

110TH CONGRESS
1ST SESSION

H. R. 4027

To amend the Native American Graves Protection and Repatriation Act so that it will be interpreted in accordance with the original intent of Congress to require a significant relationship be found between remains discovered on Federal lands and presently existing Native American tribes for those remains to be applicable under the Native American Graves Protection and Repatriation Act.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2007

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Native American Graves Protection and Repatriation Act so that it will be interpreted in accordance with the original intent of Congress to require a significant relationship be found between remains discovered on Federal lands and presently existing Native American tribes for those remains to be applicable under the Native American Graves Protection and Repatriation Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. PURPOSE.**

2 The purpose of this Act is to reflect the decisions of
3 the United States District Court of Oregon and the United
4 States Court of Appeals for the Ninth Circuit and reit-
5 erate that Congress intended the Native American Graves
6 Protection and Repatriation Act (Public Law 101–601; 25
7 U.S.C. 3001 et seq.) (referred to hereafter in this Act as
8 the “Act”) to apply only to remains and other cultural
9 items that have a significant genetic or cultural relation-
10 ship to presently existing Native American tribes, and to
11 protect the ability for scientific study of ancient human
12 remains or cultural items discovered on Federal lands that
13 are not substantially related to presently existing tribes.

14 **SEC. 2. FINDINGS.**

15 Congress finds as follows:

16 (1) The American public benefits in many im-
17 portant ways from new information about the an-
18 cient peoples and cultures that preceded us on this
19 continent.

20 (2) The litigation that occurred over the study
21 and disposition of the ancient human skeletal re-
22 mains known as Kennewick Man was extremely cost-
23 ly and divisive. Ultimately, the United States Dis-
24 trict Court of Oregon and the United States Court
25 of Appeals for the Ninth Circuit ruled that Federal

1 agencies erred in applying the Act to Kennewick
2 Man and blocking scientific study.

3 (3) Future controversies are likely to arise over
4 scientific study, safekeeping and disposition of other
5 ancient skeletal remains and cultural items if greater
6 clarity is not provided in the Act.

7 (4) When the Act was originally enacted, it was
8 the intent of Congress that the Act should only
9 apply to human remains or other cultural items that
10 have a special, significant, and substantial relation-
11 ship to presently existing Native Americans.

12 (5) Determinations by Federal agencies and
13 museums that human remains and other cultural
14 items are subject to the provisions of the Act should
15 be based upon reliable and substantial scientific in-
16 formation.

17 (6) The Archaeological Resources Protection
18 Act of 1979 (Public Law 96–95; 93 Stat. 721, 16
19 U.S.C. 470aa et seq.) reflects this Nation’s commit-
20 ment to the preservation of archaeological resources
21 and scientific study of these resources for the benefit
22 of all Americans.

23 **SEC. 3. DEFINITIONS.**

24 The text of section 2(9) of the Act (25 U.S.C.
25 3001(9)) is amended to read as follows: “‘Native Amer-

1 ican’ means cultural items that have a significant and sub-
2 stantial genetic or cultural relationship, based on factors
3 other than geography alone, to a presently existing tribe,
4 people, or culture that is now indigenous to the United
5 States.”.

6 **SEC. 4. PROTECTION OF ABILITY FOR SCIENTIFIC STUDY.**

7 Section 3 of the Act (25 U.S.C. 3002) is amended
8 by adding at the end the following:

9 “(f) PROTECTION OF ABILITY TO STUDY.—Nothing
10 in this Act shall be deemed to restrict excavation, exam-
11 ination, investigation, or scientific study under the Ar-
12 chaeological Resources Protection Act of 1979 of any cul-
13 tural item found on Federal land that has not been deter-
14 mined to be the property of an Indian tribe or a Native
15 Hawaiian organization.”.

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