

By the Committees on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; and Governmental Oversight and Accountability; and Senator Hays

606-04269-12

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1 A bill to be entitled

2 An act relating to archeological sites and specimens;
3 amending s. 267.12, F.S.; authorizing the Division of
4 Historical Resources of the Department of State to
5 issue permits for excavation, surface reconnaissance,
6 and archaeological activities on land owned by a
7 political subdivision; providing applicability;
8 amending s. 267.13, F.S.; providing that specified
9 activities relating to archaeological sites and
10 specimens located upon land owned by a political
11 subdivision are prohibited and subject to penalties;
12 authorizing the division to impose an administrative
13 fine on and seek injunctive relief against certain
14 entities; providing applicability; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsections (1) and (2) of section 267.12,
20 Florida Statutes, are amended, and subsection (4) is added to
21 that section, to read:

22 267.12 Research permits; procedure.—

23 (1) The division may issue permits for excavation and
24 surface reconnaissance on land owned or controlled by the state,
25 including state sovereignty submerged land, land owned by a
26 political subdivision as defined by s. 1.01(8), ~~lands~~ or land
27 ~~lands~~ within the boundaries of a designated state archaeological
28 ~~landmark landmarks~~ or landmark zone ~~zones~~ to institutions which
29 the division deems ~~shall deem~~ to be properly qualified to

606-04269-12

2012868c2

30 conduct such activity, subject to such rules and regulations as
31 the division may prescribe, provided such activity is undertaken
32 by reputable museums, universities, colleges, or other
33 historical, scientific, or educational institutions or societies
34 that possess or will secure the archaeological expertise for the
35 performance of systematic archaeological field research,
36 comprehensive analysis, and interpretation in the form of
37 publishable reports and monographs, such reports to be submitted
38 to the division.

39 (2) Those state institutions considered by the division
40 permanently to possess the required archaeological expertise to
41 conduct the archaeological activities allowed under ~~the~~
42 ~~provisions of~~ the permit may be designated as accredited
43 institutions which will be allowed to conduct archaeological
44 field activities on land owned or controlled by the state,
45 including state sovereignty submerged land, land owned by a
46 political subdivision as defined by s. 1.01(8), ~~state-owned or~~
47 ~~controlled lands~~ or land within the boundaries of a any
48 designated state archaeological landmark or ~~any~~ landmark zone
49 without obtaining an individual permit for each project, except
50 that those accredited institutions will be required to give
51 prior written notice of all anticipated archaeological field
52 activities on land owned or controlled by the state, including
53 state sovereignty submerged land, land owned by a political
54 subdivision as defined by s. 1.01(8), ~~state-owned or controlled~~
55 ~~lands~~ or land within the boundaries of a any designated state
56 archaeological landmark or landmark zone to the division,
57 together with such information as may reasonably be required by
58 the division to ensure the proper preservation, protection, and

606-04269-12

2012868c2

59 excavation of the archaeological resources. However, ~~no~~
60 archaeological activity may not be commenced by the accredited
61 institution until the division has determined that the planned
62 project will be in conformity with the guidelines, regulations,
63 and criteria adopted pursuant to ss. 267.11-267.14. Such
64 determination will be made by the division and notification to
65 the institution given within ~~a period of 15 days~~ after ~~from the~~
66 ~~time of~~ receipt of the prior notification by the division.

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

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

74 267.13 Prohibited practices; penalties.—

75 (1) (a) Any person who by means other than excavation ~~either~~
76 conducts archaeological field investigations on, or removes or
77 attempts to remove, or defaces, destroys, or otherwise alters
78 any archaeological site or specimen located upon, ~~any~~ land owned
79 or controlled by the state, including state sovereignty
80 submerged land, land owned by a political subdivision as defined
81 by s. 1.01(8), or land within the boundaries of a designated
82 state archaeological landmark or landmark zone, except in the
83 course of activities pursued under the authority of a permit or
84 under procedures relating to accredited institutions granted by
85 the division, commits a misdemeanor of the first degree,
86 punishable as provided in s. 775.082 or s. 775.083, and, in
87 addition, shall forfeit to the state all specimens, objects, and

606-04269-12

2012868c2

88 materials collected, together with all photographs and records
89 relating to such material.

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

112 (c) Any person who offers for sale or exchange any object
113 with knowledge that it has previously been collected or
114 excavated in violation of any of the terms of ss. 267.11-267.14,
115 or who procures, counsels, solicits, or employs any other person
116 to violate any prohibition contained in ss. 267.11-267.14 or to

606-04269-12

2012868c2

117 sell, purchase, exchange, transport, receive, or offer to sell,
118 purchase, or exchange any archaeological resource excavated or
119 removed from ~~any~~ land owned or controlled by the state,
120 including state sovereignty submerged land, land owned by a
121 political subdivision as defined by s. 1.01(8), or land within
122 the boundaries of a designated state archaeological landmark or
123 landmark zone, except with the express consent of the division,
124 commits a felony of the third degree, punishable as provided in
125 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
126 equipment of any person used in connection with the violation is
127 subject to forfeiture to the state if it is determined by any
128 court of law that such vehicle or equipment was involved in the
129 violation. All specimens, objects, and material collected or
130 excavated, together with all photographs and records relating to
131 such material, shall be forfeited to the state. The court may
132 also order the defendant to make restitution to the state for
133 the archaeological or commercial value and cost of restoration
134 and repair as defined in subsection (4).

135 (2) (a) The division may institute an administrative
136 proceeding to impose an administrative fine of not more than
137 \$500 a day on any person or business organization that, without
138 written permission of the division, explores for, salvages, or
139 excavates treasure trove, artifacts, sunken or abandoned ships,
140 or other objects having historical or archaeological value
141 located upon land owned or controlled by the state ~~on state-~~
142 ~~owned or state-controlled lands~~, including state sovereignty
143 submerged land, or land owned by a political subdivision as
144 defined by s. 1.01(8) ~~lands~~.

145 (b) The division shall institute an administrative

606-04269-12

2012868c2

146 proceeding by serving written notice of a violation by certified
147 mail upon the alleged violator. The notice shall specify the law
148 or rule allegedly violated and the facts upon which the
149 allegation is based. The notice shall also specify the amount of
150 the administrative fine sought by the division. The fine is
151 ~~shall not become~~ due until after service of notice and an
152 administrative hearing. However, the alleged violator has ~~shall~~
153 ~~have~~ 20 days after ~~from~~ service of notice to request an
154 administrative hearing. Failure to respond within that time
155 constitutes ~~shall constitute~~ a waiver, and the fine becomes
156 ~~shall become~~ due without a hearing.

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

161 (d) The division may apply to a court of competent
162 jurisdiction for injunctive relief against any person or
163 business organization that explores for, salvages, or excavates
164 treasure trove, artifacts, sunken or abandoned ships, or other
165 objects having historical or archaeological value located upon
166 ~~on state-owned or state-controlled~~ land owned or controlled by
167 the state, including state sovereignty submerged land, or land
168 owned by a political subdivision as defined by s. 1.01(8)
169 without the written permission of the division.

170 (e) The division shall adopt rules pursuant to ss.
171 120.536(1) and 120.54 to administer ~~implement the provisions of~~
172 this section.

173 (5) This section does not apply to activities conducted
174 pursuant to a permit or other form of consent granted by a

606-04269-12

2012868c2

175 jurisdiction that is qualified as a certified local government
176 pursuant to the Historic Preservation Act of 1966, as amended,
177 16 U.S.C. s. 470, and that has an archaeological ordinance.

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