

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
4

As Engrossed: H3/28/05 H4/1/05 S4/7/05

A Bill

HOUSE BILL 2740

5 By: Representative Pace
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For An Act To Be Entitled

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 AN ACT TO PROTECT CEMETERIES FROM
14 DESECRATION AND DISPLACEMENT AND TO
15 PROVIDE FUNDS FOR UPKEEP OF CEMETERIES.
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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)(A) Mine, extract, or remove coal from under, beneath, or
26 within the buffer zone for a cemetery, graveyard, or burying place in this
27 state as specified in rules promulgated by the Arkansas Pollution Control and
28 Ecology Commission under the Arkansas Surface Coal Mining and Reclamation Act
29 of 1979, § 15-58-101 et seq.; or

30 (B)(i) Mine, extract, or remove any other mineral ~~or~~
31 substance from under, ~~or~~ beneath, or within twenty-five feet (25')
32 boundary of any cemetery, graveyard, or burying place in this state.

33 (ii) This subdivision (a)(1)(B) shall not apply to
34 oil, gas, or any other hydrocarbons produced in a liquid or gaseous form;

35 (2)(A) Make, place, or drive any slope, pit, or entry of any
36 kind into, under, through, or across any cemetery, graveyard, or other



1 burying place in this state.

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

4 5-39-212. Cemeteries - Access - Debris - Disturbance.

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

7 (2) ~~Construct~~ construct any fence on any property in such manner
8 as to enclose any cemetery, graveyard, or burying place unless ~~suitable~~
9 reasonable access by automobile to the cemetery is provided by gate or
10 otherwise.

11 (B) The word "cemetery", as used in this subsection, is
12 not intended to apply to any private family burial plot ~~which~~ that:

13 (i) ~~contains~~ Contains fewer than six (6) commercial
14 grave markers;

15 (ii) ~~and has~~ Has not been used for burial purposes
16 for at least twenty-five (25) years; and

17 (iii) ~~which has~~ Has not had an access road to the
18 burial plot for at least thirty (30) years.

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

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

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28 SECTION 3. Arkansas Code § 5-39-401 is amended to read as follows:

29 5-39-401. Destruction or removal.

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

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

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

- 1 (1) Defaces, mars, or otherwise damages any public monument;
- 2 (2) Defaces, mars, or otherwise damages a work of art on display
- 3 in any public place; ~~or~~
- 4 (3) Defaces, mars, desecrates, or otherwise damages any place of
- 5 worship, cemetery, or burial monument; or
- 6 (4) Removes broken or unbroken, commercial or rock grave markers
- 7 for any reason except for cleaning or repair by a family member, caretaker,
- 8 or preservation organization.

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

12 (c) Exempted from this section is disturbance of human skeletal burial
13 remains or burial furniture by landowners or agricultural tenants as a
14 consequence of agricultural activity or any other activity unless the
15 landowner or agricultural tenant knowingly desecrates or knowingly allows
16 desecration of a cemetery or burial site.

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18 /s/ Pace
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