



884248

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/07/2012	.	
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The Committee on Governmental Oversight and Accountability
(Benacquisto) 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 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
political subdivision as defined by s. 1.01(8), ~~lands~~ or land
~~lands~~ within the boundaries of a designated state archaeological



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

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



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42 together with such information as may reasonably be required by
43 the division to ensure the proper preservation, protection, and
44 excavation of the archaeological resources. However, ~~no~~
45 archaeological activity may not be commenced by the accredited
46 institution until the division has determined that the planned
47 project will be in conformity with the guidelines, regulations,
48 and criteria adopted pursuant to ss. 267.11-267.14. Such
49 determination will be made by the division and notification to
50 the institution given within ~~a period of 15 days~~ after ~~from the~~
51 ~~time of~~ receipt of the prior notification by the division.

52 Section 2. Subsections (1) and (2) of section 267.13,
53 Florida Statutes, are amended to read:

54 267.13 Prohibited practices; penalties.—

55 (1) (a) Any person who by means other than excavation ~~either~~
56 conducts archaeological field investigations on, or removes or
57 attempts to remove, or defaces, destroys, or otherwise alters
58 any archaeological site or specimen located upon, ~~any~~ land owned
59 or controlled by the state, including state sovereignty
60 submerged land, land owned by a political subdivision as defined
61 by s. 1.01(8), or land within the boundaries of a designated
62 state archaeological landmark or landmark zone, except in the
63 course of activities pursued under the authority of a permit or
64 under procedures relating to accredited institutions granted by
65 the division, commits a misdemeanor of the first degree,
66 punishable as provided in s. 775.082 or s. 775.083, and, in
67 addition, shall forfeit to the state all specimens, objects, and
68 materials collected, together with all photographs and records
69 relating to such material.

70 (b) Any person who by means of excavation ~~either~~ conducts



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

92 (c) Any person who offers for sale or exchange any object
93 with knowledge that it has previously been collected or
94 excavated in violation of any of the terms of ss. 267.11-267.14,
95 or who procures, counsels, solicits, or employs any other person
96 to violate any prohibition contained in ss. 267.11-267.14 or to
97 sell, purchase, exchange, transport, receive, or offer to sell,
98 purchase, or exchange any archaeological resource excavated or
99 removed from ~~any~~ land owned or controlled by the state,



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100 including state sovereignty submerged land, land owned by a
101 political subdivision as defined by s. 1.01(8), or land within
102 the boundaries of a designated state archaeological landmark or
103 landmark zone, except with the express consent of the division,
104 commits a felony of the third degree, punishable as provided in
105 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
106 equipment of any person used in connection with the violation is
107 subject to forfeiture to the state if it is determined by any
108 court of law that such vehicle or equipment was involved in the
109 violation. All specimens, objects, and material collected or
110 excavated, together with all photographs and records relating to
111 such material, shall be forfeited to the state. The court may
112 also order the defendant to make restitution to the state for
113 the archaeological or commercial value and cost of restoration
114 and repair as defined in subsection (4).

115 (2)(a) The division may institute an administrative
116 proceeding to impose an administrative fine of not more than
117 \$500 a day on any person or business organization that, without
118 written permission of the division, explores for, salvages, or
119 excavates treasure trove, artifacts, sunken or abandoned ships,
120 or other objects having historical or archaeological value
121 located upon land owned or controlled by the state ~~on state-~~
122 ~~owned or state-controlled lands~~, including state sovereignty
123 submerged land, or land owned by a political subdivision as
124 defined by s. 1.01(8) ~~lands~~.

125 (b) The division shall institute an administrative
126 proceeding by serving written notice of a violation by certified
127 mail upon the alleged violator. The notice shall specify the law
128 or rule allegedly violated and the facts upon which the



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129 allegation is based. The notice shall also specify the amount of
130 the administrative fine sought by the division. The fine is
131 ~~shall not become~~ due until after service of notice and an
132 administrative hearing. However, the alleged violator has ~~shall~~
133 ~~have~~ 20 days after ~~from~~ service of notice to request an
134 administrative hearing. Failure to respond within that time
135 constitutes ~~shall constitute~~ a waiver, and the fine becomes
136 ~~shall become~~ due without a hearing.

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

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

150 (e) The division shall adopt rules pursuant to ss.
151 120.536(1) and 120.54 to administer ~~implement the provisions of~~
152 this section.

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

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

155 And the title is amended as follows:

156 Delete everything before the enacting clause
157 and insert:



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158 A bill to be entitled
159 An act relating to archeological sites and specimens;
160 amending s. 267.12, F.S.; authorizing the Division of
161 Historical Resources of the Department of State to
162 issue permits for excavation, surface reconnaissance,
163 and archaeological activities on land owned by a
164 political subdivision; amending s. 267.13, F.S.;
165 providing that specified activities relating to
166 archaeological sites and specimens located upon land
167 owned by a political subdivision are prohibited and
168 subject to penalties; authorizing the division to
169 impose an administrative fine on and seek injunctive
170 relief against certain entities; providing an
171 effective date.