

House Bill 698 (AM)

By: Representative Burkhalter of the 41st

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 a certain exception to
3 restrictions on taking archeological artifacts shall be limited to artifacts found on dry land;
4 to specify certain duties of the state archeologist; to provide that the possession of an artifact
5 without the written permission of the owner of the land from which the artifact was taken
6 shall be prima-facie evidence that such artifact was taken illegally; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to parks, historic
11 areas, memorials, and recreation, is amended by striking in its entirety Code Section
12 12-3-621, relating to prohibited acts as to archeological sites, notification of the department
13 before beginning investigation or disturbance of site, and a penalty, and inserting in lieu
14 thereof the following:

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

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

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

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

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

8 (b) When the surface of any archeological, aboriginal, prehistoric, or historic site is
9 disturbed by a person not documented as operating under the provisions of Section 106 of
10 the National Historic Preservation Act, as amended, for the purpose of investigating the site
11 or discovering artifacts with the written permission of the landowner, such person shall
12 notify the ~~department~~ state archeologist in writing at least five business days before
13 beginning any such investigation or disturbance. The ~~department~~ state archeologist shall
14 immediately notify the Council on American Indian Concerns created by Code Section
15 44-12-280 of any such investigation that might involve American Indian human remains
16 or burial objects. The ~~department~~ state archeologist shall make available to the council any
17 information pertaining to investigations conducted pursuant to Section 106 of the National
18 Historic Preservation Act, as amended.

19 (c) Possession of any archeological artifact collected on or after July 1, 2001, without the
20 written permission of the owner of the land from which the artifact was removed shall be
21 prima-facie evidence that the archeological artifact was taken in violation of this chapter.
22 As to archeological artifacts unlawfully in the possession of any person or entity, same
23 shall be confiscated and held by the appropriate law enforcement official(s) and shall be
24 returned by said official(s) to the property owner from whose property the artifacts were
25 improperly removed.

26 (d) Any person who violates any provision of subsection (a) or (b) of this Code section
27 shall be guilty of a misdemeanor."

28 SECTION 2.

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