

House Bill 698

By: Representative Burkhalter of the 41<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to parks,  
2 historic areas, memorials, and recreation, so as to provide that the possession of a submerged  
3 cultural resource without certain written permission shall constitute prima-facie evidence that  
4 such submerged cultural resource was taken illegally; to provide that a certain exception to  
5 restrictions on taking archeological artifacts shall be limited to artifacts found on dry land;  
6 to specify certain duties of the state archeologist; to provide that the possession of an artifact  
7 without the written permission of the owner of the land from which the artifact was taken  
8 shall be prima-facie evidence that such artifact was taken illegally; to repeal conflicting laws;  
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to parks, historic  
13 areas, memorials, and recreation, is amended by inserting at the end of Code Section 12-3-82,  
14 relating to permits and authorization to contract for the investigation, survey, or recovery of  
15 submerged cultural resources, the following:

16 "(f) Possession of any submerged cultural resource without either the issuance of a rule of  
17 the Board of Natural Resources pursuant to Code Section 12-3-80, declaring such  
18 submerged cultural resource to be of no cultural or economic value to the state, or the  
19 written permission of the state ~~historic preservation officer~~ archeologist shall be  
20 prima-facie evidence that such submerged cultural resource was taken in violation of this  
21 chapter."

22 **SECTION 2.**

23 Said chapter is further amended by striking in its entirety Code Section 12-3-621, relating  
24 to prohibited acts as to archeological sites, notification of the department before beginning  
25 investigation or disturbance of site, and a penalty, and inserting in lieu thereof the following:

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1 "(a) It shall be unlawful for any person or entity not operating under the provisions of  
 2 Section 106 of the National Historic Preservation Act, as amended, or the express written  
 3 permission of the owner willfully or knowingly to:

4 (1) Dig, probe, break, crack, carve upon, write upon, burn, or otherwise mark upon,  
 5 remove, or in any manner destroy, disturb, deface, mar, or harm the structures, features,  
 6 surfaces, or contents of archeological, aboriginal, prehistoric, or historic sites; provided,  
 7 however, that except for human remains and burial objects, this paragraph shall not apply  
 8 to the collecting of artifacts exposed on the surface of dry land;

9 (2) Disturb or alter in any manner the prevailing condition of any archeological,  
 10 aboriginal, prehistoric, or historic site; provided, however, that except for human remains  
 11 and burial objects, this paragraph shall not apply to the collecting of artifacts exposed on  
 12 the surface of dry land;

13 (3) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction  
 14 designed to control or prevent access to any area containing an archeological, aboriginal,  
 15 prehistoric, or historic site or artifacts, even though entrance thereto may not be gained;  
 16 or

17 (4) Enter an archeological, aboriginal, prehistoric, or historic site posted against  
 18 trespassing or a site with a lock, gate, door, or other obstruction designed to control or  
 19 prevent access to the site.

20 (b) When the surface of any archeological, aboriginal, prehistoric, or historic site is  
 21 disturbed by a person not documented as operating under the provisions of Section 106 of  
 22 the National Historic Preservation Act, as amended, for the purpose of investigating the site  
 23 or discovering artifacts with the written permission of the landowner, such person shall  
 24 notify the ~~department~~ state archeologist in writing at least five business days before  
 25 beginning any such investigation or disturbance. The ~~department~~ state archeologist shall  
 26 immediately notify the Council on American Indian Concerns created by Code Section  
 27 44-12-280 of any such investigation that might involve American Indian human remains  
 28 or burial objects. The ~~department~~ state archeologist shall make available to the council any  
 29 information pertaining to investigations conducted pursuant to Section 106 of the National  
 30 Historic Preservation Act, as amended.

31 (c) Possession of any archeological artifact without the written permission of the owner  
 32 of the land from which the artifact was removed shall be prima-facie evidence that the  
 33 archeological artifact was taken in violation of this chapter.

34 (d) Any person who violates any provision of subsection (a) of this Code section shall be  
 35 guilty of a misdemeanor."

36 **SECTION 3.**

- 1 All laws and parts of laws in conflict with this Act are repealed.