

Information Legislation

Bill No. 245, 1996

Provides for the protection of paleontological heritage, in accordance with art. 216, section V of the Constitution, and makes other provisions. *Situation: In processing*

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The National Congress decrees:

CHAPTER I

General provisions

Art. 1 Existing fossil deposits in domestic and fossils collected therein are property of the Union, becoming Brazil's cultural and natural heritage and its protection and use shall be such that:

I - generation of scientific knowledge about the fossil heritage of the country, The State must give priority and incentives to strengthen national scientific capacity in this area;

II - joint responsibility of federal, state, local and federal government in the District for surveillance and protection of paleontological heritage, pursuant to art. 216, § 1 of the Federal Constitution and this Act;

III - consideration of cultural aspects, historical, scientific, environmental and social decisions in any of the government relating directly or indirectly to the paleontological heritage;

IV - involvement in the protection of paleontological heritage, through the facilities of access to information and creating socio-economic opportunities linked to that protection;

V - appreciation of the Brazilian fossil heritage through outreach and educational activities aimed at raising awareness of society.

CHAPTER II

Of the definitions

Art. 2 For the purposes of this Act, the following definitions apply:

I - Fossil: any record of prehistoric life preserved in rocks, including parts of organisms, their physiological activities, such as eggs and coprolites, as well as footprints and tracks;

II - fossil deposit: any occurrence of fossil, known or not;

III - paleontological site: place of occurrence of fossiliferous deposit;

IV - fossil heritage: the set of existing fossil deposits in the country.

V - Natural Monument: territorial unit of environmental and cultural conservation, which has the primary objective to preserve rare, natural or scenic beauty of great natural sites.

CHAPTER III

Of the fossil sites

Art. 3 All fossil sites can be declared Natural Monuments and will be classified as:

I - open: when the goal of preservation of fossils is consistent with controlled research activities and visitation;

II - comprehensive protection: when special, scientifically proven, characteristics of fossil sites justify their exclusive use for research.

. *Single paragraph* Criteria for classification of sites should consider:

I - contribution to the advancement of scientific knowledge;

II - preservation of ecological balance;

III - potential for economic recovery of the regions in which the existence of fossil heritage encourages the creation of predatory activities not related to it, especially the scientific and ecologically oriented tourism;

IV - preserving relevant associated assets, especially land cover and water resources;

V - representativeness at regional, national and global geological contexts.

CHAPTER IV
Eligibility for fossil heritage

Art. 4 The research and collection of fossil material in Brazilian territory must be previously authorized by the competent authority, applying federal law on data collection and scientific materials by foreigners and the required documentation must contain, at minimum:

- I - detailed identification of the area that will be object of the work for which authorization is requested;
- II - description of methods, techniques and tools to be used;
- III - indication of the fate of the material collected and explanation of the objectives of the work;
- IV - identification of applicants as well as proof of his qualifications.

Single paragraph. Institutions of higher education and Brazilian research are exempt from this requirement must submit annually to the competent authority, report on its activities in fossil sites.

Art. 5 is forbidden to transfer fossil abroad, pursuant to art. 10 of this Act, except when intended for museums or universities and research institutions recognized by their national governments, whose scientific integrity and ethics is demonstrated by the representative bodies of the Brazilian scientific community branch of paleontology or geology, subject to the following conditions:

I - co-participation, through technical and scientific cooperation agreement, the collection and classification of the material to be transferred, museums and institutions of higher education and research Brazilians, whose scientific integrity and ethics is certified by national organizations representing community scientific branch of paleontology or geology;

II - previous screening by the co-participant Brazilian institution, the collected material to be transferred and must be retained necessarily holotypes and syntypes and paratypes and specimens of lectotype;

Single paragraph. Fossil retained under item II of this article will be deposited in Brazilian institutions or co-participants in Brazilian public education, or federal, state or local search.

Art. 6 copies of existing private institutions of education and research in the country fossils are considered part of the public property, pursuant to art. 1 of this Act and, as such, should be subject to notification to the competent authority.

Single paragraph. Closing In case of any changes in activities or purposes of the institutions mentioned in the *caput*, copies of there existing fossil must be sent to public institutions of higher education, or federal, state or local search.

Art. 7 The realization of the potential to cause impact on works of fossil sites and exploring rocks, through manual or mechanized mines, should be authorized and accompanied by the competent authority under this Act and environmental legislation and relevant mining.

§ 1 The work or mining may be choked up harming the fossil heritage, at the discretion of the competent authority;

§ 2 It is mandatory to notify the municipal, state or federal competent authority, the discovery of fossil deposit.

CHAPTER V
Penal and Administrative Sanctions

Art. 8 is a crime fossil market.

Penalty - detention of one (1) to five (5) years and a fine.

Art. 9 is a crime to transfer or acquire fossils by various means of marketing, notwithstanding the provisions of art. 4 of this Act.

Penalty - detention of one (1) to three (3) years and a fine.

Art. 10th. crime constitutes the transfer of fossil abroad.

Penalty - detention of one (1) to five (5) years and a fine.

Art. 11th. constitutes crime to transport or retain fossils in violation of the terms of this law.

Penalty - detention of one (1) to three (3) years and a fine.

Art. 12th. Unless the crime is guilty, the penalty is reduced by one to two thirds.

.. Article 13 The Government shall regulate the system of administrative penalties that should apply to violators of this Act, including, necessarily:

- I - permanent revocation of the collected material, as well as materials and equipment used in an irregular action;

II - cancellation of license or permission for access to fossil sites;

III - ban on new permits or licenses for access to fossil sites around the country.

IV - Application of cumulative and proportional to the number of seized parts fines.

.. Article 14 The competent authority shall observe, when applying for administrative and criminal penalties:

I - the gravity of the fact, in view of the reasons for the violation and its consequences for the conservation of national heritage fossiliferous;

II - the history of the violator agent regarding compliance with laws protecting the fossil heritage.

Art. 15th. mitigating circumstance is worth of collaboration on the part of the offending agent, the agents responsible for monitoring and protection of paleontological heritage.

.. Article 16 are aggravating circumstances the penalty:

I - recidivism in crimes against fossil heritage;

II - the agent has committed the offense:

a) inducing or coercing others to actual enforcement of the violation;

b) reaching areas declared Natural Monuments fossils included in the category of full protection under art. 3 of this Act;

c) through fraud or breach of trust;

d) facilitated by public officials in the exercise of their functions.

Art. 17th. A penalty of fine shall not be less than the expected economic benefit expected by activity or infringer with his conduct.

§ 1 - The penalty of fine may be increased to one hundred (100) times if the authority considers that, given the economic situation of the agent, is ineffective, even if applied at its maximum value.

§ 2 - The regulation of this law shall establish the criteria for examination and calculation of penalty of fine, as well as for the periodic review, based on the indices in the relevant legislation.

Art. 18th. regulations In this Act, the Executive Branch will define the public agencies responsible for their enforcement by giving them police powers.

Art. 19th. Whatever sanctions and penalties provided in this Act, shall apply to offenses against the Brazilian fossil heritage, as applicable, the penalties and sentences that deal with environmental laws and protection of the cultural heritage of the country.

CHAPTER VI

Final Provisions

Art. 20th. 's Executive Branch shall regulate this Act within ninety (90) days after its publication.

Art. 21st. This law shall enter into force on the date of its publication.

Session Chamber, on November 19, 1996

Senator

LÚCIO

ALCANTARA