commercial or rock grave markers

1 for any reason except for cleaning or repair by a family member, caretaker,  
2 or preservation organization.

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4 SECTION 5. Arkansas Code § 13-6-408(c), concerning desecration of  
5 burial grounds and burial furniture, is amended to read as follows:

6 (c) Exempted from this section is disturbance of human skeletal burial  
7 remains or burial furniture by landowners or agricultural tenants as a  
8 consequence of agricultural activity or any other activity unless the  
9 landowner or agricultural tenant knowingly desecrates or knowingly allows  
10 desecration of a cemetery or burial site.