



142302

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/01/2012	.	
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The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 267.12, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

267.12 Research permits; procedure.—

(1) The division may issue permits for excavation and surface reconnaissance on land owned or controlled by the state, including state sovereignty submerged land, land owned by a



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12 political subdivision as defined by s. 1.01(8), ~~lands~~ or land
13 ~~lands~~ within the boundaries of a designated state archaeological
14 landmark ~~landmarks~~ or landmark zone ~~zones~~ to institutions which
15 the division deems ~~shall deem~~ to be properly qualified to
16 conduct such activity, subject to such rules and regulations as
17 the division may prescribe, provided such activity is undertaken
18 by reputable museums, universities, colleges, or other
19 historical, scientific, or educational institutions or societies
20 that possess or will secure the archaeological expertise for the
21 performance of systematic archaeological field research,
22 comprehensive analysis, and interpretation in the form of
23 publishable reports and monographs, such reports to be submitted
24 to the division.

25 (2) Those state institutions considered by the division
26 permanently to possess the required archaeological expertise to
27 conduct the archaeological activities allowed under ~~the~~
28 ~~provisions of~~ the permit may be designated as accredited
29 institutions which will be allowed to conduct archaeological
30 field activities on land owned or controlled by the state,
31 including state sovereignty submerged land, land owned by a
32 political subdivision as defined by s. 1.01(8), ~~state-owned or~~
33 ~~controlled lands~~ or land within the boundaries of a ~~any~~
34 designated state archaeological landmark or ~~any~~ landmark zone
35 without obtaining an individual permit for each project, except
36 that those accredited institutions will be required to give
37 prior written notice of all anticipated archaeological field
38 activities on land owned or controlled by the state, including
39 state sovereignty submerged land, land owned by a political
40 subdivision as defined by s. 1.01(8), ~~state-owned or controlled~~



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41 ~~lands~~ or land within the boundaries of a any designated state
42 archaeological landmark or landmark zone to the division,
43 together with such information as may reasonably be required by
44 the division to ensure the proper preservation, protection, and
45 excavation of the archaeological resources. However, ~~ne~~
46 archaeological activity may not be commenced by the accredited
47 institution until the division has determined that the planned
48 project will be in conformity with the guidelines, regulations,
49 and criteria adopted pursuant to ss. 267.11-267.14. Such
50 determination will be made by the division and notification to
51 the institution given within ~~a period of~~ 15 days after ~~from the~~
52 ~~time of~~ receipt of the prior notification by the division.

53 (4) This section does not apply to a jurisdiction that is
54 qualified as a certified local government pursuant to the
55 Historic Preservation Act of 1966, as amended, 16 U.S.C. s. 470,
56 and that has an archaeological ordinance.

57 Section 2. Subsections (1) and (2) of section 267.13,
58 Florida Statutes, are amended, and subsection (5) is added to
59 that section, to read:

60 267.13 Prohibited practices; penalties.—

61 (1) (a) Any person who by means other than excavation ~~either~~
62 conducts archaeological field investigations on, or removes or
63 attempts to remove, or defaces, destroys, or otherwise alters
64 any archaeological site or specimen located upon, ~~any~~ land owned
65 or controlled by the state, including state sovereignty
66 submerged land, land owned by a political subdivision as defined
67 by s. 1.01(8), or land within the boundaries of a designated
68 state archaeological landmark or landmark zone, except in the
69 course of activities pursued under the authority of a permit or



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70 under procedures relating to accredited institutions granted by
71 the division, commits a misdemeanor of the first degree,
72 punishable as provided in s. 775.082 or s. 775.083, and, in
73 addition, shall forfeit to the state all specimens, objects, and
74 materials collected, together with all photographs and records
75 relating to such material.

76 (b) Any person who by means of excavation ~~either~~ conducts
77 archaeological field investigations on, or removes or attempts
78 to remove, or defaces, destroys, or otherwise alters any
79 archaeological site or specimen located upon, ~~any~~ land owned or
80 controlled by the state, including state sovereignty submerged
81 land, land owned by a political subdivision as defined by s.
82 1.01(8), or land within the boundaries of a designated state
83 archaeological landmark or landmark zone, except in the course
84 of activities pursued under the authority of a permit or under
85 procedures relating to accredited institutions granted by the
86 division, commits a felony of the third degree, punishable as
87 provided in s. 775.082, s. 775.083, or s. 775.084, and any
88 vehicle or equipment of any person used in connection with the
89 violation is subject to forfeiture to the state if it is
90 determined by any court of law that the vehicle or equipment was
91 involved in the violation. Such person shall forfeit to the
92 state all specimens, objects, and materials collected or
93 excavated, together with all photographs and records relating to
94 such material. The court may also order the defendant to make
95 restitution to the state for the archaeological or commercial
96 value and cost of restoration and repair as defined in
97 subsection (4).

98 (c) Any person who offers for sale or exchange any object



99 with knowledge that it has previously been collected or
100 excavated in violation of any of the terms of ss. 267.11-267.14,
101 or who procures, counsels, solicits, or employs any other person
102 to violate any prohibition contained in ss. 267.11-267.14 or to
103 sell, purchase, exchange, transport, receive, or offer to sell,
104 purchase, or exchange any archaeological resource excavated or
105 removed from ~~any~~ land owned or controlled by the state,
106 including state sovereignty submerged land, land owned by a
107 political subdivision as defined by s. 1.01(8), or land within
108 the boundaries of a designated state archaeological landmark or
109 landmark zone, except with the express consent of the division,
110 commits a felony of the third degree, punishable as provided in
111 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
112 equipment of any person used in connection with the violation is
113 subject to forfeiture to the state if it is determined by any
114 court of law that such vehicle or equipment was involved in the
115 violation. All specimens, objects, and material collected or
116 excavated, together with all photographs and records relating to
117 such material, shall be forfeited to the state. The court may
118 also order the defendant to make restitution to the state for
119 the archaeological or commercial value and cost of restoration
120 and repair as defined in subsection (4).

121 (2) (a) The division may institute an administrative
122 proceeding to impose an administrative fine of not more than
123 \$500 a day on any person or business organization that, without
124 written permission of the division, explores for, salvages, or
125 excavates treasure trove, artifacts, sunken or abandoned ships,
126 or other objects having historical or archaeological value
127 located upon land owned or controlled by the state ~~on state~~



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128 ~~owned or state-controlled lands~~, including state sovereignty
129 submerged land, or land owned by a political subdivision as
130 defined by s. 1.01(8) lands.

131 (b) The division shall institute an administrative
132 proceeding by serving written notice of a violation by certified
133 mail upon the alleged violator. The notice shall specify the law
134 or rule allegedly violated and the facts upon which the
135 allegation is based. The notice shall also specify the amount of
136 the administrative fine sought by the division. The fine is
137 ~~shall not become~~ due until after service of notice and an
138 administrative hearing. However, the alleged violator has ~~shall~~
139 ~~have~~ 20 days after ~~from~~ service of notice to request an
140 administrative hearing. Failure to respond within that time
141 constitutes ~~shall constitute~~ a waiver, and the fine becomes
142 ~~shall become~~ due without a hearing.

143 (c) The division may enter its judgment for the amount of
144 the administrative penalty imposed in a court of competent
145 jurisdiction, pursuant to s. 120.69. The judgment may be
146 enforced as any other judgment.

147 (d) The division may apply to a court of competent
148 jurisdiction for injunctive relief against any person or
149 business organization that explores for, salvages, or excavates
150 treasure trove, artifacts, sunken or abandoned ships, or other
151 objects having historical or archaeological value located upon
152 ~~on state-owned or state-controlled land~~ owned or controlled by
153 the state, including state sovereignty submerged land, or land
154 owned by a political subdivision as defined by s. 1.01(8)
155 without the written permission of the division.

156 (e) The division shall adopt rules pursuant to ss.



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157 120.536(1) and 120.54 to administer ~~implement the provisions of~~
158 this section.

159 (5) This section does not apply to activities conducted
160 pursuant to a permit or other form of consent granted by a
161 jurisdiction that is qualified as a certified local government
162 pursuant to the Historic Preservation Act of 1966, as amended,
163 16 U.S.C. s. 470, and that has an archaeological ordinance.

164 Section 3. This act shall take effect July 1, 2012.

166 ===== T I T L E A M E N D M E N T =====

167 And the title is amended as follows:

168 Delete everything before the enacting clause
169 and insert:

170 A bill to be entitled
171 An act relating to archeological sites and specimens;
172 amending s. 267.12, F.S.; authorizing the Division of
173 Historical Resources of the Department of State to
174 issue permits for excavation, surface reconnaissance,
175 and archaeological activities on land owned by a
176 political subdivision; providing applicability;
177 amending s. 267.13, F.S.; providing that specified
178 activities relating to archaeological sites and
179 specimens located upon land owned by a political
180 subdivision are prohibited and subject to penalties;
181 authorizing the division to impose an administrative
182 fine on and seek injunctive relief against certain
183 entities; providing applicability; providing an
184 effective date.