

By: Deuell

S.B. No. 1829

A BILL TO BE ENTITLED

AN ACT

relating to the collection of artifacts from public waterways.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 191, Natural Resources Code, is amended by adding Section 191.060 to read as follows:

Sec. 191.060. COLLECTION OF ARTIFACTS FROM PUBLIC WATERWAYS. (a) In this section, "artifact" means an artifact, including a stone implement, pottery or pottery shards, a bone tool other than a tool made of human bone, or another item made by prehistoric or historic American Indians or aborigines or early settlers of land in this state.

(b) The committee may 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. Except as otherwise provided by this section, a private individual must hold a permit issued by the committee to collect artifacts from public waterways in this state.

(c) To be eligible for a permit, a private individual:

(1) must be at least 16 years of age;

(2) may not have been convicted of a misdemeanor during the preceding five years; and

(3) may not have been convicted of a felony.

(d) A private individual who is younger than 16 years of age is not required to hold a permit to collect artifacts from public

1 waterways in this state if the individual engages in the collection
2 of artifacts from public waterways in this state only while the
3 individual is in the company of a holder of a permit issued under
4 this section.

5 (e) A permit issued under this section must be renewed
6 annually. The committee may charge a fee not to exceed \$75 for
7 renewing a permit.

8 (f) A private individual may collect artifacts only from the
9 surface of the undisturbed portions of gravel bars on and the
10 shorelines of all rivers, creeks, lakes, and waterways owned or
11 administered by this state other than a waterway located in a state
12 park or in land administered by the federal government. Artifacts
13 may be collected only by hand, by the use of a stick or pole to flip
14 stones or other obstacles, or by the use of a hand-held sifter no
15 larger than 24 inches by 18 inches. A private individual may not
16 collect artifacts by means of a shovel, trowel, rake, spade, hoe, or
17 other implement the purpose of which is to remove, dislocate, or
18 overturn soil.

19 (g) A private individual must report to the committee
20 regularly in accordance with guidelines adopted by the committee
21 regarding any artifacts found by the individual. The committee may
22 provide for filing reports under this subsection electronically and
23 may require an individual who files a report electronically to
24 submit a digital photograph of any artifact found. The committee
25 shall maintain a database of the reports filed under this
26 subsection.

27 (h) This state is entitled to purchase any artifact found by

a private individual in a public waterway in this state for the artifact's fair market value if the committee determines that the public interest would be served by this state acquiring ownership of the artifact. If the committee makes such a determination, the committee shall notify the individual. If this state purchases an artifact, the artifact becomes the permanent property of this state.

(i) The committee may assign to an archeologist the responsibility to receive reports under Subsection (g), maintain a database of reports filed under that subsection, and make initial determinations under Subsection (h) on behalf of the committee for a designated public waterway.

(j) If the committee does not notify a private individual who has found an artifact before the first anniversary of the date the individual reported the finding to the committee that the committee 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. A state agency is entitled 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). A state agency may not borrow an artifact for more than one year. A state agency that borrows an artifact shall pay the expenses of shipping and handling the artifact.

(k) A private individual who engages in the collection of artifacts on public waterways must report to the committee:

1 (1) any discovery of human remains, including a tool
2 or other artifact made of human bone, or a burial site on a public
3 waterway;

4 (2) any newly discovered or unrecorded archeological
5 site; or

6 (3) any illegal collection of artifacts on public
7 waterways observed, including collection of artifacts:

8 (A) without a permit; or

9 (B) by illegal means, including;

10 (i) digging or excavating;

11 (ii) using a propeller of a vessel to remove
12 sediment from a site; or

13 (iii) using a power hose to uncover
14 artifacts.

15 (1) A holder of a permit issued under this section shall
16 cooperate in a reasonable and open manner with any archeologist or
17 historian employed by the committee or another state agency.

18 (m) It is a defense to prosecution for an offense under this
19 chapter involving the collection of artifacts from a public
20 waterway in this state before September 1, 2009, that the private
21 individual who collected the artifacts:

22 (1) collected them in the manner provided by
23 Subsection (f); and

24 (2) holds a permit issued under this section.

25 SECTION 2. This Act takes effect September 1, 2009.