

By the Committee on Governmental Oversight and Accountability;
and Senator Hays

585-02862-13

20131188c1

1 A bill to be entitled

2 An act relating to archeological sites and specimens;
3 amending s. 267.12, F.S.; providing a definition for
4 "water authority"; authorizing the Division of
5 Historical Resources of the Department of State to
6 issue permits for excavation, surface reconnaissance,
7 and archaeological activities on land owned by a water
8 authority; amending s. 267.13, F.S.; providing that
9 specified activities relating to archaeological sites
10 and specimens located upon land owned by a water
11 authority 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; amending s. 1004.56, F.S.; correcting a
15 cross-reference; providing an effective date.

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

18
19 Section 1. Section 267.12, Florida Statutes, is amended to
20 read:

21 267.12 Research permits; procedure.—

22 (1) As used in this section and s. 267.13, the term "water
23 authority" means an independent special district created
24 pursuant to s. 189.404 whose purpose is to control and conserve
25 freshwater resources.

26 (2) The division may issue permits for excavation and
27 surface reconnaissance on land owned or controlled by the state,
28 land owned by a water authority, ~~lands~~ or land ~~lands~~ within the
29 boundaries of a designated state archaeological landmark

585-02862-13

20131188c1

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

41 (3) ~~(2)~~ Those state institutions considered by the division
42 permanently to possess the required archaeological expertise to
43 conduct the archaeological activities allowed under ~~the~~
44 ~~provisions of~~ the permit may be designated as accredited
45 institutions which will be allowed to conduct archaeological
46 field activities on land owned or controlled by the state, land
47 owned by a water authority, ~~state-owned or controlled lands~~ or
48 land within the boundaries of a ~~any~~ designated state
49 archaeological landmark or ~~any~~ landmark zone without obtaining
50 an individual permit for each project, except that those
51 accredited institutions will be required to give prior written
52 notice of all anticipated archaeological field activities on
53 land owned or controlled by the state, land owned by a water
54 authority, ~~state-owned or controlled lands~~ or land within the
55 boundaries of a ~~any~~ designated state archaeological landmark or
56 landmark zone to the division, together with such information as
57 may reasonably be required by the division to ensure the proper
58 preservation, protection, and excavation of the archaeological

585-02862-13

20131188c1

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

67 (4) ~~(3)~~ All specimens collected under a permit issued by the
68 division or under the procedures adopted for accredited
69 institutions shall belong to the state with the title thereto
70 vested in the division for the purpose of administration and
71 protection. The division may arrange for the disposition of the
72 specimens so collected by accredited state institutions at those
73 institutions and for the temporary or permanent loan of such
74 specimens at permitholding institutions for the purpose of
75 further scientific study, interpretative displays, and
76 curatorial responsibilities.

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

79 267.13 Prohibited practices; penalties.—

80 (1) (a) Any person who by means other than excavation ~~either~~
81 conducts archaeological field investigations on, or removes or
82 attempts to remove, or defaces, destroys, or otherwise alters
83 any archaeological site or specimen located upon, ~~any~~ land owned
84 or controlled by the state, land owned by a water authority, or
85 land within the boundaries of a designated state archaeological
86 landmark or landmark zone, except in the course of activities
87 pursued under the authority of a permit or under procedures

585-02862-13

20131188c1

88 relating to accredited institutions granted by the division,
89 commits a misdemeanor of the first degree, punishable as
90 provided in s. 775.082 or s. 775.083, and, in addition, shall
91 forfeit to the state all specimens, objects, and materials
92 collected, together with all photographs and records relating to
93 such material.

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

114 (c) Any person who offers for sale or exchange any object
115 with knowledge that it has previously been collected or
116 excavated in violation of any of the terms of ss. 267.11-267.14,

585-02862-13

20131188c1

117 or who procures, counsels, solicits, or employs any other person
118 to violate any prohibition contained in ss. 267.11-267.14 or to
119 sell, purchase, exchange, transport, receive, or offer to sell,
120 purchase, or exchange any archaeological resource excavated or
121 removed from ~~any~~ land owned or controlled by the state, land
122 owned by a water authority, or land within the boundaries of a
123 designated state archaeological landmark or landmark zone,
124 except with the express consent of the division, commits a
125 felony of the third degree, punishable as provided in s.
126 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment
127 of any person used in connection with the violation is subject
128 to forfeiture to the state if it is determined by any court of
129 law that such vehicle or equipment was involved in the
130 violation. All specimens, objects, and material collected or
131 excavated, together with all photographs and records relating to
132 such material, shall be forfeited to the state. The court may
133 also order the defendant to make restitution to the state for
134 the archaeological or commercial value and cost of restoration
135 and repair as defined in subsection (4).

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

145 (b) The division shall institute an administrative

585-02862-13

20131188c1

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 water authority without the written permission of the
169 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 Section 3. Subsection (1) of section 1004.56, Florida
174 Statutes, is amended to read:

585-02862-13

20131188c1

175 1004.56 Florida Museum of Natural History; functions.—
176 (1) The functions of the Florida Museum of Natural History,
177 located at the University of Florida, are to make scientific
178 investigations toward the sustained development of natural
179 resources and a greater appreciation of human cultural heritage,
180 including, but not limited to, biological surveys, ecological
181 studies, environmental impact assessments, in-depth
182 archaeological research, and ethnological analyses, and to
183 collect and maintain a depository of biological, archaeological,
184 and ethnographic specimens and materials in sufficient numbers
185 and quantities to provide within the state and region a base for
186 research on the variety, evolution, and conservation of wild
187 species; the composition, distribution, importance, and
188 functioning of natural ecosystems; and the distribution of
189 prehistoric and historic archaeological sites and an
190 understanding of the aboriginal and early European cultures that
191 occupied them. State institutions, departments, and agencies may
192 deposit type collections from archaeological sites in the
193 museum, and it shall be the duty of each state institution,
194 department, and agency to cooperate by depositing in the museum
195 voucher and type biological specimens collected as part of the
196 normal research and monitoring duties of its staff and to
197 transfer to the museum those biological specimens and
198 collections in its possession but not actively being curated or
199 used in the research or teaching of that institution,
200 department, or agency. The Florida Museum of Natural History is
201 empowered to accept, preserve, maintain, or dispose of these
202 specimens and materials in a manner which makes each collection
203 and its accompanying data available for research and use by the

585-02862-13

20131188c1

204 staff of the museum and by cooperating institutions,
205 departments, agencies, and qualified independent researchers.
206 The biological, archaeological, and ethnographic collections
207 shall belong to the state with the title vested in the Florida
208 Museum of Natural History, except as provided in s. 267.12(4)
209 ~~267.12(3)~~. In collecting or otherwise acquiring these
210 collections, the museum shall comply with pertinent state
211 wildlife, archaeological, and agricultural laws and rules.
212 However, all collecting, quarantine, and accreditation permits
213 issued by other institutions, departments, and agencies shall be
214 granted routinely for said museum research study or collecting
215 effort on state lands or within state jurisdiction which does
216 not pose a significant threat to the survival of endangered wild
217 species, habitats, or ecosystems. In addition, the museum shall
218 develop exhibitions and conduct programs which illustrate,
219 interpret, and explain the natural history of the state and
220 region and shall maintain a library of publications pertaining
221 to the work as herein provided. The exhibitions, collections,
222 and library of the museum shall be open, free to the public,
223 under suitable rules to be promulgated by the director of the
224 museum and approved by the University of Florida.

225 Section 4. This act shall take effect July 1, 2013.