

By Senator Hays

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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 water
 7 authority; amending s. 267.13, F.S.; providing that
 8 specified activities relating to archaeological sites
 9 and specimens located upon land owned by a water
 10 authority are prohibited and subject to penalties;
 11 authorizing the division to impose an administrative
 12 fine on and seek injunctive relief against certain
 13 entities; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsections (1) and (2) of section 267.12,
 18 Florida Statutes, are amended to read:

19 267.12 Research permits; procedure.—

20 (1) The division may issue permits for excavation and
 21 surface reconnaissance on land owned or controlled by the state,
 22 land owned by a water authority, ~~lands~~ or land ~~lands~~ within the
 23 boundaries of a designated state archaeological landmark
 24 ~~landmarks~~ or landmark zone ~~zones~~ to institutions that ~~which~~ the
 25 division deems ~~shall deem~~ to be properly qualified to conduct
 26 such activity, subject to such rules and regulations as the
 27 division may prescribe, provided such activity is undertaken by
 28 reputable museums, universities, colleges, or other historical,
 29 scientific, or educational institutions or societies that

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30 possess or will secure the archaeological expertise for the
31 performance of systematic archaeological field research,
32 comprehensive analysis, and interpretation in the form of
33 publishable reports and monographs, such reports to be submitted
34 to the division.

35 (2) Those state institutions considered by the division
36 permanently to possess the required archaeological expertise to
37 conduct the archaeological activities allowed under ~~the~~
38 ~~provisions of~~ the permit may be designated as accredited
39 institutions which will be allowed to conduct archaeological
40 field activities on land owned or controlled by the state, land
41 owned by a water authority, state-owned or controlled lands or
42 land within the boundaries of a ~~any~~ designated state
43 archaeological landmark or ~~any~~ landmark zone without obtaining
44 an individual permit for each project, except that those
45 accredited institutions will be required to give prior written
46 notice of all anticipated archaeological field activities on
47 land owned or controlled by the state, land owned by a water
48 authority, state-owned or controlled lands or land within the
49 boundaries of a ~~any~~ designated state archaeological landmark or
50 landmark zone to the division, together with such information as
51 may reasonably be required by the division to ensure the proper
52 preservation, protection, and excavation of the archaeological
53 resources. However, ~~no~~ archaeological activity may not be
54 commenced by the accredited institution until the division has
55 determined that the planned project will be in conformity with
56 the guidelines, regulations, and criteria adopted pursuant to
57 ss. 267.11-267.14. Such determination will be made by the
58 division and notification to the institution given within a

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59 ~~period of~~ 15 days after ~~from the time of~~ receipt of the prior
60 notification by the division.

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

63 267.13 Prohibited practices; penalties.—

64 (1) (a) Any person who by means other than excavation ~~either~~
65 conducts archaeological field investigations on, or removes or
66 attempts to remove~~r~~ or defaces, destroys, or otherwise alters
67 any archaeological site or specimen located upon, ~~any~~ land owned
68 or controlled by the state, land owned by a water authority, or
69 land within the boundaries of a designated state archaeological
70 landmark or landmark zone, except in the course of activities
71 pursued under the authority of a permit or under procedures
72 relating to accredited institutions granted by the division,
73 commits a misdemeanor of the first degree, punishable as
74 provided in s. 775.082 or s. 775.083, and, in addition, shall
75 forfeit to the state all specimens, objects, and materials
76 collected, together with all photographs and records relating to
77 such material.

78 (b) Any person who by means of excavation ~~either~~ conducts
79 archaeological field investigations on, or removes or attempts
80 to remove~~r~~ or defaces, destroys, or otherwise alters any
81 archaeological site or specimen located upon, ~~any~~ land owned or
82 controlled by the state, land owned by a water authority, or
83 land within the boundaries of a designated state archaeological
84 landmark or landmark zone, except in the course of activities
85 pursued under the authority of a permit or under procedures
86 relating to accredited institutions granted by the division,
87 commits a felony of the third degree, punishable as provided in

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88 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
89 equipment of any person used in connection with the violation is
90 subject to forfeiture to the state if it is determined by any
91 court of law that the vehicle or equipment was involved in the
92 violation. Such person shall forfeit to the state all specimens,
93 objects, and materials collected or excavated, together with all
94 photographs and records relating to such material. The court may
95 also order the defendant to make restitution to the state for
96 the archaeological or commercial value and cost of restoration
97 and repair as defined in 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, land
106 owned by a water authority, or land within the boundaries of a
107 designated state archaeological landmark or landmark zone,
108 except with the express consent of the division, commits a
109 felony of the third degree, punishable as provided in s.
110 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment
111 of any person used in connection with the violation is subject
112 to forfeiture to the state if it is determined by any court of
113 law that such vehicle or equipment was involved in the
114 violation. All specimens, objects, and material collected or
115 excavated, together with all photographs and records relating to
116 such material, shall be forfeited to the state. The court may

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117 also order the defendant to make restitution to the state for
118 the archaeological or commercial value and cost of restoration
119 and repair as defined in subsection (4).

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

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

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

145 (d) The division may apply to a court of competent

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146 jurisdiction for injunctive relief against any person or
147 business organization that explores for, salvages, or excavates
148 treasure trove, artifacts, sunken or abandoned ships, or other
149 objects having historical or archaeological value located upon
150 ~~en state-owned or state-controlled~~ land owned or controlled by
151 the state, including state sovereignty submerged land, or land
152 owned by a water authority without the written permission of the
153 division.

154 (e) The division shall adopt rules pursuant to ss.
155 120.536(1) and 120.54 to administer ~~implement the provisions of~~
156 this section.

157 Section 3. This act shall take effect July 1, 2013.