

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

585-03094-12

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

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

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

20 267.12 Research permits; procedure.—

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

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30 by reputable museums, universities, colleges, or other
31 historical, scientific, or educational institutions or societies
32 that possess or will secure the archaeological expertise for the
33 performance of systematic archaeological field research,
34 comprehensive analysis, and interpretation in the form of
35 publishable reports and monographs, such reports to be submitted
36 to the division.

37 (2) Those state institutions considered by the division
38 permanently to possess the required archaeological expertise to
39 conduct the archaeological activities allowed under ~~the~~
40 ~~provisions of~~ the permit may be designated as accredited
41 institutions which will be allowed to conduct archaeological
42 field activities on land owned or controlled by the state,
43 including state sovereignty submerged land, land owned by a
44 political subdivision as defined by s. 1.01(8), ~~state-owned or~~
45 ~~controlled lands~~ or land within the boundaries of a ~~any~~
46 designated state archaeological landmark or ~~any~~ landmark zone
47 without obtaining an individual permit for each project, except
48 that those accredited institutions will be required to give
49 prior written notice of all anticipated archaeological field
50 activities on land owned or controlled by the state, including
51 state sovereignty submerged land, land owned by a political
52 subdivision as defined by s. 1.01(8), ~~state-owned or controlled~~
53 ~~lands~~ or land within the boundaries of a ~~any~~ designated state
54 archaeological landmark or landmark zone to the division,
55 together with such information as may reasonably be required by
56 the division to ensure the proper preservation, protection, and
57 excavation of the archaeological resources. However, ~~no~~
58 archaeological activity may not be commenced by the accredited

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59 institution until the division has determined that the planned
60 project will be in conformity with the guidelines, regulations,
61 and criteria adopted pursuant to ss. 267.11-267.14. Such
62 determination will be made by the division and notification to
63 the institution given within ~~a period of~~ 15 days after ~~from the~~
64 ~~time of~~ receipt of the prior notification by the division.

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

67 267.13 Prohibited practices; penalties.—

68 (1) (a) Any person who by means other than excavation ~~either~~
69 conducts archaeological field investigations on, or removes or
70 attempts to remove~~7~~ or defaces, destroys, or otherwise alters
71 any archaeological site or specimen located upon, ~~any~~ land owned
72 or controlled by the state, including state sovereignty
73 submerged land, land owned by a political subdivision as defined
74 by s. 1.01(8), or land within the boundaries of a designated
75 state archaeological landmark or landmark zone, except in the
76 course of activities pursued under the authority of a permit or
77 under procedures relating to accredited institutions granted by
78 the division, commits a misdemeanor of the first degree,
79 punishable as provided in s. 775.082 or s. 775.083, and, in
80 addition, shall forfeit to the state all specimens, objects, and
81 materials collected, together with all photographs and records
82 relating to such material.

83 (b) Any person who by means of excavation ~~either~~ conducts
84 archaeological field investigations on, or removes or attempts
85 to remove~~7~~ or defaces, destroys, or otherwise alters any
86 archaeological site or specimen located upon, ~~any~~ land owned or
87 controlled by the state, including state sovereignty submerged

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88 land, land owned by a political subdivision as defined by s.
89 1.01(8), or land within the boundaries of a designated state
90 archaeological landmark or landmark zone, except in the course
91 of activities pursued under the authority of a permit or under
92 procedures relating to accredited institutions granted by the
93 division, commits a felony of the third degree, punishable as
94 provided in s. 775.082, s. 775.083, or s. 775.084, and any
95 vehicle or equipment of any person used in connection with the
96 violation is subject to forfeiture to the state if it is
97 determined by any court of law that the vehicle or equipment was
98 involved in the violation. Such person shall forfeit to the
99 state all specimens, objects, and materials collected or
100 excavated, together with all photographs and records relating to
101 such material. The court may also order the defendant to make
102 restitution to the state for the archaeological or commercial
103 value and cost of restoration and repair as defined in
104 subsection (4).

105 (c) Any person who offers for sale or exchange any object
106 with knowledge that it has previously been collected or
107 excavated in violation of any of the terms of ss. 267.11-267.14,
108 or who procures, counsels, solicits, or employs any other person
109 to violate any prohibition contained in ss. 267.11-267.14 or to
110 sell, purchase, exchange, transport, receive, or offer to sell,
111 purchase, or exchange any archaeological resource excavated or
112 removed from ~~any~~ land owned or controlled by the state,
113 including state sovereignty submerged land, land owned by a
114 political subdivision as defined by s. 1.01(8), or land within
115 the boundaries of a designated state archaeological landmark or
116 landmark zone, except with the express consent of the division,

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117 commits a felony of the third degree, punishable as provided in
118 s. 775.082, s. 775.083, or s. 775.084, and any vehicle or
119 equipment of any person used in connection with the violation is
120 subject to forfeiture to the state if it is determined by any
121 court of law that such vehicle or equipment was involved in the
122 violation. All specimens, objects, and material collected or
123 excavated, together with all photographs and records relating to
124 such material, shall be forfeited to the state. The court may
125 also order the defendant to make restitution to the state for
126 the archaeological or commercial value and cost of restoration
127 and repair as defined in subsection (4).

128 (2) (a) The division may institute an administrative
129 proceeding to impose an administrative fine of not more than
130 \$500 a day on any person or business organization that, without
131 written permission of the division, explores for, salvages, or
132 excavates treasure trove, artifacts, sunken or abandoned ships,
133 or other objects having historical or archaeological value
134 located upon land owned or controlled by the state ~~on state-~~
135 ~~owned or state-controlled lands~~, including state sovereignty
136 submerged land, or land owned by a political subdivision as
137 defined by s. 1.01(8) lands.

138 (b) The division shall institute an administrative
139 proceeding by serving written notice of a violation by certified
140 mail upon the alleged violator. The notice shall specify the law
141 or rule allegedly violated and the facts upon which the
142 allegation is based. The notice shall also specify the amount of
143 the administrative fine sought by the division. The fine is
144 ~~shall not become~~ due until after service of notice and an
145 administrative hearing. However, the alleged violator has ~~shall~~

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146 ~~have~~ 20 days after ~~from~~ service of notice to request an
147 administrative hearing. Failure to respond within that time
148 constitutes ~~shall constitute~~ a waiver, and the fine becomes
149 ~~shall become~~ due without a hearing.

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

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

163 (e) The division shall adopt rules pursuant to ss.
164 120.536(1) and 120.54 to administer ~~implement the provisions of~~
165 this section.

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