

CHAPTER 424

AN ACT to repeal and recreate 27.012 of the statutes, relating to field archaeology and providing penalties.

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

SECTION 1. 27.012 of the statutes is repealed and recreated to read:

27.012 FIELD ARCHAEOLOGY. The state of Wisconsin reserves to itself the exclusive right and privilege of field archaeology on state sites, in order to protect and preserve archaeological and scientific information, matter and objects. It is a declaration of legislative intent that persons practicing field archaeology on privately owned land are encouraged to pursue their field archaeology in accordance with this section, and that the looting of all archaeological remains be strongly discouraged. Persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the state archaeologist. This section is not intended to burden persons who wish to use state property for recreational and other lawful purposes or to unnecessarily restrict the use of state property.

(1) DEFINITIONS. As used in this section.

(a) "Archaeological methods" means scientific procedures used in field archaeology by recognized professional authorities on archaeology.

(b) "Data" means field notes, photographs, maps and other records relating to field archaeology.

(c) "Director" means the director of the historical society.

(d) "Field archaeology" means the study of the traces of human culture at any state-owned land or water site by means of surveying, digging, sampling, excavating or removing objects.

(e) "Historical society" means the state historical society of Wisconsin.

(f) "Object" means a man-made article, implement or other item of archaeological interest.

(g) "Scientific institutions" means museums, historical societies, foundations for archaeological study, state agencies and scholarly groups with professional standing and physical facilities for the display, study and preservation of objects of archaeological interest.

(h) "State site" or "state archaeological site" means a land or water area, owned by this state, where there are objects or other evidence of archaeological interest. This term includes all aboriginal mounds and earthworks, ancient burial grounds, prehistoric and historical ruins, Indian mounds and objects and other archaeological and historical features on state land.

(2) UNLICENSED FIELD ARCHAEOLOGY PROHIBITED. No person other than the state archaeologist and individuals licensed by the director shall engage in any field archaeology on any state site.

(3) STATE ARCHAEOLOGIST. (a) *Appointment.* The state archaeologist shall be a professional archaeologist residing in this state and shall be appointed by the director.

(b) *Duties and powers of state archaeologist.* The state archaeologist shall:

1. Sponsor, engage in and direct fundamental research into the ar-

chaeology of this state and encourage and co-ordinate archaeological research and investigation undertaken within the state.

2. Co-operate with other agencies of the state which have authority in areas where sites are located, or which have the responsibility for marking sites or arranging for their being viewed by the public.

3. Encourage the preservation of archaeological sites located on privately owned property.

4. Protect objects of archaeological significance discovered by field archaeology at state sites or discovered during the course of any public construction or demolition work on state sites, and encourage the protection of such objects discovered during the course of any other construction or demolition work.

5. Co-operate with the historical society, public and private institutions of higher education in this state, and other custodians to preserve objects of archaeological significance, together with the data relating thereto.

6. Encourage the dissemination of archaeological facts through the publication of reports of archaeological research conducted within the state.

7. Approve permits for qualified persons to engage in field archaeology as provided in sub. (4) and to otherwise carry out and enforce this section.

(4) PERMITS. (a) The director, acting as an agent of this state, may issue upon such terms and conditions, including restriction to a specific state site on land, as he designates, to a qualified natural person approved by the state archaeologist, a permit to engage in field archaeology on state sites. If a state site or the area described in an application is under the jurisdiction of any other agency of the state or if the field archaeology to be licensed interferes with a project of any other state agency, the director shall first obtain the approval of such agency. No agency shall withhold approval without good cause. No fees shall be charged for processing applications, for permits or for renewal of permits.

(b) If a site is located on privately owned land, persons wishing to dig or excavate at such a site are strongly encouraged to secure a permit to do so. The applicant for a permit must submit the written consent of the owner.

(c) The director may waive the provisions of sub. (3) (a) 7 in an emergency in which objects of archaeological interest are found in the course of construction or demolition work, or in other situations in which time is of the essence to save objects or gather data.

(d) The director, upon the recommendation of the state archaeologist or the agency administering the state site, may revoke or suspend a permit because of the improper conduct of the permittee, the use of improper or substandard archaeological methods or for other good cause.

(5) OWNERSHIP, CUSTODY AND USE OF OBJECTS AND DATA. The state reserves to itself the title to all objects found and data gathered in field archaeology on state sites. Although a permit may name a custodian other than the historical society, title to the objects and data discovered at state sites is reserved to the historical society as trustee for the state. Physical possession of such objects shall revert to the state if such custodian ceases to exist, or if the director, on the recommendation of the state archaeologist, finds that the custodian is not properly caring for them or keeping them conveniently available for study by students of archaeology.

(6) CO-OPERATION OF STATE AGENCIES. All state agencies whose activities may be affected under this section shall co-operate with the historical society and the state archaeologist to carry out this section.

(7) PENALTIES. (a) *Intentional violations.* Whoever intentionally violates sub. (2), or intentionally defaces, injures, destroys, displaces or removes any archaeological object or data belonging to the state, or intentionally interferes with evidence or work on any state site for which a permit has been issued under this section or intentionally violates any other provision of this section may be fined not more than \$100 or imprisoned not more than 90 days or both.

(b) *Other penalties.* The director may refuse to issue or renew, or may suspend or revoke the permit of any person who has violated any provision of this section. The director may refuse to name a school or scientific institution as the custodian of objects or data under any permit or agreement, if that school or scientific institution has failed in its duty to care for and preserve objects or data belonging to the state or has failed to make such objects or data conveniently available to students of archaeology.

(8) REVIEW BOARD. Appeals from decisions of the director shall be made to a review board composed of 3 persons: a member of the Wisconsin archaeological society, a member of the Wisconsin archeological survey, and a member of the board of curators of the historical society. Each board member shall be chosen by the organization which he represents and shall serve without compensation. The review board shall submit its recommendations on all appeals to the board of curators of the historical society for final decision.

(9) SHORT TITLE. This section may be cited as the "Wisconsin field archaeology act."

SECTION 2. The provisions of this act shall not be retroactive.

Approved December 2, 1965.
