

By the Committees on Appropriations; and Governmental Oversight and Accountability; and Senator Hays

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1 A bill to be entitled
2 An act relating to archaeological 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 by
24 special act whose purpose is to control and conserve freshwater
25 resources. The term does not include any water management
26 district created pursuant to s. 373.069.

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

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

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

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

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

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

80 267.13 Prohibited practices; penalties.—

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

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

95 (b) Any person who by means of excavation ~~either~~ conducts
96 archaeological field investigations on, or removes or attempts
97 to remove, or defaces, destroys, or otherwise alters any
98 archaeological site or specimen located upon, ~~any~~ land owned or
99 controlled by the state, land owned by a water authority, or
100 land within the boundaries of a designated state archaeological
101 landmark or landmark zone, except in the course of activities
102 pursued under the authority of a permit or under procedures
103 relating to accredited institutions granted by 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 the vehicle or equipment was involved in the
109 violation. Such person shall forfeit to the state all specimens,
110 objects, and materials collected or excavated, together with all
111 photographs and records relating to such material. 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 (c) Any person who offers for sale or exchange any object
116 with knowledge that it has previously been collected or

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

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

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

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

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

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

174 Section 3. Subsection (1) of section 1004.56, Florida

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175 Statutes, is amended to read:

176 1004.56 Florida Museum of Natural History; functions.—

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

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

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