

**STATE
CAVE PROTECTION
LAWS**

State-by-State

Provided and Maintained by

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ALABAMA CAVE PROTECTION LAW (1988)

Section 1.

The following words and phrases when used in this act shall for the purpose of this act have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

- A. Cave--Any natural subterranean cavity that is at least 50 feet in length or depth, or any combination of length and depth or that contains obligatory cavernicoious fauna (animals obliged to live underground). The word "cave" includes but is not limited to cavern, pit, pothole, well (natural), sinkhole and/or grotto.
- B. Speleothems--A natural secondary mineral deposit or formation in a cave. This includes but is not limited to deposits called stalactites, stalagmites, helictites, anthodites, gypsum flowers, needles, or angels hair, soda straws, draperies, bacon, cave pearls, popcorn, rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, aragonite, epsomite, gypsum, celestite, and other similar minerals.
- C. Commercial Cave--Any cave or portion of a cave that is improved with trails and lighting utilized by the owner or lessee for the purpose of exhibition to the public as a profit or nonprofit enterprise.
- D. Wild Cave--Any cave or portion of a cave that is not a commercial cave.

Section 2.

- A. While engaged in cave related activities, no person or organization or formal or informal group of persons in the company of other persons whether he or they be leading, accompanying, or in the area with the other person, shall be held liable for injuries or the results of actions by said other person, unless said other person acted as a result of an act or order issued by the first person intended to inflict injury.
- B. Each person in a group engaged in cave related activities is individually responsible for evaluating the safety of group equipment which that person intends to use, such as ropes, rigging, anchor devices, climbing gear and similar equipment. The club, organization, group leader, organizer, or person owning or emplacing such gear or equipment shall not be held liable for failure of any such equipment or gear or its emplacement, except, if the rigging or equipment is altered after the person injured has had an opportunity to inspect it.

Section 3.

It shall be unlawful and constitute a misdemeanor for any person, organization, firm or corporation, including any officer, agent or employee of any town or municipality to:

- a. Maliciously break, break off, crack, carve upon, write, burn, damage or otherwise mar or mark on, remove, or in any manner destroy, disturb, deface, mar or harm the walls or any speleothems in any cave, except for recognized scientific purposes.
- b. Discard litter or refuse to any degree in any cave.
- c. Break, force, tamper with, remove, or otherwise disturb a lock, gate, door, or other structure or obstruction designed to control or prevent access to any cave, unless the owner specifically orders such act.
- d. Offer for sale any speleothems or export from the State of Alabama any speleothems for sale elsewhere.
- e. Remove, kills, harm or disturb any plant or animal life found within any wild cave, except for recognized scientific purposes.
- f. The provisions and subsections a through e of this section shall not apply to a recognized rescue unit operating in response to any emergency or believed emergency.

Section 4.

It shall be unlawful and constitute a misdemeanor for any person, organization, firm, corporation, including any officer, employee, or agent of any town or municipality to risk the pollution of the underground water resources of the state by storing, dumping, disposing, or otherwise placing in caves, sinkholes or natural wells: chemicals, refuse, dead animals, garbage or other materials which are potentially injurious or hazardous to the quality of the aquifer, water and/or water table.

Section 5.

Violations of the misdemeanor provisions of this act shall incur the following penalties:

- 1. First offense: Class C misdemeanor.

2. Second offense: A Class B misdemeanor.

3. Subsequent offenses: A Class A misdemeanor.

Section 6.

All laws or parts of laws, which conflict with this act, are hereby repealed.

Section 7.

The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part, which remains.

Section 8.

This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Note: Class C Misdemeanor is a fine of \$500.00. A Class B Misdemeanor is a fine of \$ 1,000.00 and a Class A Misdemeanor is a fine of \$2,000.0

ARKANSAS CAVE RESOURCES PROTECTION ACT (1989)

15-20-601. Legislative findings and policy.

The General Assembly hereby finds that caves are uncommon geologic phenomena, and that the minerals deposited therein may be rare and occur in unique forms of great beauty, which are irreplaceable if destroyed. Also irreplaceable are the cultural resources in caves, which are of great scientific and value. It is further found that the organisms, which live in caves, are unusual and of limited numbers; that many are rare and endangered species; and that caves a natural conduit for groundwater flow and are highly subject to water pollution. Thus having far-reaching effects transcending man-made property boundaries. It is therefore declares to be the policy of the state of Arkansas and the intent of this subchapter to protect these unique natural and cultural

Resources. History. Acts 1989, No.523, 1.

15-20-602. Definitions.

As used in this subchapter:

- (1) (A) "Cave," means any naturally formed cavity beneath the surface of the earth, which is enterable by man by a natural entrance into the bedrock. For the purposes of this subchapter, "cave" also includes any rock shelter formed by an over hanging bluff whenever the bluff is undercut by at least twenty feet ('20');
- (B) "Cave" does not include any mine or other human excavation;
- (2) "Cave life" means any life-form normally found in a cave or subterranean water system;
- (3) "Cold " water solution means solution processes occurring below seventy degrees Fahrenheit (70)
- (4) "Archeological site" means physical evidence of human activity which is fifty (50) years old or older;
- (5) "Owner" means any person, or the State of Arkansas and of its agencies, departments, boards, commissions, and other political subdivisions, holding any possessory estate in any cave and any as agent of such person or governmental entity;
- (6) "Sinkhole" means any impression of the surface or the earth due to solution or collapse of material below the surface; and
- (7) (A) " Speleothem" means any minerals deposit form within a cave, including, but not limited to, stalactites, stalagmites, and all other forms of minerals precipitated from cold water solution;
- (B) "Speleothem" does not include cementation of sediments by calcium salts. History. Acts 1989, No.523, 2.

15-20-603. Vandalism-Penalties.

- (a) It shall be unlawful for any person, without express permission of the owner, to purposefully or recklessly:
 - (1) Break, carve mark upon, or deface the natural rock surface of any cave, whether wall, ceiling, or floor, any speleothem, whether attached or previously broken, any man-made material within the cave which constitutes an archeological site or was placed within the cave under permission of the owner;
 - (2) Remove from the cave any material protected by this subchapter;
 - (3) Damage in any way any lock, gate, door, or other obstruction designed to control access to any cave, even though entry thereto may not be gained;
 - (4) Excavate, deface any sign stating the cave is posted or citing provisions of this subchapter;
 - (5) Excavate, deface, or disrupt the integrity of any identifiable archeological or paleontological site, which may be found in any cave.

(b) The entering or remaining in a cave, which has not been posted by the owner, shall not by itself constitute a violation of this section. Any permission obtained under the provisions of this subchapter shall be deemed sufficient compliance with any law relating recreational use of private lands. Subject to any restrictions imposed by the owner, it shall not be a violation of this subchapter to move any dangerous or to place small isolated marks where necessary to recover a location critical to a measure marks where necessary to recover to a location critical to a measurement or study.

- (c) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor. History. Acts 1989, No.523, 3.

15-20-604. Pollution-Penalties.

- (a) It shall be unlawful for any person to knowingly store, dump, litter dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole.
- (b) It shall be unlawful to burn within a cave or sinkhole any material, which produces any smoke or gas, which is harmful to any organism naturally occurring in the cave.
- (c) This section shall not prohibit the operation within a cave of any source of flame capable of being carried in the hand or attached to a person, provide that the heat and exhaust of such device is not directed onto any cave life or used as prohibit in 15-20-603(a).
- (d) This section shall not be interpreted to prohibit or regulate any agricultural or silvacultural practice whatever, nor to prohibit or regulate the charging of a fee for admission to cave.
- (e) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor. History. Acts 1989, no 523, 4.

15-20-605. Cave conservation.

Any cave owner may, at the owner's discretion and with the consent of the Arkansas Natural Heritage Commission, enter into an agreement with the Arkansas Natural Heritage Commission for the purpose of applying conservation measures to the owner's cave.

History. Acts 1989, No.523, 5.

15-20-606. Liability of owners limited.

Neither the owner of a cave nor his employees or agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave. This section is supplemental to any other limitation of landowner may be in effect. History. Acts 1989, 6.

15-20-607. Enforcement

In addition to the enforcement of this subchapter by criminal process, an owner may apply to chancery court of any county in which he has reasonable case to believe conduct prohibited by this subchapter is occurring or about to occur for a temporary or permanent injunction restraining any person from such conduct shall have jurisdiction to grant all proper relief without requiring the owner to post during pendency of the action. History. Acts1989, No.523, 7.

NOTE: A Class A Misdemeanor is a fine of \$500.00 or less.

ARIZONA CAVE PROTECTION LAW (1977 EFFECTIVE 1978)

Arizona Cave Law 13-3702. Defacing or damaging petroglyphs, pictographs, caves or caverns; classification

Section A.

A person commits defacing or damaging petroglyphs, pictographs, caves or caverns if such person knowingly, without the prior written permission of the owner:

1. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms petroglyphs, pictographs or any natural material found in any cave or cavern; or
2. Kills, harms or disturbs plant or animal life found in any cave or cavern, except for safety reasons; or
3. Disturbs or alters the natural condition of such petroglyph, pictograph, cave or cavern or takes into a cave or cavern any aerosol or other type of container containing paints, dyes or other coloring agents; or
4. Breaks, forces, tamper with, remove or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern whether or not entrance is gained.

Section B.

As used in this section, "natural material" means stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions or other similar crystalline mineral formations found in any cave or cavern.

Section C.

Defacing or damaging petroglyphs, pictographs, caves or caverns is a class 2 misdemeanor.

NOTE: A Class 2 Misdemeanor is a fine of not less than \$ 750.00.

CALIFORNIA LAWS RELATING TO CAVES (1976 EFFECTIVE 1977)

A. California Cave Protection Act CALIFORNIA CODES PENAL CODE SECTION 594-625c

Section 599c.

No part of this title shall be construed as interfering with any of the laws of this state known as the "game laws," or any laws for or against the destruction of certain birds, nor must this title be construed as interfering with the right to destroy any venomous reptile, or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill all animals used for food, or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

Section 623.

(a) Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is *guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment:*

- (1) Breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave.
- (2) Disturbs or alters any archaeological evidence of prior occupation in any cave.
- (3) Kills, harms, or removes any animal or plant life found in any cave.
- (4) Burns any material that produces any smoke or gas that is harmful to any plant or animal found in any cave.
- (5) Removes any material found in any cave.
- (6) Breaks, forces, tamper with, remove or otherwise disturb any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

(b) For purposes of this section:

- (1) "Cave" means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.
- (2) "Owner" means the person or private or public agency, which has the right of possession to the cave.
- (3) "Natural material" means any stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion, crystalline mineral formation, and any wall, ceiling, or mineral protuberance therefrom, whether attached or broken, found in any cave.
- (4) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

(c) The entering or remaining in a cave by itself shall not constitute a violation of this section.

B. CALIFORNIA SPORTSMAN LAW

CALIFORNIA CODES CIVIL CODE SECTION 840-848

Section 846.

An owner of any estate or any other interest in real property, whether possessory or non-possessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.

A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

An owner of any estate or any other interest in real property, whether possessory or non-possessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose, or (b) constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.

C. PROTECTION FOR PUBLIC WORKERS

CALIFORNIA CODES GOVERNMENT CODE SECTION 830-831.8

Section 831.7.

- (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.
- (b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public entity, which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

- (1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.
 - (2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.
 - (3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, paragliding, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks.
- (c) Notwithstanding the provisions of subdivision (a), this section does not limit liability which would otherwise exist for any of the following:
- (1) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.
 - (2) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this paragraph, a "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.
 - (3) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.
 - (4) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this paragraph, promotional literature or a public announcement or

advertisement that merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(5) An act of gross negligence by a public entity or a public employee, which is the proximate cause of the injury. Nothing in this subdivision creates a duty of care or basis of liability for personal injury or for damage to personal property.

(d) Nothing in this section shall limit the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

FLORIDA CAVE PROTECTION LAW (1980)

Section 810.13 Cave vandalism and related offenses. —

(1) DEFINITIONS. --As used in this act:

- (a) "Cave" means any void, cavity, recess, or system of interconnecting passages which naturally occurs beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems but not including any mine, tunnel, aqueduct, or other manmade excavation, and which is large enough to permit a person to enter. The word "cave" includes any cavern, natural pit, or sinkhole, which is an extension of an entrance to a cave.
- (b) "Cave life" means any life form, which is indigenous to a cave or to a cave ecosystem.
- (c) "Gate" means any structure or device located to limit or prohibits access or entry to a cave.
- (d) "Owner" means a person who owns title to land where a cave is located, including a person who holds a leasehold estate in such land; the state or any of its agencies, departments, boards, bureaus, commissions, or authorities; or any county, municipality, or other political subdivision of the state.
- (e) "Person" means any individual, partnership, firm, association, trust, corporation, or other legal entity.
- (f) "Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink, or sink.
- (g) "Speleogen" means an erosional feature of a cave boundary, including, but not restricted to, anastomoses, scallops, rills, flutes, spongework, or pendants.
- (h) "Speleothem" means a natural mineral formation or deposit occurring in a cave, including, but not restricted to, a stalagmite, stalactite, helictite, anhydrite, gypsum flower, gypsum needle, angel hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, or flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, or other similar minerals.

(2) VANDALISM. --It is unlawful for any person, without the prior written permission of the owner, to:

- (a) Break, break off, crack, carve upon, write upon, burn, mark upon,

remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, or sedimentary deposits. This paragraph does not prohibit minimal disturbance or removal for scientific inquiry.

- (b) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to a cave, even though entrance thereto may not be gained.

- (c) Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this act.

(3) CAVE LIFE. --It is unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism within a cave, except for safety or health reasons. The provisions of this subsection do not prohibit minimal disturbance or removal of organisms for scientific inquiry.

(4) POLLUTION AND LITTERING. --It is unlawful to store in a cave any chemical or other material, which may be detrimental or hazardous to the cave, to the mineral, deposits therein, to the cave life therein, to the waters of the state, or to persons using such cave for any purposes. It is also unlawful to dump, litter, dispose of, or otherwise place any refuse, garbage, dead animal, sewage, trash, or other similar waste materials in a cave. This subsection shall not apply to activity, which is regulated pursuant to s. 373.106, regarding the intentional introduction of water into an underground formation, or chapter 377, regarding the injection of fluids into subsurface formations in connection with oil or gas operations.

(5) SALE OF SPELEOTHEMS.--It is unlawful for any person to sell or offer for sale any speleothems in this state or to transport them for sale outside this state.

(6) PENALTIES. --Any person who violates subsection (2), subsection (3), subsection (4), or subsection (5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.775.083.

History. --ss. 8, 9, 10, 11, 12, 13, Ch. 80-356; s. 486, Ch. 81-259.

NOTE: A First Degree Misdemeanor is a fine of \$ 1,000.00.

GEORGIA CAVE PROTECTION LAW (1977)

CHAPTER 43-25. CAVE PROTECTION ACT OF 1977 Section. 43-2501

This Chapter shall be known and may be cited as the "Cave Protection Act of 1977." (Acts 1977, p. 833, eff. July 1, 1977. Cross References Penalty for violation of Chapter, see 43-9916.)

Section 43-2502 Findings

The State of Georgia hereby finds that caves are uncommon geologic phenomena, and that the minerals deposited therein may be rare and occur in unique forms of great beauty, which are irreplaceable if destroyed. It is also found that the wildlife which have evolved to live in caves are unusual and of limited numbers, and many are rare and endangered species, and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, which has far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of this State and the intent of this Chapter to protect these unique natural resources. (Acts 1977, p. 833, eff. July 1, 1977.)

Section 43-2503 Definitions

Unless the context in which used clearly requires a different meaning, as used in this Chapter:

- (a) "cave" means any naturally occurring subterranean cavity, including, but not restricted to, a cavern, pit, pothole, natural well, sinkhole and grotto;
- (b) "commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry;
- (c) "gate" means any structure or device located so as to limit or prohibit access or entry to a cave;
- (d) "owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically includes the State and any of its agencies, departments, boards, bureaus, commissions or authorities, as well as counties, municipalities and other political subdivisions of the State;
- (e) "sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink or sink;
- (f) "speleothem" means a natural mineral formation or deposit occurring in a cave, including, but not restricted to, stalagmites, stalactites, helectites, anthodites, gypsum flowers, gypsum needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, espomite, gypsum, aragonite, celestite and other similar minerals;
- (g) "wildlife" means any vertebrate or invertebrate animal life indigenous to this State or any species introduced or specified by the Board of Natural Resources and includes, but is not restricted to, quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks, or any part thereof. (Acts 1977, p. 833, eff. July 1, 1977.)

Section 43-2504 Vandalism unlawful

It shall be unlawful for any person, without the express prior written permission of the owner, to willfully or knowingly:

- (1) break, break off, crack, carve upon, write upon, burn, mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;
- (2) disturb or alter in any manner the natural condition of any cave;
- (3) break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained. (Acts 1977, pp. 833, 834, eff. July 1, 1977.) (*Violation is a misdemeanor*)

Section 43-2505 Sale of speleothems unlawful

It shall be unlawful to sell or offer for sale any speleothems in this State or to export them for sale outside this State without the express written permission of the owner of the cave from which such speleothems were obtained. (Acts 1977, pp. 833, 835, eff. July 1, 1977.) (*Violation is a misdemeanor*)

Section 43-2506 Pollution and littering unlawful

It shall be unlawful to store in caves or sinkholes any chemicals and other materials which may be detrimental or hazardous to caves or sinkholes, to the mineral deposits therein, to the wildlife inhabiting caves, to the waters of the State, or to the persons using such phenomenon for any purposes. It shall also be unlawful to

dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, trash, or other such similar waste materials in any quantity in any cave or sinkhole. (Acts 1977, pp. 833, 835, eff. July 1, 1977.) (*Violation is a misdemeanor*)

Section 43-2507 Wildlife

It shall be unlawful to remove, kill, harm or disturb any wildlife found within any cave: Provided, however, that nothing contained in this Section shall be construed to repeal Section 32 of an Act completely and exhaustively, revising, superseding and consolidating laws of this State relative to game and fish, approved March 7, 1955 (Ga. Laws 1968, pp. 497, 515) [former 45-208], relating to scientific collectors' permits or any rules or regulations promulgated pursuant thereto or any Federal or State laws relating to the protection of certain plants or animals. (Acts 1977, pp. 833, 835, eff. July 1, 1977.) (*Violation is a misdemeanor*)

Section 43-2508 Liability of owners and agents

(a) Neither the owner of a cave nor his authorized agents, officers, employees or designated representatives acting within the scope of their authority shall be liable for injuries sustained by any person using said cave for recreational or scientific purposes if the prior consent of the owner has been obtained and if no charge has been made for the use of such features and notwithstanding that an inquiry as to the experience or expertise of the individual seeking consent may have been made.

(b) Neither the owner of a commercial cave nor his authorized agents, officers, employees or designated representatives acting within the scope of their authority shall be liable for an injury sustained by a spectator who has paid to view the cave, unless such injury is sustained as a result of such owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires or other modifications, and such negligence shall be the proximate cause of the injury.

(c) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the State or any of its boards, departments, bureaus or agencies. (Acts, 1977, pp. 833, 836, eff. July 1, 1977.)

NOTE: A misdemeanor is a fine not less than \$50.00 and not more than \$1,000.00 and maybe imprisonment in jail up to one year.

IDAHO CAVE PROTECTION LAW (1982)

SENATE BILL NO. 1300 BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT RELATING TO TRESPASS AND MALICIOUS INJURIES TO PROPERTY; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7035, IDAHO CODE, TO PROVIDE THAT IT SHALL BE A MISDEMEANOR FOR ANY PERSON TO DAMAGE, TRESPASS IN OR ATTEMPT TO TRESPASS IN A CAVE OR CAVERN.

Be it Enacted by the Legislature of the State of Idaho:

Section 1.

That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7035, Idaho Code, and to read as follows:

Section 18-7035. DAMAGING CAVES OR CAVERNS UNLAWFUL -- PENALTY.

It shall be unlawful for any person, without prior permission of the federal, state or private landowner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm any natural material found in any cave or cavern, such as stalactites, stalagmites, helectites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions, or other similar crystalline mineral formations or otherwise; to kill, harm or in any manner or degree disturb any plant or animal life found therein; to otherwise disturb or alter the natural conditions of such cave or cavern through the disposal therein of any solid or liquid materials such as refuse, food, containers or fuel of any nature, whether or not malice is intended; to disturb, excavate, remove, displace, mar or harm any archaeological artifacts found within a cave or cavern including petroglyphs, projectile points, human remains, rock or wood carvings or otherwise, pottery, basketry or any hand-woven articles of any nature, or any pieces, fragments or parts of any such articles; or to break, force, tamper with, remove or otherwise disturb a lock, gate, door, or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained. For purposes of this section, "cave" means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct or other manmade excavation, which is large enough to permit a person to enter. Any person violating the provisions of this section shall be guilty of a misdemeanor.

NOTE: A misdemeanor is a fine of \$300.00 and/or imprisonment in jail up to 6 months.

ILLINOIS CAVE PROTECTION LAW (1985 EFFECTIVE 1986)

AN ACT to protect and preserve cave resources. P.A. 84-140, approved Aug. 12, 1985, eff. Jan. 1, 1986.

Section 9501. Short title

1. This Act shall be known and may be cited as the Cave Protection Act.

Section 9502. Definitions

2. As used in this Act, the following terms have the following meanings, unless the context otherwise requires:

"Cave" means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge which is large enough to permit a person to enter, including natural subsurface water and drainage systems, but not including any mine, tunnel or other manmade excavation.

"Cave resource" means any cave and its contents, together with associated topographic and hydrological features.

"Commercial cave" means any cave utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

"Cultural resource" means any historic or prehistoric human remains, artifacts, constructions or evidence thereof.

"Department" means the Department of Conservation.

"Director" means the Director of the Department.

"Gate" means any structure or device located to limit or prohibits access or entry into any cave.

"Natural resource" means any material occurring naturally in caves including, but not limited to, animal life, whether vertebrate or invertebrate, plant life, paleontological deposits, sediments, minerals, speleogens, speleothems, water and other natural resources.

"Owner" means a person who owns title to land where a cave is located.

"Person" means any individual, partnership, firm, association, trust, corporation or other legal entity.

"Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley, or sink.

"Speleogen" means the surrounding natural material or bedrock in which a cave is formed, including walls, floors and ceiling and similar related structural and geological components.

"Speleothem" means a natural mineral formation or deposit occurring in a cave.

Section 9503. Powers of department

3. The Department may take special actions as necessary, consistent with the purposes of this Act, including but not limited to:

- (1) employment of cave resources management personnel;
- (2) appointment of volunteer cave management and administrative personnel;
- (3) providing cave owners with technical assistance and management advice;
- (4) entering into volunteer management agreements with individual persons, members and associations of the caving community;
- (5) initiating a comprehensive inventory of cave resources;
- (6) adopt rules in accordance with the Illinois Administrative

Procedure Act {Chapter 127, 1001 et seq.} to further the purposes of this Act;

(7) issuance of grants from appropriated funds.

Section 9504. Advisory council

4. The Director may also appoint an advisory council composed of individuals, members or organized caving groups or the scientific community for the purpose of developing regulations pursuant to this Act, reviewing management plans for cave resources on public land, or to otherwise provide advice and assistance as deemed necessary by the Department in furthering the purposes of this Act.

Section 9505. Liability of owner

5. Owners of land shall not be liable for injuries, mental harm or death sustained by persons using their land, including but not limited to cave resources, for recreational, educational or scientific purposes. By granting permission for entry or use, the owner does not thereby:

- (a) extend any assurance that the premises are safe for such purposes, or
- (b) constitute to the permittee the legal status of an invitee or licensee to whom a duty of care is owed, or
- (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a permittee except as provided in this Section. This Act shall not limit the liability which otherwise exists for
 - (1) willful or malicious failure to guard or warn against a dangerous condition, use or natural structure; or
 - (2) failure to guard or warn against a dangerous manmade structure, fixture or activity; or
 - (3) for injury suffered in any case where permission was granted for consideration. Nothing in this Section creates a duty of care or ground of liability for injury to person or property.

Section 9506. Violations

6. It shall be unlawful for any person, without expressed written permission of the landowner, to:

- (a) Willfully or knowingly break, break off, crack, carve upon, write, burn, mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens and sedimentary deposits.
- (b) Break, force, tamper with, or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
- (c) Remove, deface or tamper with a sign stating that a cave is posted or citing provisions of this Act.
- (d) Store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animal, sewage, or toxic substance harmful to cave life or humans in any cave or sinkhole.
- (e) Burn within any cave or sinkhole any material, which produces any smoke or gas, which is harmful to any organism in any cave. This Section shall specifically exempt acetylene gas emissions created by carbide lamps used as a source of light by persons using the cave.
- (f) Kill, injure, disturb or otherwise interfere with any cave life, including any cave roosting bat, or interfere with or obstruct the free movement of any cave resource into or out of any cave, or enter any cave with the intention of killing, injuring, disturbing or interfering with life forms therein.
- (g) Remove any natural or cultural resources found within any cave.

Section 9507. Penalty

7. Any person who violates any provision of this Act shall be guilty of a Class A misdemeanor.

NOTE: A Class A Misdemeanor is a fine of \$2,500.00 and a Class B and C is a fine of \$1,500.00. It may also include a sentence to a term of imprisonment not in a penitentiary for less than one year.

INDIANA CAVE PROTECTION LAW (1983)

A. INDIANA CAVE PROTECTION LAW IC 14-2-6-3 AND IC 14-2-6-3 (landowner liability law for sportsmen):

Any person who goes upon or through the premises including, but not as a limitation, lands, caves, waters, and private ways of another with or without permission to hunt, fish, swim, trap, camp, hike, sightsee, or for any other purposes, without the payment of monetary consideration, or with the payment of monetary consideration directly or indirectly on his behalf by an agency of the state or federal government, is not thereby entitled to any assurance that the premises are safe for such purpose. The owner of such premises does not assume responsibility for nor incur liability for any injury to person or property caused by an act or failure to act of other persons using such premises.

The provisions of this section shall not be construed as affecting the existing case law of Indiana of liability of owners or possessors of premises with respect to business invitees in commercial establishments nor to invited guests nor shall this section be construed as to affect the attractive nuisance doctrine.

Nothing in this section contained shall excuse the owner or occupant of premises from liability for injury to persons or property caused by malicious or illegal acts of the owner or occupant.

B. IC 35-43-1-3 (cave resource protection law):

Section (a) As used in this section:

"Cave" means any naturally occurring subterranean cavity, including a cavern, pit, pothole, sinkhole, well, grotto, and tunnel whether or not it has a natural entrance.

"Owner" means the person who holds title to or is in possession of the land on or under which a cave is located, or his lessee, or agent.

"Scientific purposes" means exploration and research conducted by persons affiliated with recognized scientific organizations with the intent to advance knowledge and with the intent to publish the results of said exploration or research in an appropriate medium.

Section (b) A person who knowingly and without the express consent of the cave owner:

- (1) disfigures, destroys, or removes any stalagmite, stalactite, or other naturally occurring mineral deposit or formation, or archeological or paleontological artifact in a cave, for other than scientific purposes;
- (2) breaks any lock, gate, fence, or other structure designed to control or prevent access to a cave;
- (3) deposits trash, rubbish, chemicals, or other litter in a cave; or
- (4) destroys, injures, removes, or harasses any cave-dwelling animal for other than scientific purposes; commits a Class A misdemeanor.

NOTE: A Class A Misdemeanor is a fine from \$250.00 to \$2,500.00

KENTUCKY CAVE PROTECTION LAW (1988)

CHAPTER 168 (HB 733) AN ACT relating to cave protection

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.871 Definitions [Eff. 7-15-88]

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- (1) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth containing a black zone including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with cavern.
- (2) "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.
- (3) "Gate" means any structure or device situated so as to limit or prohibit access or entry to any cave.
- (4) "Person" or "persons" means any individual, partnership, firm, association, trust, or corporation or other legal entity.
- (5) "Owner" means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of the agencies, departments, boards, bureaus, commissions or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.
- (6) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.
- (7) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork and pendants.
- (8) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.
- (9) "Cave life" means any life form, which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.
- (10) "Troglotic" means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.
- (11) "Trogliphilic" means or refers to any form of cave life, which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

SECTION 2. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.873 Wrongful disturbance or damage to cave surfaces or material found therein [Eff. 7-15-88]

- (1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to willfully and knowingly:
 - (a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, notwithstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.
 - (b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
 - (c) Place any gate or other obstruction, which may restrict the movement of air or animals through such device.
 - (d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter.

(e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.

(2) The entering or remaining in a cave, which has not been posted by the owner, shall not by itself constitute a violation of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.875 Unlawful dumping, disposal or burning within cave [Eff. 7-15-88]

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave. It shall also be unlawful to burn within a cave any material, which produces any smoke, or gas, which is harmful to any naturally occurring organisms in the cave, except acetylene gas, produced by carbide lamps.

SECTION 4. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.877 Unlawful removals or disturbance of naturally occurring organisms in cave [Eff. 7-15-88]

- (1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state non-game biologist.
- (2) It shall also be unlawful to collect any form of troglobitic or troglomorphic cave life for commercial sale, whether or not a profit is gained by such sale.

SECTION 5. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.879 Excavation permits; requirements; supervision by state archaeologist and Kentucky heritage council [Eff. 7-15-88]

- (1) In addition to the written permission of the owner required by Section 2(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric or historic feature of any cave. The state archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.
- (2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky heritage council and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.
- (3) A person applying for a permit pursuant to this section shall:
 - (a) Have knowledge of archaeology, paleontology or history as qualified in subsection (1) of this section;
 - (b) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;
 - (c) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and
 - (d) Carry the permit while exercising the privileges granted.

SECTION 6. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.881 Unlawful sale of speleothems [Eff. 7-15-88]

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale.

SECTION 7. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.883 Cave owner or his agent not to be held liable [Eff. 7-15-88]

- (1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.

(2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

SECTION 8. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

433.885 Penalties [Eff. 7-15-88]

- (1) Any violation of Sections 2, 3, 4 or 5 (1) shall be punished as a Class A misdemeanor.
- (2) Any violation of Sections 5(3) or 6 shall be punished as a Class B misdemeanor.

SECTION 9.

433.870, Defacing carrying away formation in cave exhibited to public, is repealed.

433.870 Defacing or carrying away formation in cave exhibited to public.

[Eff. 7-15-88] Approved March 31, 1988

NOTE: A Class A Misdemeanor is a fine of \$ 500.00 and a Class B Misdemeanor is a fine of \$250.00.

MAINE CAVE PROTECTION ACT (2001)

SUMMARY

This bill establishes the Maine Cave Protection Act. It requires a person to receive consent prior to excavating in a cave and to undertake investigations and explorations in a manner that will not impede the recovery of historic and scientific information. The bill also limits the liability of cave owners and classifies the defacing or damaging of a cave as a Class E crime.

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

Sec. 1. 12 MRSA c. 201-A, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

MAINE CAVE PROTECTION ACT

§544-I. Short title

This subchapter may be known and cited as the "Maine Cave Protection Act."

§544-J. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words have the following meanings.

- 1. Cave.** "Cave" means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge that is large enough to permit a person to enter. "Cave" includes natural subsurface water and drainage systems, but does not include any mine, tunnel or other artificial excavation.
- 2. Cave life.** "Cave life" means any life-form normally found in a cave.
- 3. Natural material.** "Natural material" means stalactite, stalagmite, helictite, anhydrite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion or other similar crystalline mineral formation found in any cave.
- 4. Owner.** "Owner" means a person who owns title to land where a cave is located.

§544-K. Prior written consent of owner

A person must obtain the prior written permission of the owner to excavate or remove an archaeological, paleontological, prehistoric or historic feature of a cave.

§544-L. Field investigations, explorations and recovery

operations

All field investigations, explorations and recovery operations in a cave must ensure that the ability to recover and preserve historic, scientific, archaeological and educational information is not impeded.

§544-M. Liability of owners and agents

An owner of a cave and the owner's authorized agents acting within the scope of their authority are not liable for injuries sustained by any person using the cave for a recreational or scientific purpose if the prior written permission of the owner was obtained and if no charge was made for the use of the cave. Using a cave for a recreational or scientific purpose is a recreational or harvesting activity for purposes of Title 14, section 159-A.

§544-N. Prohibited acts

1. Defacing or damaging cave prohibited. A person may not deface or damage a cave. A person defaces or damages a cave if the person, without the prior written permission of the owner:

- A. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms any natural material found in a cave;
- B. Kills, harms or disturbs plant or animal life found in a cave, except for safety reasons;

- C. Disturbs or alters the natural condition of a cave or takes into a cave any aerosol or other container containing paints, dyes or other coloring agents;
- D. Stores, dumps, litters, disposes of or otherwise places any refuse, garbage, dead animal, sewage or toxic substance harmful to cave life or humans in a cave;
- E. Burns within a cave any material that produces smoke or gas that is harmful to any organism in the cave; or
- F. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door, sign or other structure or obstruction designed to prevent entrance to a cave, whether or not entrance is gained.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

NOTE: A Class E Misdemeanor is a fine of \$1,000.00 with up to 6 months imprisonment

MARYLAND CAVE PROTECTION LAW (1978)

Maryland CAVE LAW CHAPTER 341 AN ACT Concerning Caves:

For the purpose of setting forth regulations regarding the use of caves; defining certain terms; prohibiting certain actions; allowing for permits under certain circumstances; and providing penalties for certain violations.

By adding to Article - Natural Resources Section 5-1401 through 5-1406, inclusive, to be under the new subtitle "Subtitle 14. Caves" Annotated Code of Maryland (1974 Volume and 1977 Supplement)

SECTION 1.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows:

Section 5-1401.

(A) In this subtitle, the following terms have the meanings indicated.

(B) "Cave" means a naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems. The word "cave" includes or is synonymous with cavern, sinkhole, grotto, and rock shelter.

(C) "Commercial Cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

(D) "Gate" means any structure or device located to limit or prohibits access or entry to any cave.

(E) "Person or Persons" means any individual, partnership, firm, association, trust, or corporation.

(F) "Speleothem" means a natural secondary mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

(G) "Owner" means a person who has the right of access (or possession) to the cave.

(H) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.

(I) "Sinkhole" means a natural depression in a land surface communicating with a subterranean passage or drainage system.

(J) "Cave Life" means any life form, which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting, herein, those animals and species covered by any of the game laws of this state.

Section 5-1402.

(A) A person may not, without express, prior, written permission of an owner, willfully or knowingly:

(1) Break, break-off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein whether attached or broken, including speleothems, speleogens, and sedimentary deposits;

(2) Disturb or alter in any manner the natural condition of any cave;

(3) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained;

(4) However, the entering or remaining in a cave by itself shall not constitute a violation of this section.

(5) Unless otherwise established by the secretary and clearly posted at the cave entrance, caves having access within the boundaries of public properties shall be open for recreational purposes.

(B) A person may not dispose of, dump, store, or otherwise introduce into any cave, sinkhole, or subterranean drainage system any litter, refuse, dead animals, sewage, trash, garbage, or any chemical or biological contaminant which is potentially dangerous to man or any form of cave life.

(C) Any person violating any provision of this section is *guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500, and in addition thereto, may be imprisoned for not less than ten days nor more than six months.*

Section 5-1403.

A person may not sell or offer for sale any speleothems in this state, or to export them for sale outside the state. A person who violates any of the provisions of this section is *guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500 and in addition may be imprisoned for not less than ten days nor more than six months.*

Section 5-1404.

(A) A person may not remove, disfigure, kill, harm, disturb, keep, restrain, or in any manner alter the natural condition or environment of any cave life.

(B) Notwithstanding the provisions of subsection (A) of this section, scientific collecting permits may be obtained from the secretary.

(C) Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, water, insects, bats, and aquatic fauna.

(D) A person who violates any provision of this section is *guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 and in addition thereto may be imprisoned for not less than 15 days nor more than six months.*

Section 5-1405.

(A) A person may not excavate, remove, destroy, injure, deface, or in any manner disturb any burial grounds, historic or prehistoric ruins, archeological or paleontological site or any part thereof, including relics, inscriptions, saltpeter workings, fossils, bones, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the State which are subject to the provisions of the Archeological Resources Act of 1968 (Title 2, Subtitle 3).

(B) Notwithstanding the provisions of subsection (A) of this section, a permit to excavate or remove archeological, paleontological, prehistoric, and historic features may be obtained from the secretary. The permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable but this does not preclude persons from working under the direct supervision of the person holding the permit.

(C) A person applying for a permit shall:

(1) Have knowledge of archeology.

(2) Provide a detailed statement to the secretary giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.

(3) Provide data and results of any completed excavation, study, or collection at the first of each calendar year.

(4) Obtain the prior written permission of the secretary if the site of the proposed excavation is on State owned lands and prior written permission of the owner if the site of the proposed excavation is on privately owned land.

(5) Carry the permit while exercising the privileges granted.

(D) A person who violates any provision of subsection (A) of this section is *guilty of a misdemeanor, and upon conviction shall be fined not less than \$100 nor more than \$500, and may be imprisoned for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (B) of this section is guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$100 nor more than \$500, and the permit shall be revoked.*

Section 5-1406.

(A) Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using the cave for recreational or scientific purpose if the prior consent of the owner has been obtained and if no charge has been made for the use of the cave.

(B) An owner of a commercial cave is not liable for any injury sustained by a spectator who has paid to view the cave unless the injury is sustained as a result of the owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires, or other modifications, and the negligence is the proximate cause of the injury.

Section 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1978.

NOTE: A Class A Misdemeanor is a fine of \$500.00 and up to 6 months imprisonment.

MISSOURI CAVE PROTECTION LAWS (FOR INSPECTIONS) (1959)

A. Missouri CAVE LAW (Inspection) Caves, inspection, to provide map--inspection fees. 293.620.

1. The division of mine inspection, in addition to other duties provided by law, is authorized and directed to inspect at least once a year all caves in the state held open to the public, to make rules and regulations providing for the necessary precautions to secure the health and safety of the visiting public and employees in any such cave in this state, to require every cave owner, operator or agent of any cave held open to the visiting public to provide necessary safety guard rails, bridges, ladders, entrances, platforms, walkways, safety barriers, rails, paths and other safety measures, in and about any such cave before it may be opened to the public, and to file a complete and true plan map of such cave with the division of mine inspection and a copy at the office of the entrance of the cave.
2. Every cave owner, operator or agent of any cave held open to the public shall, before opening the cave to the visiting public, send written notification to the division and pay an annual inspection fee of thirty-five dollars payable to the state treasurer and to be collected by the department of revenue and deposited in the state treasury to the credit of the state mine inspection fund. When the owner, operator or agent of any cave in this state, held open to the visiting public, shall have complied with all the necessary requirements of the division of mine inspection and shall have paid the inspection fee herein mentioned, he shall be provided with a certificate of inspection furnished by the division of mine inspection showing that the cave has been duly inspected and approved and such certificate shall be conspicuously displayed at or near the main entrance to the cave.

(L. 1959 S.B. 188 § 66)

CROSS REFERENCE: Cave and cave life protection law, RSMo 578.200 to

578.225

B. MISSOURI CAVE PROTECTION LAW (1980 EFFECTIVE 1981)

Missouri CAVE LAW Citation of law. 578.200. Sections 578.200 to 578.225 shall be known and may be cited as the "Cave Resources Act". (L. 1980 H.B. 1192 § 1) Effective 1-1-81

Section 578.205. Definitions. When used in sections 578.200 to 578.225, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

- (1) "Cave or cavern", any naturally occurring subterranean cavity enterable by man including, without limitation, a pit, pothole, natural well, grotto and tunnel, whether or not the opening has a natural entrance;
- (2) "Cave system", the caves in a given area related to each other hydrologically, whether continuous or discontinuous from a single opening;
- (3) "Show cave", any cave or cavern wherein trails have been created and some type of lighting provided by the owner or operator for purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is generally collected for entry;
- (4) "Sinkhole", a hollow place or depression in the ground in which drainage may collect with an opening therefrom into an underground channel or cave including any subsurface opening that might be bridged by a formation of silt, gravel, humus or any other material through which percolation into the channel or cave may occur.

Section 578.210 Entering, attempt to enter, defacing without permission, prohibited.

- (1) A person, without the prior written permission of the owner or if a corporation is the owner, of an officer of the corporation, lessee, or if the cavern is located on public land, the superintendent thereof shall not willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm the surfaces of any cave or any natural material therein including, without limitation, stalactites, stalagmites, helictites, anthodites, gypsum flowers, or needles, cave pearls, flowstone, draperies, rimstone, spathites, columns or similar crystalline mineral formation, including the host rock thereof.
- (2) A person shall not, without the permission required in subsection 1 of this section, break, force, tamper with, remove or otherwise disturb a lock, gate, door or other structure designed to prevent entrance to a cave or cavern. A person violates this subsection whether or not entrance to the cave or cavern is achieved.

Section 578.215. Cave or subsurface waters, placing structures or substances in violation of clean water law, prohibited, exceptions.

- (1) A person shall not purposely introduce into any cave, cave system, sinkhole or subsurface waters of the state any substance or structure that will or could violate any provision of the Missouri clean water law as set forth in chapter 204, RSMo, or any water quality standard or effluent limitation promulgated pursuant thereto.

(2) The provisions of subsection 1 of this section do not apply where natural subsurface drainage systems including, without limitation, caves, cave systems, sinkholes, fissures and related openings are used for purposes of stormwater drainage, artificial recharge of aquifers, and irrigation return flow, and where modifications of natural drainage systems are made for purposes of improving natural drainage relationships.

(3) No additional appropriations may be made for the enforcement of sections 578.200 to 578.225.

Section 578.220 Exceptions, certain mining operations.

Sections 578.200 to 578.225 shall not apply to vertical or horizontal underground mining operations.

Section 578.225 Violations, penalty.

Any person who violates any provision of sections 578.200 to 578.225 is guilty of a class A misdemeanor.

NOTE: A Class A Misdemeanor is a fine of \$1,000.00

MONTANA CAVE CONSERVATION ACT ART 9. (1993)

23-2-901. Short title. This part may be cited as "The Montana Cave Conservation Act". History: En. Sec. 1, Ch. 264, L. 1993.

23-2-902. Definitions. As used in this part, the following definitions apply:

(1) "Cave" means any geologically formed void or cavity beneath the surface of the earth or within a cliff or ledge, including but not limited to natural subsurface water and drainage systems, whether or not a natural entrance is present. The term does not include a mine, tunnel, aqueduct, or human-made excavation but does include any natural structure that is commonly known as a cavern, sinkhole, pit, grotto, or rock shelter and that communicates with a subterranean passage or drainage system.

(2) "Cave life" means any life form that occurs in, uses, visits, or inhabits a cave.

(3) "Gate" means a structure or devices located to limit or prohibit access or entry to a cave.

(4) "Material" means all or part of any archaeological, cultural, paleontological, biological, or historical item or artifact found in a cave, including but not limited to any petroglyph, pictograph, pottery, basketwork, fossil, human remains, or animal remains.

(5) "Owner" means any person or public or private agency that has the right to possession of a cave.

(6) "Person" means an individual, partnership, firm, association, trust, corporation, or other legal entity.

(7) "Speleogen" means the surrounding natural earth or bedrock in which a cave is formed, including but not limited to clastic sediments, walls, floors, ceiling, and other related structural and geological features.

(8) "Speleothem" means a natural mineral formation or deposit occurring in a cave, including but not limited to formations known as stalagmite, stalactite, helectite, shield, anothite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, rimstone dam, column, palette, and flowstone. A speleothem is commonly composed of calcite, gypsum, epsomite, aragonite, celestite, or other similar mineral. History: En. Sec. 2, Ch. 264, L. 1993.

23-2-903. Vandalism of cave unlawful. (1) Except as provided in subsection (2), a person may not purposely or knowingly:

(a) carve, write, mark upon, break, crack, burn, or remove or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or material found in a cave, whether attached or broken, including speleothems, speleogens, and sedimentary deposits;

(b) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to a cave;

(c) remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this part; or

(d) disturb or alter in any way the natural condition of a cave.

(2) The provisions of subsection (1) do not apply to a cave owner or the owner's authorized agent, officer, employee, or designated representative who undertakes work to improve or control physical access to the cave. History: En. Sec. 3, Ch. 264, L. 1993.

23-2-904. Disturbance of cave life unlawful. A person may not purposely or knowingly remove, kill, harm, or otherwise interfere with cave life, except for health or safety reasons or when the act is a minimal disturbance or for removal of organisms for recognized scientific inquiry. Gates at the entrance or at any point within a cave must be of open construction to allow unimpeded passage of air, insects, bats, and other cave life. History: En. Sec. 4, Ch. 264, L. 1993.

23-2-905. Pollution of and burning harmful substances in cave unlawful.

(1) A person may not purposely or knowingly store, dump, litter, dispose of, or otherwise place in a cave any refuse, garbage, dead animal, sewage, or toxic substance harmful to cave life or human life.

(2) A person may not burn in a cave any substance that produces smoke or gas that is or may be harmful to cave life. The use of a carbide lamp that produces acetylene gas is permitted. History: En. Sec. 5, Ch. 264, L. 1993.

23-2-906. Sale of speleothems and speleogens unlawful. A person may not sell, offer for sale, or export for sale any speleothem or speleogen. History: En. Sec. 6, Ch. 264, L. 1993.

23-2-907. Conditions of owner liability.

The liability of the owner of a cave or the owner's authorized agent, officer, employee, or designated representative acting within the scope of authority is restricted pursuant to 70-16-302. History: En. Sec. 7, Ch. 264, L. 1993.

23-2-908. Penalty. A person convicted of violating any provision of this part is subject to a fine of not less than \$500 or more than \$2,000, imprisonment in the county jail for not more than 60 days, or both. History: En. Sec. 9, Ch. 264, L. 1993.

NEVADA CAVE PROTECTION LAWS (1959)

PRESERVATION OF PREHISTORIC AND HISTORIC SITES

Section NRS 381.195 Definitions. As used in NRS 381.195 TO 381.227, inclusive:

1. "Historic" means after the middle of the 18th century.
2. "Historic site" means a site, landmark or monument of historical significance pertaining to the white man's history of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.
3. "Prehistoric" means before the middle of the 18th century.
4. "Prehistoric site" means any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves or burial ground.

(Added to NRS by 1959, 290; A 1960, 98; 1977, 1207; 1979, 977; 1985, 516)

Section NRS 381.197 Permit required to investigate, explore or excavate historic or prehistoric site.

No person shall investigate, explore or excavate an historic or prehistoric site on federal or state lands or remove any object there from unless he is the holder of a valid and current permit issued pursuant to the provisions of NRS 381.195 to 381.227, inclusive. (Added to NRS by 1959,290)

Section NRS 381.199 Applicant for permit required to secure state and federal permits.

1. An applicant is required to secure, from the director, or an agent designated by the director, a permit for the investigation, exploration or excavation of any state or federal lands within the boundaries of the State of Nevada.
2. If the land to be investigated, explored or excavated is owned or held by the United States, the applicant is also required to secure a permit from the proper authorities in accordance with the provisions of 16 U.S.C. §§ 431 to 433, inclusive. (Added to NRS by 1959, 290: A1977, 1207)

Section NRS 381.201 Director may designate agents to issue permits; agents may adopt regulations.

The director may designate any state board, state department, division of a state department or state institution as an agent for the purpose of issuing permits. The agency so designated may adopt regulations relating to investigations, explorations or excavations carried out pursuant to any permit issued by that agency. (Added to NRS by 1959, 290: A 1977, 1207; 1989, 2000)

Section NRS 381.203 Qualifications of applicant for permit; contents of application; regulations.

1. In order to qualify as the recipient of a permit, the applicant must show:
 - (a) That the investigation, exploration or excavation is undertaken for the benefit of a reputable museum, university, college or other recognized scientific or educational institution, with a view of increasing knowledge.
 - (b) That the gathering is made for permanent preservation in public museums or other recognized educational or scientific institutions.
 - (c) That the applicant possesses sufficient knowledge and scientific training to make such an investigation, exploration or excavation.
 - (d) The location of the site where the applicant proposes to investigate, explore or excavate.
2. The director may prescribe reasonable regulations for carrying out such investigations, explorations or excavations. (Added to NRS by 1959, 290: A 1977, 1207)

Section NRS 381.205 Notice to certain officers when permit granted.

Upon granting the permit, the director shall immediately notify the office of historic preservation, the sheriff in the county in which the permit is to be exercised, and personnel of the Nevada highway patrol controlling the state roads of the district embracing the site in which the permit is to be exercised. (Added to NRS by 1959, 291; A 1963, 828; 1977, 1208, 1360; 1993, 1588)

Section NRS 381.207 Percentage of articles, implements and materials found or discovered by certain holders of permits to be given to state institutions and political subdivisions.

1. The holder of a permit, except as provided in subsections 2 and 3, who does work upon aboriginal mounds and earthworks, ancient burial grounds, prehistoric sites, deposits of fossil bones or other archeological and vertebrate paleontological features within the state shall give to the state 50 percent of all articles, implements and materials found or discovered, to be deposited with the state museum, for exhibition or other use within the state as determined by the director. The director may, in his discretion, accept less than 50 percent of such items. Upon receipt of items pursuant to this subsection the director shall notify the office of historic preservation.
2. The holder of a permit who does any such work within the state under the authority and direction of the Nevada historical society, the Nevada museum and historical society, or an institution or political subdivision of the state shall give 50 percent of all articles, implements and materials found or discovered to the society, institution or political subdivision. The holder of the permit may retain the other 50 percent.
3. If the Nevada historical society, the Nevada museum and historical society, or an institution or political subdivision of the state is the holder of the permit, it may retain all articles, implements and materials found or discovered.
4. Whenever the office of historic preservation acquires articles, implements and materials under the provisions of this section, they must be transferred to the director for exhibition or other use within the state as determined by the director. (Added to NRS by 1959, 291; A 1977, 1208, 1360; 1985, 142; 1993, 1588)

Section NRS 381.209 Permit: Limitations and conditions.

The director may limit a permit as to time and location. A permit shall not be granted:

1. For a period of more than 1 year.
2. For investigation, exploration or excavation in a larger area than the applicant can reasonably be expected to explore fully and systematically within the time limit set in the permit.

3. For the removal of any ancient monument, structure or site which can be permanently preserved under the control of the State of Nevada in situ, and remain an object of interest, if desired by the state, for a park, landmark or monument for the benefit of the public. (Added to NRS by 1959, 292; A 1977, 1208)

Section NRS 381.211 Permit: Renewal.

A permit may be renewed for an additional period of time upon application by the permit holder, if the work contemplated by the permit has been diligently prosecuted. (Added to NRS by 1959, 292)

Section NRS 381.213 Permit: Conditions for voiding.

Failure to begin work under the permit within 6 months after the effective date of the permit, or failure to prosecute diligently such work after it is begun, shall render the permit void without any order from the board. (Added to NRS by 1959, 292)

Section NRS 381.215 Report of holder of permit to director.

After the close of each season's work, within a reasonable time designated in the permit, every permit holder shall furnish to the director a report containing a detailed account of the work done, material collected and other pertinent data. (added to NRS by 1959, 291; A1977, 1208)

Section NRS 381.217 Collections of petrified wood authorized; limitations.

A permit holder may collect specimens of petrified wood, subject to the limitations of NRS 206.320. (Added to NRS by 1959, 291)

Section NRS 381.219 Collection of certain minerals and artifacts and photography not prohibited.

Nothing contained in NRS 381.195 to NRS 381.227, inclusive, shall interfere with or prevent any person from collecting minerals, rocks or gems, arrowheads or other Indian artifacts so long as they are not part of a prehistoric site, nor prevent the photographing of objects of interest. (Added to NRS by 1959, 292)

Section NRS 381.221 Enforcement by division of state parks, sheriffs and other peace officers.

The division of state parks of the state department of conservation and natural resources, and personnel thereof, the sheriffs in their respective counties, the Nevada highway patrol, and all other peace officers shall be charged with the enforcement of NRS 381.195 to NRS 381.227, inclusive. Those persons charged with the enforcement of NRS 381.195 to NRS 381.227, inclusive, may, at any time, examine the permit of any person claiming privileges granted under NRS 381.195 to NRS 381.227, inclusive, and may fully examine all work done under the permit. (added to NRS by 1959, 291; A 1963, 828)

Section NRS 381.223 Seizure and forfeiture of object of antiquity taken without permit. Any object of antiquity taken, or collection made, on historic or prehistoric sites covered by NRS 381.195 to NRS 381.227, inclusive, without a permit must be seized by the proper law enforcement officers, who shall notify the director of the action. The object or collection so taken must be forfeited to the state for exhibition or other use within the state as determined by the director. Upon receipt of any forfeited item pursuant to this section the director shall notify the office of historic preservation.

(Added to NRS by 1959, 292; A 1977, 1209, 1360; 1993, 1588)

Section NRS 381.225 Acts of vandalism unlawful; penalty.

1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.
2. Unless a greater penalty is provided in NRS 206.125, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

(Added to NRS by 1959, 291; A 1989, 899, 2000)

Section NRS 381.227 Penalty.

Except as otherwise provided in NRS 381.225, any person violating any of the provisions of NRS 381.195 to NRS 381.227, inclusive, is guilty of a misdemeanor.

(Added to NRS by 1959, 292; A 1967, 563; 1989, 2001)

NEW MEXICO CAVE PROTECTION LAWS (1981)

Section 30-15-5 Damaging caves or caverns unlawful

It shall be unlawful for any person, without prior permission of the federal, state or private land owner, to willfully or knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, remove, displace, mar or harm any natural material found in any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, tufa dams, clay or mud formations or concretions, or other similar crystalline mineral formations or otherwise; to kill, harm or in any manner or degree disturb any plant or animal life found therein; to otherwise disturb or alter the natural conditions of such cave or cavern through the disposal therein of any solid or liquid materials such as refuse, food, containers or fuel of any nature, whether or not malice is intended; to disturb, excavate, remove, displace, mar or harm any archaeological artifacts found within a cave or cavern including petroglyphs, projectile points, human remains, rock or wood carvings or otherwise, pottery, basketry or any hand-woven articles of any nature, or any pieces, fragments or parts of any of the such articles; or to break, force, tamper with, remove or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained. For purposes of this section, "cave" means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct or other manmade excavation, which is large enough to permit a person to enter.

History: Laws 1981, Ch. 236, § 1

Section 30-15-6. Penalties.

Anyone violating the provisions of Section 1 [30-15-5 NMSA 1978] of this act shall be guilty of a misdemeanor.

History: Laws 1981, Ch. 236, § 2

NOTE: A Misdemeanor if a fine up to \$1,000 and imprisonment from 6 months to one year.

NORTH CAROLINA CAVE PROTECTION LAW (1987)

North Carolina CAVE LAW GENERAL ASSEMBLY OF NORTH CAROLINA 1987 SESSION RATIFIED BILL CHAPTER 449 HOUSE BILL 1061 AN ACT TO PROTECT CAVES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes of North Carolina is amended by adding a new Article to read: Article 22B. Caves Protection Act. 14-159.20.

Definitions.

The terms listed below have the following definitions as used in this Article, unless the context clearly requires a different meaning:

- (1) 'Cave' means any naturally occurring subterranean cavity. The word 'cave' includes or is synonymous with cavern, pit, well, sinkhole, and grotto;
- (2) 'Commercial cave' means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry;
- (3) 'Gate' means any structure of device located to limit or prohibit access or entry to any cave;
- (4) 'Person' means any individual, partnership, firm, association, trust or corporation;
- (5) 'Speleothem' means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helectites, anthodites, gypsum flowers, needles, angel's hair, soda straw, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals; and
- (6) 'Owner' means a person who has title to land where a cave is located, including a person who owns title to a leasehold estate in such land.

14-159.21. Vandalism; penalties.

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

- (1) Break, break off, crack, carve upon, write, burn or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;
- (2) Disturb or later in any manner the natural condition of any cave;
- (3) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, entrance thereto may not be gained. Any person violating a provision of this section shall be *guilty of a misdemeanor, punishable by a fine of not less than one hundred fifty dollars (\$150.00) or more than five hundred dollars (\$500.00), imprisonment for not less than 10 days or more than six months, or both.*

14-159.23. Limitation of liability of owners and agents.

The owner of a cave, and his agents and employees, shall not be liable for any injury to, or for the death of unless it is established that the injury, death, loss, or damage occurred as a result of gross negligence, wanton conduct, or intentional wrongdoing. The limitation of liability provided by this section applies only with respect to injury, death, loss, or damage occurring with in a cave, or in connection with entry into or exit from a cave, and applies only with respect to persons to whom no charge has been made for admission to the cave."

Section 2. This act shall become effective October 1, 1987, and shall apply to offenses occurring on and after that date. In the General Assembly read three times and ratified this the 23rd day of June 1987.

OHIO CAVE PROTECTION LAW (1988 EFFECTIVE 1989)

Ohio CAVE LAW Section 1517.21 General Assembly: 117. Bill Number: Amended S.B. 177 Effective Date: 3/22/89

As used in sections 1517.21 to 1517.26 of the Revised Code:

(A) "Cave" means a naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including, without limitation, a grotto, rock shelter, sinkhole, cavern, pit, natural well, pothole, or subsurface water and drainage system.

(B) "Cave life" means any organism that naturally occurs in, uses, visits, or inhabits any cave, except those animals that are permitted to be taken under Chapter 1533. of the Revised Code.

(C) "Material" includes:

- (1) Any speleothem, whether attached or broken, found in a cave;
- (2) Any clay or mud formation or concretion or sedimentary deposit found in a cave;
- (3) Any scallop, rill, or other corrosional or feature of a cave;
- (4) Any wall or ceiling of a cave or any other part of the speleogen.

(D) "Owner" means any person having title to land in which a cave is located.

(E) "Speleothem" means any stalactite, stalagmite, or other natural mineral formation or deposit occurring in a cave.

(F) "Speleogen" means the surrounding material or bedrock in which a cave is formed, including walls, floors, ceilings, and similar related structural and geological components.

(G) "Sinkhole" means a closed topographic depression or basin generally draining underground, including, without limitation, a blind valley, swallowhole, or sink.

(H) "Hazard" means a risk of serious physical harm to persons or property.

Section 1517.22

The general assembly hereby finds that caves are uncommon geologic phenomena and that the minerals deposited in them may be rare and occur in unique forms of great beauty that are irreplaceable if destroyed. Also irreplaceable are the archeological resources in caves, which are of great scientific and historic value. It is further found that species of cave life are unusual and of limited numbers; that many are rare, threatened, or endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the general assembly to protect these unique and great natural, historical, scientific, and cultural resources.

Section 1517.23

With the advice of the Ohio natural areas council created under section 1517.03 of the Revised Code, the chief of the division of natural areas and preserves shall:

(A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program;

(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.

Section 1517.24

(A) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall knowingly:

(B)

- (1) Break, break off, crack, carve on, write on, mark on, burn, remove, or in any other manner destroy, deface, mark, or disturb the surfaces of any cave or any natural material found in any cave, whether attached or broken, including, without limitation, speleothems, speleogens, and sedimentary deposits;

- (2) Break, force, tamper with, or otherwise disturb any lock, door, gate, or other device designed to limit, control, or prevent access to or entry into a cave;
- (3) Remove, deface, or tamper with any posted sign giving notice against unauthorized access to or presence in a cave or citing any of the provisions of sections 1517.21 to 1517.26 or division (B) of section 1517.99 of the Revised Code;
- (4) Place refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans in a cave;
- (5) Burn within a cave any substance other than acetylene gas burned in a carbide lamp that produces smoke or gas that is harmful to cave life;
- (6) Use any door, gate, or other device designed to limit, control, or prevent access to or entry into a cave that does not allow free and unimpeded passage of air, water, and cave life;
- (7) Excavate or remove historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones;
- (8) Remove, kill, harm, or disturb any cave life found within a cave.

(B) Without the express written permission of the owner and, if the owner has leased the land, without the express written permission of the lessee, no person shall purposely destroy, injure, or deface historic or prehistoric ruins, burial grounds, or archaeological or paleontological sites found in a cave, including, without limitation, saltpeter workings, relics, inscriptions, fossilized footprints, and bones.

Section 1517.25

No person shall sell or offer for sale speleothems collected from caves in this state.

Section 1517.26

(A) Owners and, if the owner has leased the land, the lessee, are not liable for injuries, death, or loss sustained by any permittee on their land if no charge has been made. By granting permission for entry, the owner or lessee does not:

- (1) Extend to the permittee any assurance that the premises are safe for such purposes;
- (2) Confer on the permittee the legal status of an invitee or licensee to whom a duty of care is owed;
- (3) Assume responsibility for or incur liability for any injury, death, or loss to person or property caused by an act or omission of a permittee.

(B) This section does not limit the liability which otherwise exists for injury, death, or loss to persons or property caused by an act or omission of the owner or lessee as follows:

- (1) Negligent failure to warn the permittee against a hazard of which the owner or lessee had actual knowledge prior to the permittee's entry on the land;
- (2) Willful or wanton misconduct;
- (3) Intentionally tortious conduct.

Section 1517.99

- (A)
 - (1) Except as provided in division (A)(2) of this section, whoever violates section 1517.021 of the Revised Code is guilty of a minor misdemeanor.
 - (2) Whoever violates section 1517.021 of the Revised Code with regard to a species of plant identified in a rule adopted under or included on a list prepared under section 1518.01 of the Revised Code is guilty of a misdemeanor of the third degree for a first offense. For each subsequent offense, the person is guilty of a misdemeanor of the second degree.
- (B) Whoever violates division (A) of section 1517.24 or section 1517.25 of the Revised Code is guilty of a misdemeanor of the third degree.
- (C) Whoever violates division (B) of section 1517.24 of the Revised Code is guilty of a misdemeanor of the second degree.
- (D) Whoever violates section 1517.051 of the Revised Code is guilty of a misdemeanor of the first degree.

NOTE: A First Degree Misdemeanor is a fine of \$1,000.00, a Second Degree Misdemeanor is a fine of \$750.00, a Third Degree Misdemeanor is a fine of \$500.00 and a Fourth Degree Misdemeanor is a fine of \$250.00. Also is convicted he must make restitution for all or part of the property damaged.

OKLAHOMA CAVE PROTECTION LAW (1967)

SECTION 1789. Caves or caverns, injuring.

It shall be unlawful for any person to willfully or knowingly break, break off, crack, carve upon, write, or otherwise mark upon, or in any manner destroy, mutilate, deface, mar or harm any natural material found in any cave or cavern located on any public lands or other lands owned by the United States, the State of Oklahoma, or any county, municipality, school district or other instrumentality of government, or on private property without the prior written consent of the owner; to kill, harm or disturb any plant or animal life found in any cave or cavern, and, whether inside or outside a cave, any fish of the genera chologaster, typhichthys or amblyopsis (commonly known as cavefish, springfish or blindfish), any salamander of the genus typhlotriton (commonly known at the Ozark blind, grotto or spring salamander), or the species Eurycea Lucifuga (commonly known as cave salamander); to discard litter or refuse in any cave, or dump or cause to be dumped any garbage, sewage, trash, industrial waste or pollution into any cave, cavern or natural subterranean drainage system; providing nothing in this act shall be construed as prohibiting the commercial mining of bat guano or the destruction of any predatory terrestrial mammal or poisonous snake seeking shelter within a cave if such destruction is not otherwise unlawful.

Laws 1967, c. 87, sec. 1. Emerg. effective April 19, 1967

SECTION 1790. Penalties.

Any person violating any provision of this Act shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for not exceeding twelve (12) months, or by both such fine and imprisonment.

Laws 1967, c. 87, Sec. 2. Emerg. effective April 19, 1967

PENNSYLVANIA CAVE PROTECTION LAW (1989 EFFECTIVE 1990)

THE GENERAL ASSEMBLY OF PENNSYLVANIA SENATE BILL NO. 867 Session of 1989

AN ACT Prohibiting certain conduct with respect to caves and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Cave Protection Act.

Section 2. Legislative findings and policy.

The General Assembly finds that caves are uncommon geologic phenomena and that the minerals deposited therein may be rare and occur in unique forms of great beauty, which are irreplaceable if destroyed. Also irreplaceable are the archeological resources in caves, which are of great scientific and historic value. It is further found that the organisms which live in caves are unusual and of limited numbers; that many are rare and endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the General Assembly and the intent of this act to protect these unique natural and cultural resources.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Cave." Any naturally occurring void, cavity, recess or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including, but not limited to, natural subsurface water and drainage systems, whether or not it has a natural entrance. The term does not include any mine, tunnel, aqueduct or other man-made excavation. The term includes, or is synonymous with, cavern, sinkhole, natural pit, and grotto and rock shelter.

"Cave life." Any life form, which normally occurs in, uses, visits or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of this Commonwealth.

"Commercial cave." Any cave utilized by the owner for the purposes of exhibition to the general public wherein a fee is collected for entry.

"Gate." Any structure or device located to limit or prohibit access or entry to any cave.

"Material." All or any part of any archeological, paleontological, biological or historical item or artifact, including but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, or remains of historical mining activity or any other occupation, found in a cave.

"Owner." A person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically including the commonwealth and any of its agencies, departments, boards, bureaus, commissions or authorities, as well as counties, municipalities and other political subdivisions of the Commonwealth.

"Person." An individual, partnership, firm, association, trust, corporation or other legal entity.

"Police officer." An individual authorized by law to make arrests for violations of the criminal laws of this commonwealth.

"Sinkhole." A closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley or sink.

"Speleogen." The surrounding natural material or bedrock in which a cave is formed, including clastic sediments, walls, floors and ceiling and similar related structural and geological components.

"Speleothem." A natural mineral formation or deposit occurring in a cave. The term includes, or is synonymous with, stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone and other similar mineral formations which occur in caves. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

Section 4. Enforcement.

Police officers employed in this commonwealth shall enforce the provisions of this act.

Section 5. Violations.

It shall be unlawful for any person, without the expressed written permission of the landowner, to:

- (1) Willfully or knowingly break, break off, crack, carve upon, write, burn, mark upon, remove or in any manner destroy, disturb, mar or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens and sedimentary deposits.
- (2) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
- (3) Remove, deface or tamper with a sign stating that a cave is posted or citing provisions of this act.
- (4) Store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animal, sewage or toxic substance harmful to cave life or humans in any cave or sinkhole.
- (5) Burn within any cave or sinkhole any material, which produces any smoke or gas, which is harmful to any organism in the cave. This paragraph shall specifically exempt acetylene gas emissions created by carbide lamps used as a source of light by persons using the cave.
- (6) Kill, injure, disturb or otherwise interfere with any cave life, including any cave roosting bat, or interfere with or obstruct the free movement of any life into or out of any cave, or enter any cave with the intention of killing, injuring, disturbing or interfering with life forms therein, except where public health may be threatened.
- (7) Remove, deface, tamper with or otherwise disturb any natural or cultural resources or material found within any cave.
- (8) Disturb or alter in any way the natural condition of any cave.

Section 6. Penalties.

- (a) Summary offense. --A person who violates any provision of this act commits a summary offense punishable by a fine of not less than \$100 nor more than \$1,000, and, in default of the payment of such fine, to undergo imprisonment for not more than 30 days.
- (b) Public nuisance. --Unlawful conduct as described by section 5 shall also constitute a public nuisance.

Section 7. Other remedies.

- (a) Jurisdiction. --In addition to any other remedies provided in this act, upon relation of any district attorney of any county affected, or upon relation of the solicitor of any county or municipality affected, an action in equity may be brought in a court of competent jurisdiction for an injunction to restrain any and all violations of this act or to restrain a public nuisance.
- (b) Concurrent remedies. --The penalties prescribed by this act shall be deemed concurrent, and the existence of or exercise of any remedy shall not prevent the Department of Environmental Resources from exercising any other remedy hereunder, at law or in equity.

Section 8. Effective date.

This act shall take effect in 60 days.

TENNESSEE CAVE PROTECTION LAW (1991)

Section 11-5-108. Vandalism of caves or caverns.

(a) It is an offense for any person, without the prior permission of the owner, to knowingly:

(1) Break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, mar or harm any natural material found within any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns or other similar crystalline material formations;

(2) Kill, harm or disturb any plant, animal or artifact found therein;

(3) Disturb or alter the natural condition of such cave or cavern; or

(4) Break, force, tamper with, remove, or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, whether or not entrance is actually gained.

(b) Nothing in this section shall be construed to prohibit the owner of property from performing on such owner's property any of the acts set forth in subsection (a).

(c) An act constituting a violation of this section is to be valued according to the provisions of § 39-11-106(a)(36) and punished as theft under § 39-14-103. [Acts 1991, Ch. 62, § 1

NOTE: A Property Class A Misdemeanor is a fine of \$500.00 and a theft is a Class E Felony with a fine from \$ 500.00 to\$1,000.00.

TEXAS CAVE PROTECTION LAW (1979)

Natural Resources Code TITLE 10. CAVES CHAPTER 201. CAVERN PROTECTION SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. Policy.

It is declared to be the public policy and in the public interest of the State of Texas to protect and preserve all caves on or under any of the land in the State of Texas, including tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas. Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff.

June 13, 1979.

Sec. 201.002. Definitions.

In this chapter:

- (1) "Cave" means any naturally occurring subterranean cavity, and includes or is synonymous with cavern, pit, pothole, well, sinkhole, and grotto.
- (2) "Gate" means any structure; lock, door, or device located to limit or prohibit access or entry to any cave.
- (3) "Speleothem" means a natural mineral formation or deposit occurring in a cave, and includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, plettes, flowstone, or other similar crystalline mineral formations commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals and formations.
- (4) "Owner" means a person who owns title to land on which a cave is located, including a person who owns title to a leasehold estate in the land.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

SUBCHAPTER B. PERMITS

Sec. 201.011. Permit Required.

No person may excavate, remove, destroy, injure, alter in any significant manner, or deface any part of a cave owned by the State of Texas, unless he first obtains a permit under Section 201.012 of this code.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

Sec. 201.012. Issuance of Permit.

The General Land Office may issue a permit under this subsection if the person seeking the permit furnishes the following information:

- (1) a detailed statement giving the reasons and objectives for the excavation, removal, or alteration and the benefits expected to be obtained from the contemplated work;
- (2) data and results of any completed excavation;
- (3) the prior written permission from the state agency which manages the site of the proposed excavation;
- (4) a sworn statement that he will carry the permit while exercising the privileges granted; and
- (5) any other reasonable information which the General Land Office may prescribe.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

Sec. 201.013. Revocation.

The General Land Office may for good cause revoke any permit issued under Section 201.012 of this code.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

Sec. 201.014. Penalties.

- (a) A person who violates Section 201.011 of this code is guilty of a Class B misdemeanor.
- (b) A person who violates Section 201.012 of this code is guilty of a Class C misdemeanor and the permit shall be revoked.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

SUBCHAPTER C. PROHIBITIONS

Sec. 201.041. Vandalism.

(a) A person may not, without express, prior, written permission of the owner, willfully or knowingly:

- (1) break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material in a cave, including speleothems;
- (2) disturb or alter in any manner the natural condition of any cave; or
- (3) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance to the cave may not be gained.

(b) A person who violates a provision of this section is guilty of a Class A misdemeanor, unless he has previously been convicted of violating this section, in which case he is guilty of a felony of the third degree.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff. June 13, 1979.

Sec. 201.042. Sale of Speleothems.

(a) A person may not sell or offer for sale any speleothems in this state, or export them for sale outside the state, without written permission from the owner of the cave from which the speleothems were removed.

(b) A person who violates this section is guilty of a Class B misdemeanor.

Added by Acts 1979, 66th Leg., p. 2003, ch. 785, Sec. 5, eff.

June 13, 1979

NOTE: A Class A Misdemeanor is a fine of \$500.00 to \$1500.00, a Class B Misdemeanor is a fine from \$50.00 to \$500.00 and a Class C Misdemeanor is a fine of \$50.00. A Third Degree Felony is imprisonment in jail for upto one year and a fine of \$ 1,500.00 to \$2,000.00.

TEXAS BAT PROTECTION LAW (2001)

AN ACT relating to the protection of bats; providing a penalty.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 63, Parks and Wildlife Code, is amended by adding Section 63.101 to read as follows:

Sec. 63.101. PROTECTION OF BATS.

- (a) Except as provided by Subsections (b) and (c), no person may:
 - (1) hunt a bat; or (2) sell, offer for sale, purchase, offer to purchase, or possess after purchase a bat or any part of a bat, dead or alive.
- (b) A bat may be removed or hunted if the bat is inside or on a building occupied by people.
- (c) This section does not apply to:
 - (1) an animal control officer, a peace officer, or a health official who captures a bat that the officer or official considers injured or diseased;
 - (2) a person who transports a bat for the purpose of laboratory testing if the bat has exposed or potentially exposed humans or domestic animals to rabies; or
 - (3) a person who is licensed to provide pest control services.

SECTION 2. Subsection (c), Section 63.104, Parks and Wildlife Code, is amended to read as follows:

- (c) A person who violates Section 63.002 or 63.101 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 3. This Act takes effect September 1, 2001, and applies only to an act described by Section 63.101, Parks and Wildlife Code, as added by this Act, committed on or after that date.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1194 passed the Senate on April 3, 2001, by a viva-voce vote; and that the Senate concurred in House amendment on May 14, 2001, by a viva-voce vote.

Secretary of the Senate

NOTE: A Class C Misdemeanor is a fine of \$50.00

VERMONT CAVE PROTECTION LAW (1975)

§ 701. Definitions

For the purposes of this chapter:

- (1) "Council" means the Vermont advisory council on historic preservation.
- (2) "Director" means the director of the division for historic preservation.
- (3) "Division" means the division for historic preservation.
- (4) "Field investigations" means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.
- (5) "Historic preservation" means the research, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archeology or culture of this state, its communities or the nation.
- (6) "Historic property" or "resource" means any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this state, its communities or the nation.
- (7) "Secretary" means the secretary of the agency of commerce and community development.
- (8) "Site" means any aboriginal mound, fort, earthwork, village location, burial ground, historic or prehistoric ruin, mine, cave, or other location, which is or may be source of important archeological data.
- (9) "Specimen" means a relic, artifact, remain, object or any other evidence of a historical, pre-historical, archeological, or anthropological nature, which may be found on or below the surface of the earth, and which has scientific or historical value as an object of antiquity, as an aboriginal relic or as an archeological sample.
- (10) "Underwater historic property" means any shipwreck, vessel, cargo, tackle or underwater archeological specimen, including and found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten years on the bottoms of any waters. (Added 1975, No. 109, § 4; amended 1995, No. 190 (Adj. Sess.), § 1(a).)

NOTE: If State Land is vandalized misdemeanor is a fine of \$500.00

VIRGINIA CAVE PROTECTION LAW (1979)

Section 10-150.11 Legislative findings and policy

The General assembly hereby finds that caves are uncommon geologic phenomena, and that the minerals deposited therein may be rare and occur in unique forms of great beauty, which are irreplaceable if destroyed. Also irreplaceable are the archaeological resources in caves, which are of great scientific and historic value. It is further found that the organisms which live in caves are unusual and of limited numbers, that many are rare and endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man's property boundaries. It is therefore declared to be the policy of the General Assembly and the intent of this chapter to protect these unique natural and cultural resources. (1979, c.252)

Section 10-150.12 Definitions

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

- A. "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge including natural subsurface water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with cavern, sinkhole, natural pit, grotto, and rock shelter.
- B. "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public as a profit or non-profit enterprise, wherein a fee is collected for entry.
- C. "Gate" means any structure or device located to limit or prohibits access or entry to any cave.
- D. "Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley, or sink.
- E. "Person" or "persons" means any individual, partnership, firm, association, trust or corporation or other legal entity.
- F. "Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions or authorities, as well as counties, municipalities and other political subdivisions of the Commonwealth.
- G. "Speleothem" means a natural mineral formation or deposit occurring in a cave. The term includes, or is synonymous with, stalagmite, stalactite, helectite, shield, anhydrite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.
- H. "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.
- I. "Material" means all or any part of any archeological, paleontological, biological or historical item including but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in a cave.
- J. "Cave life" means any life form, which normally occurs in, uses, visits or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth. (1979, c.252)

Section 10-150.13 Vandalism; penalties

A. It shall be unlawful for any person, without express, prior, written permission of the owner, to:

1. Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, and sedimentary deposits. The provision of this section shall not prohibit minimal disturbance for scientific exploration.
2. Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.
3. Remove, deface, tamper with a sign stating that a cave is posted or citing provisions of this chapter.
4. Excavate, remove, destroy, injure, deface, or in any manner disturb any burial grounds, historic or prehistoric resources, archeological or paleontological site or any part thereof, including relics, inscriptions, saltpeter workings, fossils, bones, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of the Virginia Antiquities Act (10-150.1 et seq.).

B. The entering and remaining in a cave, which has not been posted by the owner, shall not by itself constitute a violation of this section.

C. Any violation of this section shall be punished as a Class 1 misdemeanor.

D. The provision of this section shall not apply to an owner of a cave on his own property.

Section 10-150.14 Pollution; penalties

A. It shall be unlawful for any person, without express, prior, written permission of the owner, to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole. It shall also be unlawful to burn within a cave or sinkhole any material, which produces any smoke or gas, which is harmful to any naturally occurring organism in any cave.

B. Any violation of this section shall be punished as a Class 1 misdemeanor. (1979, c. 252; 1982, c.81.)

Section 10-150.15 Disturbance of naturally occurring organisms; scientific collecting permits; penalties

A. It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organisms within any cave, except for safety or health reasons; provided, however, scientific collecting permits may be obtained from any cave commission established for such purpose or from the appropriate state agency.

B. Any violation of this section shall be punished as a Class 3 misdemeanor. (1979, c. 252.)

Section 10-150.16 Archaeology; permits for excavation; how obtained; penalties

A. (Repealed.)

B. In addition to the written permission of the owner required by 10.150.13 of this Code, a person must also obtain a permit from the Department of Conservation and Historic Resources prior to excavating or removing any archaeological, paleontological, prehistoric, or historic feature of any cave. The Department shall issue a permit to excavate or remove such a feature if it finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific, or educational institution, professional archaeologist or amateur, who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be renewed upon expiration. Such permit shall not be transferable; however, the provision of this section shall not preclude any person from working under the direct supervision of the permittee.

C. All field investigations, explorations, or recovery operations undertaken under this section shall be carried out under the general supervision of the Department of Conservation and Historic Resources and in a manner to ensure that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of objects.

D. A person applying for a permit pursuant to this section shall:

1. Have knowledge of archaeology or history as qualified in subsection B hereof.
2. Provide a detailed statement to the Department giving the reasons and objectives for excavation or removal and the benefits to be obtained from the contemplated work.
3. Provide data and results of any completed excavation, study, or collection at the first of each calendar year.
4. Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land.
5. Carry the permit while exercising the privileges granted.

E. Any person who fails to obtain a permit required under subsection B hereof shall be guilty of a Class 1 misdemeanor. Any violation of subsection D hereof shall be punished as a Class 3 misdemeanor, and the permit shall be revoked.

F. The provision of this section shall not apply to any person in any cave located on his own property. (1979, c. 252; 1982, c. 81; 1984, c. 750.)

Section 10-150.17 Sale of Speleothems; penalties

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, or to export them for sale outside the Commonwealth. Any violation of this section shall be punished as a Class 1 misdemeanor. (1979, c. 252; 1982, c. 81.)

Section 10-150.18 Liability of owners and agents limited; sovereign immunity of Commonwealth not waived.

Neither the owner of a cave or his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry as to the experience or expertise of the individual

seeking consent may have been made. Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus, or agencies. (1979, c. 252.)

NOTE: A Class 1 Misdemeanor is a fine of \$2,500.00 and imprisonment up to 12 months, a Class 2 Misdemeanor is a fine of \$ 1,000.00 and imprisonment up to 6 months. A Class 3 Misdemeanor is a fine of \$ 500.00 and a Class 4 Misdemeanor is a fine of \$250.00.

WEST VIRGINIA CAVE PROTECTION LAW (1977)

West Virginia CAVE LAW ENROLLED COMMITTEE SUBSTITUTE FOR H.B. 834 Passed April 9, 1977; in effect ninety days from passage

AN ACT to amend chapter twenty of the code of West Virginia one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine, relating to defining certain terms; vandalism of caves; prohibiting the sale of speleothems; prohibiting destruction or removal of certain plant or animal life; requiring archeological permits in certain instances; specifying liability of owners of caves and their agents; and providing penalties for specific violations.

Be it enacted by the Legislature of West Virginia: That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine, to read as follows:

ARTICLE 9. CAVE PROTECTION.

Section 20-9-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

- (a) "Cave" means any naturally occurring subterranean cavity. The word "cave" includes or is synonymous with cavern, pit, pothole, well, sinkhole and grotto.
- (b) "Commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein an fee is collected for entry.
- (c) "Gate" means any structure or device located to limit or prohibits access or entry to any cave.
- (d) "Person or persons" means any individual, partnership, firm, association, trust or corporation.
- (e) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helectites, anothidites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.
- (f) "Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land.

Section 20-9-2. Vandalism; penalties.

It is unlawful for any person without express, prior, written permission of the owner, to willfully or knowingly:

- (a) Break, break off, crack, carve upon, write, burn or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;
- (b) Disturb or alter in any manner the natural condition of any cave;
- (c) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained. Any person violating a provision of this section shall be *guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred fifty dollars nor more than five hundred dollars, and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.*

Section 20-9-3. Sale of speleothems unlawful; penalties.

It is unlawful to sell or offer for sale any speleothems in this state, or to export them for sale outside the state. A person who violates any of the provisions of this section shall be *guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred fifty dollars nor more than five hundred dollars and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.*

Section 20-9-4. Biological policy; penalties for violation.

It is unlawful to remove, kill, harm or disturb any plant or animal life found within any cave: Provided, That scientific collecting permits may be obtained from the director as provided in section fifty, article two of this chapter. Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, insects, bats and aquatic fauna. A person who violates any provision of this section shall be *guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred dollars nor more than five hundred dollars and in addition thereto, any be imprisoned in the county jail for not less than fifteen days nor more than six months.*

Section 20-9-5. Archeology; permits for excavation; how obtained; prohibitions; penalties.

(a) No person may excavate, remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archeological or paleontological site including saltpeter workings, relics or inscriptions, fossilized footprints, bones or any other such features which may be found in any cave.

(b) Notwithstanding the provision of subsection (a) of this section, a permit to excavate or remove archeological, paleontological, prehistoric and historic features may be obtained from the director of natural resources. Such permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable but this does not preclude persons from working under the direct supervision of the person holding the permit.

A person applying for such a permit must:

(1) Provide a detailed statement to the director of natural resources giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.

(2) Provide data and results of any completed excavation, study or collection at the first of each calendar year.

(3) Obtain the prior written permission of the director of natural resources if the site of the proposed excavation is on state-owned lands and prior written permission of the owner if the site of such proposed excavation is on privately owned land.

(4) Carry a permit while exercising the privileges granted. *A person who violates any provision of subsection (a) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned in the county jail for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and the permit herein authorized shall be revoked.*

Section 20-9-6. Liability of owners and agents.

(a) Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using such features for recreational or scientific purpose if the prior consent of the owner has been obtained and if no charge has been made for the use of such features.

(b) An owner of a commercial cave is not liable for an injury sustained by a spectator who has paid to view the cave, unless such injury is sustained as a result of such owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires, or other modifications, and such negligence is the proximate cause of the injury. (1977, c. 142.)

WISCONSIN CAVE LAW (1977)

Section 943.01 (2) (f)1.

In this paragraph, "rock art site" means an archaeological site that contains paintings, carvings or other deliberate modifications of an immobile rock surface, such as a cave, overhang, boulder or bluff face, to produce symbols, stories, messages, designs or pictures. "Rock art site" includes artifacts and other cultural items, modified soils, bone and other objects of archaeological interest that are located adjacent to the paintings, carvings or other deliberate rock surface modifications.

Section 943.01(2)(f)2.

The property damaged is a rock art site, any portion of a rock art site or any object that is part of a rock art site, if the rock art site is listed on the national register of historic places in Wisconsin, as defined in s. 44.31 (5), or the state register of historic places under s. 44.36.

Section 943.01(2m)

Whoever causes damage to any physical property of another under all of the following circumstances is subject to a Class B forfeiture:

- (a) The person does not consent to the damage of his or her property.
- (b) The property damaged is on state-owned land and is listed on the registry under sub. (5).

Section 943.01(3)

If more than one item of property is damaged under a single intent and design, the damage to all the property may be prosecuted as a single forfeiture offense or crime.

Section 943.01 (4)

In any case of unlawful damage involving more than one act of unlawful damage but prosecuted as a single forfeiture offense or crime, it is sufficient to allege generally that unlawful damage to property was committed between certain dates. At the trial, evidence may be given of any such unlawful damage that was committed on or between the dates alleged.

Section 943.01 (5)

The department of natural resources shall maintain a registry of prominent features in the landscape of state-owned land. To be included on the registry, a feature must have significant value to the people of this state.

Section 943.01 – ANNOTATION

History: 1977 c. 173; 1981 c. 118 s. 9; 1987 a. 399; 1993 a. 262, 486; 1995 a.133, 208;1997 a. 143.

NOTE: A Class B Forfeiture is a fine up to \$5,000.00.