

By Senator Hays

20-00420E-12

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1 A bill to be entitled
2 An act relating to archaeological sites and specimens;
3 amending s. 267.13, F.S.; providing that specified
4 activities relating to archaeological sites and
5 specimens located upon land owned or controlled by a
6 political subdivision or a special district created by
7 the Legislature are prohibited and subject to
8 penalties; authorizing the Division of Historical
9 Resources of the Department of State to impose an
10 administrative fine on and seek injunctive relief
11 against certain entities; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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

17 267.13 Prohibited practices; penalties.—

18 (1) (a) Any person who by means other than excavation ~~either~~
19 conducts archaeological field investigations on, or removes or
20 attempts to remove, or defaces, destroys, or otherwise alters
21 any archaeological site or specimen located upon, any land,
22 including state sovereignty submerged land, owned or controlled
23 by the state, a political subdivision, or a special district
24 created by the Legislature, or within the boundaries of a
25 designated state archaeological landmark or landmark zone,
26 except in the course of activities pursued under the authority
27 of a permit or under procedures relating to accredited
28 institutions granted by the division, commits a misdemeanor of
29 the first degree, punishable as provided in s. 775.082 or s.

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30 775.083, and, in addition, shall forfeit to the state all
31 specimens, objects, and materials collected, together with all
32 photographs and records relating to such material.

33 (b) Any person who by means of excavation ~~either~~ conducts
34 archaeological field investigations on, or removes or attempts
35 to remove, or defaces, destroys, or otherwise alters any
36 archaeological site or specimen located upon, any land,
37 including state sovereignty submerged land, owned or controlled
38 by the state, a political subdivision, or a special district
39 created by the Legislature, or within the boundaries of a
40 designated state archaeological landmark or landmark zone,
41 except in the course of activities pursued under the authority
42 of a permit or under procedures relating to accredited
43 institutions granted by the division, commits a felony of the
44 third degree, punishable as provided in s. 775.082, s. 775.083,
45 or s. 775.084, and any vehicle or equipment of any person used
46 in connection with the violation is subject to forfeiture to the
47 state if it is determined by any court of law that the vehicle
48 or equipment was involved in the violation. Such person shall
49 forfeit to the state all specimens, objects, and materials
50 collected or excavated, together with all photographs and
51 records relating to such material. The court may also order the
52 defendant to make restitution to the state for the
53 archaeological or commercial value and cost of restoration and
54 repair as defined in subsection (4).

55 (c) Any person who offers for sale or exchange any object
56 with knowledge that it has previously been collected or
57 excavated in violation of any of the terms of ss. 267.11-267.14,
58 or who procures, counsels, solicits, or employs any other person

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59 to violate any prohibition contained in ss. 267.11-267.14 or to
60 sell, purchase, exchange, transport, receive, or offer to sell,
61 purchase, or exchange any archaeological resource excavated or
62 removed from any land, including state sovereignty submerged
63 land, owned or controlled by the state, a political subdivision,
64 or a special district created by the Legislature, or within the
65 boundaries of a designated state archaeological landmark or
66 landmark zone, except with the express consent of the division,
67 commits a felony of the third degree, punishable as provided in
68 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
69 equipment of any person used in connection with the violation is
70 subject to forfeiture to the state if it is determined by any
71 court of law that such vehicle or equipment was involved in the
72 violation. All specimens, objects, and material collected or
73 excavated, together with all photographs and records relating to
74 such material, shall be forfeited to the state. The court may
75 also order the defendant to make restitution to the state for
76 the archaeological or commercial value and cost of restoration
77 and repair as defined in subsection (4).

78 (2) (a) The division may institute an administrative
79 proceeding to impose an administrative fine of not more than
80 \$500 a day on any person or business organization that, without
81 written permission of the division, explores for, salvages, or
82 excavates treasure trove, artifacts, sunken or abandoned ships,
83 or other objects having historical or archaeological value
84 located upon any land ~~on state-owned or state-controlled lands,~~
85 including state sovereignty submerged land, owned or controlled
86 by the state, a political subdivision, or a special district
87 created by the Legislature ~~lands.~~

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88 (b) The division shall institute an administrative
89 proceeding by serving written notice of a violation by certified
90 mail upon the alleged violator. The notice shall specify the law
91 or rule allegedly violated and the facts upon which the
92 allegation is based. The notice shall also specify the amount of
93 the administrative fine sought by the division. The fine is
94 ~~shall not become~~ due until after service of notice and an
95 administrative hearing. However, the alleged violator has ~~shall~~
96 ~~have~~ 20 days after ~~from~~ service of notice to request an
97 administrative hearing. Failure to respond within that time
98 constitutes ~~shall constitute~~ a waiver, and the fine becomes
99 ~~shall become~~ due without a hearing.

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

104 (d) The division may apply to a court of competent
105 jurisdiction for injunctive relief against any person or
106 business organization that explores for, salvages, or excavates
107 treasure trove, artifacts, sunken or abandoned ships, or other
108 objects having historical or archaeological value located upon
109 any on state-owned or state-controlled land, including state
110 sovereignty submerged land, owned or controlled by the state, a
111 political subdivision, or a special district created by the
112 Legislature without the written permission of the division.

113 (e) The division shall adopt rules pursuant to ss.
114 120.536(1) and 120.54 to administer ~~implement the provisions of~~
115 this section.

116 Section 2. This act shall take effect July 1, 2012.