

BILL ANALYSIS

Senate Research Center
81R10866 SMH-D

S.B. 1829
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Natural Resources
3/29/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill represents a meaningful compromise between the legitimate need to preserve the archaeological record of Texas's past with the public's right to salvage out-of-context relics from waterways. Since Texas museums and universities already own collections of artifacts far larger than they can properly curate, it makes little sense for the state to claim ownership of every scattered relic along every shoreline in the state, as written in current statutes. By requiring collectors to report their finds to the state, the knowledge of these artifacts would be recorded without the state having the burden of curating thousands of artifacts, mainly projectile points, that are found along lakes, rivers, and creeks every year. By allowing the public to pick up certain artifacts and retain ownership of them in most cases, the state avoids turning a harmless hobby into a crime.

As proposed, S.B. 1829 authorizes the Texas Historical Commission (THC) to issue a permit to a private individual to collect artifacts from public waterways in this state other than a waterway located in a state park or in land administered by the federal government. The bill requires a private individual to hold a permit issued by THC to collect artifacts from public waterways in this state and entitles the state to purchase any artifact found by a private individual in a public waterway for the artifact's fair market value.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 191, Natural Resources Code, by adding Section 191.060, as follows:

Sec. 191.060. COLLECTION OF ARTIFACTS FROM PUBLIC WATERWAYS. (a) Defines "artifact."

(b) Authorizes the Texas Historical Commission (THC) to issue a permit to a private individual to collect artifacts from public waterways in this state other than a waterway located in a state park or in land administered by the federal government. Requires a private individual, except as otherwise provided by this section, to hold a permit issued by THC to collect artifacts from public waterways in this state.

(c) Provides that to be eligible for a permit, a private individual is required to be at least 16 years of age, is prohibited from having been convicted of a misdemeanor during the preceding five years, and is prohibited from having been convicted of a felony.

(d) Provides that a private individual who is younger than 16 years of age is not required to hold a permit to collect artifacts from public waterways in this state if the individual engages in the collection of artifacts from public waterways in this state only while the individual is in the company of a holder of a permit issued under this section.

- (e) Requires that a permit issued under this section be renewed annually. Authorizes THC to charge a fee not to exceed \$75 for renewing a permit.
- (f) Authorizes a private individual to collect artifacts only from the surface of the undisturbed portions of gravel bars on and the shorelines of all rivers, creeks, lakes, and waterways owned or administered by this state other than a waterway located in a state park or in land administered by the federal government. Authorizes artifacts to be collected only by hand, by the use of a stick or pole to flip stones or other obstacles, or by the use of hand-held sifter no larger than 24 inches by 18 inches. Prohibits a private individual from collecting artifacts by means of a shovel, trowel, rake, spade, hoe, or other implement the purpose of which is to remove, dislocate, or overturn soil.
- (g) Requires a private individual to report to THC regularly in accordance with guidelines adopted by THC regarding any artifacts found by the individual. Authorizes THC to provide for filing reports under this subsection electronically and to require an individual who files a report electronically to submit a digital photograph of any artifact found. Requires THC to maintain a database of the reports filed under this subsection.
- (h) Entitles this state to purchase any artifact found by a private individual in a public waterway in this state for the artifact's fair market value if THC determines that the public interest would be served by this state acquiring ownership of the artifact. Requires THC to notify the individual if it makes such a determination. Provides that if this state purchases an artifact, the artifact becomes the permanent property of this state.
- (i) Authorizes THC to assign to an archaeologist the responsibility to receive reports under Subsection (g), maintain a database of reports filed under than subsection, and make initial determinations under Subsection (h) on behalf of the committee for a designated public waterway.
- (j) Provides that if THC does not notify a private individual who has found an artifact before the first anniversary of the date the individual reported the finding to THC that it has determined that the public interest would be served by this state acquiring ownership of the artifact, the individual is the exclusive owner of the artifact with all of the rights and privileges of private personal property ownership, except as provided by this subsection. Entitles a state agency to borrow for study an artifact found by a private individual on a public waterway before or after a determination is made under Subsection (h). Prohibits a state agency from borrowing an artifact for more than one year. Requires a state agency that borrows an artifact to pay the expenses of shipping and handling the artifact.
- (k) Requires a private individual who engages in the collection of artifacts on public waterways to report certain information to THC.
- (l) Requires a holder of a permit issued under this section to cooperate in a reasonable and open manner with any archaeologist or historian employed by THC or another state agency.
- (m) Provides that it is a defense to prosecution for an offense under this chapter involving the collection of artifacts from a public waterway in this state before September 1, 2009, that the private individual who collected the artifacts collected them in the manner provided by Subsection (f) and holds a permit issued under this section.

SECTION 2. Effective date: September 1, 2009.