



2009 ASSEMBLY BILL 636

December 18, 2009 – Introduced by Representatives HIXSON, SUDER, TOWNSEND, VAN AKKEREN, BALLWEG and HILGENBERG, cosponsored by Senators KREITLOW, HOLPERIN, TAYLOR and SCHULTZ. Referred to Committee on Natural Resources.

1 **AN ACT** *to amend* 44.47 (2); and *to create* 23.21 of the statutes; **relating to:** the
2 use of metal detectors on certain land and in lakes and the removal of items
3 found on that land or in those lakes.

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Natural Resources (DNR) from preventing a person from using a metal detector in areas of lakes that are less than six feet deep (shallow water), on most land under DNR's jurisdiction, and on land acquired with funding from the Warren Knowles-Gaylord Nelson Stewardship 2000 Program or its predecessor program and that is open to public access. It also prohibits DNR from requiring a person who uses a metal detector on that land or in shallow water to hold a license, permit, or other approval authorizing the use of a metal detector on the land or in the shallow water. The bill provides an exception to these prohibitions so that the prohibitions do not apply to land that is historically significant or to state campgrounds. The bill defines historically significant land to include land that the State Historical Society determines is historic property, land that is included on a map of archaeological resources prepared by the State Historical Society, and land that is listed on the state register of historic places. The bill also allows DNR to prohibit the use of metal detectors on land when that land is open to deer hunting.

This bill also authorizes a person who is allowed to use a metal detector under the bill to use a tool to dig for and remove found items. The bill provides that a tool used for digging may not be more than eight inches wide, any soil that is disturbed

ASSEMBLY BILL 636

or removed by digging must be replaced, and the digging may not occur on a lake bed unless the lake bed is beneath shallow water.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 23.21 of the statutes is created to read:

2 **23.21 Use of metal detectors. (1)** In this section:

3 (a) “Department land” means an area of land that is owned by the state, that
4 is under the jurisdiction of the department, and that is used for one of the purposes
5 specified in s. 23.09 (2) (d).

6 (b) “Historically significant land” means land to which any of the following
7 applies:

8 1. Land that has been surveyed by the state historical society under s. 44.34
9 and that has been determined by the state historical society to be a historic property.

10 2. Land that is scheduled to be surveyed by the state historical society under
11 s. 44.34.

12 3. Land that is included on a map of archaeological resources under s. 44.48.

13 4. Land that is listed on the state register of historic places under s. 44.36.

14 (c) “Historic property” has the meaning given in s. 44.31 (3).

15 (d) “Land” means land in fee simple, conservation easements, other easements
16 in land, and development rights in land.

17 (e) “Land open for searching” means department land and stewardship land
18 but does not include state campgrounds or historically significant land.

19 (f) “Shallow water” means that part of a lake that is no deeper than 6 feet.

20 (g) “Stewardship land” means land that is acquired in whole or in part with
21 funding from one or both stewardship programs and that is open to public access.

ASSEMBLY BILL 636

1 (h) "Stewardship program" means the stewardship program under s. 23.0915
2 or 23.0917.

3 (2) Except as provided in sub. (3), the department may not do any of the
4 following:

5 (a) Prohibit a person from using a metal detector in shallow water or on land
6 open for searching.

7 (b) Require a person who uses a metal detector in shallow water or on land open
8 for searching to hold a permit, license, or other approval authorizing the use of a
9 metal detector on that land.

10 (c) Prohibit a person who is using a metal detector in shallow water or who is
11 using a metal detector on land open for searching from digging to remove and retrieve
12 found items if all of the following apply:

13 1. If the person digs with a tool, the tool is no more than 8 inches wide.

14 2. If the person digs on land open for searching, the person replaces vegetation
15 and soil disturbed or removed by digging.

16 3. If the person digs on the bed of a lake, the bed of the lake is beneath shallow
17 water.

18 (3) The department may prohibit a person from using a metal detector on land
19 open for searching when the land is open to hunting deer with firearms.

20 **SECTION 2.** 44.47 (2) of the statutes is amended to read:

21 44.47 (2) UNLICENSED FIELD ARCHAEOLOGY PROHIBITED. No person other than the
22 state archaeologist and individuals licensed by the director may engage in any field
23 archaeology on any state site or site owned by a political subdivision. This subsection

ASSEMBLY BILL 636

SECTION 2

1 does not apply to a person who retrieves and removes found items as authorized

2 under s. 23.21.

3 (END)