

## CHAPTER 2013-204

### Committee Substitute for House Bill No. 975

An act relating to archeological sites and specimens; amending s. 267.12, F.S.; providing a definition for “water authority”; authorizing the Division of Historical Resources of the Department of State to issue permits for excavation, surface reconnaissance, and archaeological activities on land owned by a water authority; amending s. 267.13, F.S.; providing that specified activities relating to archaeological sites and specimens located upon land owned by a water authority are prohibited and subject to penalties; authorizing the division to impose an administrative fine on and seek injunctive relief against certain entities; amending s. 1004.56, F.S.; conforming a cross-reference; providing an effective date.

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

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

267.12 Research permits; procedure.—

(1) As used in this section and s. 267.13, the term “water authority” means an independent special district created by special act whose purpose is to control and conserve freshwater resources. The term does not include any water management district created pursuant to s. 373.069.

(2) The division may issue permits for excavation and surface reconnaissance on land owned or controlled by the state, land owned by a water authority, lands or land ~~lands~~ within the boundaries of a designated state archaeological landmark landmarks or landmark zone zones to institutions that which the division deems shall deem to be properly qualified to conduct such activity, subject to such rules and regulations as the division may prescribe, provided such activity is undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions or societies that possess or will secure the archaeological expertise for the performance of systematic archaeological field research, comprehensive analysis, and interpretation in the form of publishable reports and monographs, such reports to be submitted to the division.

(3)(2) Those state institutions considered by the division permanently to possess the required archaeological expertise to conduct the archaeological activities allowed under ~~the provisions of~~ the permit may be designated as accredited institutions which will be allowed to conduct archaeological field activities on land owned or controlled by the state, land owned by a water authority, state-owned or controlled lands or land within the boundaries of a ~~any~~ designated state archaeological landmark or ~~any~~ landmark zone without obtaining an individual permit for each project, except that those accredited institutions will be required to give prior written notice of all anticipated archaeological field activities on land owned or controlled by the state, land

~~owned by a water authority, state-owned or controlled lands or land~~ within the boundaries of ~~a any~~ designated state archaeological landmark or landmark zone to the division, together with such information as may reasonably be required by the division to ensure the proper preservation, protection, and excavation of the archaeological resources. However, ~~no~~ archaeological activity may not be commenced by the accredited institution until the division has determined that the planned project will be in conformity with the guidelines, regulations, and criteria adopted pursuant to ss. 267.11-267.14. Such determination will be made by the division and notification to the institution given within ~~a period of 15 days~~ after ~~from the~~ ~~time of~~ receipt of the prior notification by the division.

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

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

267.13 Prohibited practices; penalties.—

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

(b) Any person who by means of excavation ~~either~~ conducts archaeological field investigations on, or removes or attempts to remove, or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, ~~any~~ land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that the

vehicle or equipment was involved in the violation. Such person shall forfeit to the state all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).

(c) Any person who offers for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of ss. 267.11-267.14, or who procures, counsels, solicits, or employs any other person to violate any prohibition contained in ss. 267.11-267.14 or to sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource excavated or removed from ~~any~~ land owned or controlled by the state, land owned by a water authority, or land within the boundaries of a designated state archaeological landmark or landmark zone, except with the express consent of the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that such vehicle or equipment was involved in the violation. All specimens, objects, and material collected or excavated, together with all photographs and records relating to such material, shall be forfeited to the state. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4).

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

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

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

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

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

Section 3. Subsection (1) of section 1004.56, Florida Statutes, is amended to read:

1004.56 Florida Museum of Natural History; functions.—

(1) The functions of the Florida Museum of Natural History, located at the University of Florida, are to make scientific investigations toward the sustained development of natural resources and a greater appreciation of human cultural heritage, including, but not limited to, biological surveys, ecological studies, environmental impact assessments, in-depth archaeological research, and ethnological analyses, and to collect and maintain a depository of biological, archaeological, and ethnographic specimens and materials in sufficient numbers and quantities to provide within the state and region a base for research on the variety, evolution, and conservation of wild species; the composition, distribution, importance, and functioning of natural ecosystems; and the distribution of prehistoric and historic archaeological sites and an understanding of the aboriginal and early European cultures that occupied them. State institutions, departments, and agencies may deposit type collections from archaeological sites in the museum, and it shall be the duty of each state institution, department, and agency to cooperate by depositing in the museum voucher and type biological specimens collected as part of the normal research and monitoring duties of its staff and to transfer to the museum those biological specimens and collections in its possession but not actively being curated or used in the research or teaching of that institution, department, or agency. The Florida Museum of Natural History is empowered to accept, preserve, maintain, or dispose of these specimens and materials in a manner which makes each collection and its accompanying data available for research and use by the staff of the museum and by cooperating institutions, departments, agencies, and qualified independent researchers. The biological, archaeological, and ethnographic collections shall belong to the state with the title vested in the Florida Museum of Natural History, except as provided in s. 267.12(4) ~~267.12(3)~~. In collecting or otherwise acquiring these collections, the museum shall comply with pertinent state wildlife, archaeological, and agricultural laws and rules. However, all collecting, quarantine, and accreditation permits issued by other institutions, departments, and agencies shall be granted routinely for said museum research study or collecting effort on state lands or within state jurisdiction which does not pose a significant threat to the survival of endangered wild species, habitats, or ecosystems. In addition,

the museum shall develop exhibitions and conduct programs which illustrate, interpret, and explain the natural history of the state and region and shall maintain a library of publications pertaining to the work as herein provided. The exhibitions, collections, and library of the museum shall be open, free to the public, under suitable rules to be promulgated by the director of the museum and approved by the University of Florida.

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

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.