

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2549

H.P. 1816

House of Representatives, February 7, 2000

**An Act to Implement Recommendations Concerning Protection of Indian  
Archaeological Sites.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SOCTOMAH of the Passamaquoddy Tribe.  
Cosponsored by Representatives: AHEARNE of Madawaska, GOODWIN of Pembroke,  
LORING of the Penobscot Nation, MARTIN of Eagle Lake, SCHNEIDER of Durham.

Be it enacted by the People of the State of Maine as follows:

2           **Sec. 1. 27 MRSA §373-A, sub-§8**, as amended by PL 1981, c. 568,  
4       §§1 to 3, is further amended to read:

6           **8. Site.** "Site" means an area containing archaeological  
8       artifacts or materials or other evidence of habitation,  
      occupation or other use by historic or prehistoric people, and  
      which is either:

10           A. On or under state-controlled land and is:

12                       (1) Listed in the National Register of Historic Places  
14                       or judged eligible for national register listing by the  
16                       Maine Historic Preservation Commission and, if the area  
18                       is judged eligible for listing, the site designation is  
                          approved by the appropriate land managing agency  
                          director or local governing body; and

20                       (2) Posted;

22           B. The subject of a preservation agreement between the  
24       landowner or landowners and the Maine Historic Preservation  
      Commission, pursuant to Title 33, section 1551 and is:

26                       (1) Listed in the National Register of Historic  
      Places; and

28                       (2) Posted; or

30           C. Subject to section 378.

32           **Sec. 2. 27 MRSA §375, sub-§2**, as amended by PL 1989, c. 171,  
34       §2, is further amended to read:

36           **2. Penalty.** Violation Notwithstanding Title 17-A, sections  
38           4-A and 1301, a violation of this chapter is a civil-violation  
40           Class E crime for which a forfeiture fine of not less than \$50  
42           per-more-than-\$1,000-shall \$250 must be adjudged. The unlawful  
44           excavation for any one day shall--constitute constitutes a  
46           separate violation. The court also may order the defendant to  
48           pay an amount equal to the reasonable cost of a proper  
                          archaeological excavation had the area that was unlawfully  
                          excavated been properly excavated. The Director of the Maine  
      Historic Preservation Commission, in the name of the people of  
      this State through the Attorney General, may in addition to other  
      remedies provided bring an action for an injunction seeking one  
      or more of the following remedies:

50           A. To restrain a violation of this chapter; or

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B. To enjoin future unlawful excavation~~er~~.

~~C. To direct the violator to restore the site to the condition that existed prior to the unlawful excavation or to ameliorate the effects of the unlawful excavation.~~

Sec. 3. 27 MRSA §378, as amended by PL 1995, c. 146, §2, is further amended to read:

**§378. Emergency site designation**

In the case of an area containing archaeological materials or artifacts that is directly threatened with unauthorized excavation, the Director of the Maine Historic Preservation Commission, with the written permission of the landowner, may designate the area as a site that is subject to this chapter for a period not to exceed ~~one year~~ 10 years. The director and the landowner shall specify in writing the area that is subject to this chapter. All sites given emergency designation under this section must be posted against unauthorized excavation. ~~Notice of the designation must be filed with the registrar of deeds in the county in which the site is located.~~

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

**2000-01**

**MAINE HISTORIC PRESERVATION COMMISSION**

**Historic Preservation Commission**

Personal Services	\$5,000
All Other	10,000
TOTAL	\$15,000

Provides funding for increased monitoring of archaeological sites. Five thousand dollars funds a part-time monitoring coordinator using existing part-time project personnel. The balance funds site monitors including professional archaeologists and volunteers who are reimbursed for expenses.

**Historic Preservation Commission**

All Other \$5,000

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Provides funding for law enforcement investigation costs relating to incidents involving archaeological sites and for the development and delivery of training materials for law enforcement officers.

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**MAINE HISTORIC PRESERVATION  
COMMISSION  
TOTAL**

\$20,000

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**SUMMARY**

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This bill provides increased protection for archaeological sites by amending the laws governing these sites in the following ways.

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1. It amends the definition of an archaeological site on state-controlled land to include a site judged eligible for listing on the National Register of Historic Places by the Maine Historic Preservation Commission and approved by the appropriate land managing agency director or local governing body. Current law requires the site to be listed on the National Register of Historic Places.

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2. It makes the unlawful excavation of a protected archaeological site a Class E crime for which a fine of not less than \$250 must be adjudged. It provides that the court may order the defendant to pay an amount equal to the reasonable cost of a proper archaeological excavation had the area that was unlawfully excavated been properly excavated. Current law provides that unlawful excavation is a civil violation for which a forfeiture of not less than \$50 must be adjudged.

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3. It provides that an emergency archaeological site designation may be made for a period not to exceed 10 years and that the Director of the Maine Historic Preservation Commission and the landowner shall specify in writing the area that is the subject of such a designation.

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4. It provides funding for increased monitoring of archaeological sites. This funding supports a part-time monitoring coordinator using existing part-time project personnel and site monitors. It also provides funds for the development and delivery of training materials for law enforcement officers.