

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1106

An Act to amend and reenact §§ 10.1-2300 and 10.1-2302 of the Code of Virginia, relating to field investigations permit; archaeologist qualifications; penalty.

[H 668]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2300 and 10.1-2302 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Field investigation" means the study of the traces of human culture at any site by means of surveying, sampling, excavating, or removing surface or subsurface material, or going on a site with that intent.

"Field supervisor" means a person who is physically present at least 70 percent of the time during a field investigation, exploration, or recovery operation involving the removal, destruction, or disturbance of any object of antiquity and who directly oversees such field investigation, exploration, or recovery operation.

"Object of antiquity" means any relic, artifact, remain, including human skeletal remains, specimen, or other archaeological article that may be found on, in or below the surface of the earth which has historic, scientific, archaeologic or educational value.

"Person" means any natural individual, partnership, association, corporation or other legal entity.

"Site" means a geographical area on dry land that contains any evidence of human activity which is or may be the source of important historic, scientific, archaeologic or educational data or objects.

"State archaeological site" means an area designated by the Department in which it is reasonable to expect to find objects of antiquity.

"State archaeological zone" means an interrelated grouping of state archaeological sites.

"State archaeologist" means the individual designated pursuant to § 10.1-2301.

"State-controlled land" means any land owned by the Commonwealth or under the primary administrative jurisdiction of any state agency. State agency shall not mean any county, city or town, or any board or authority organized under state law to perform local or regional functions. Such land includes but is not limited to state parks, state wildlife areas, state recreation areas, highway rights-of-way and state-owned easements.

§ 10.1-2302. Permit required to conduct field investigations; ownership of objects of antiquity; penalty.

A. It shall be unlawful for any person to conduct any type of field investigation, exploration, or recovery operation involving the removal, destruction, or disturbance of any object of antiquity on state-controlled land, or on a state archaeological site or zone, without first receiving a permit from the Director.

B. The Director may issue a permit to conduct field investigations if the Director finds determines that (i) it is in the best interest of the Commonwealth; and (ii) the applicant has identified a field supervisor who is a historic, scientific, or educational institution, qualified professional archaeologist or amateur, and who is qualified and recognized in the area of field investigations or archaeology meets or exceeds the following standards:

1. Holds a graduate degree in archaeology, anthropology, or a closely related field;
2. Has at least one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management;
3. Has at least four months of supervised field and analytic experience in general North American archaeology;
4. Has at least one year of full-time experience at a supervisory level in the study of archaeological resources of the prehistoric or historic period;
5. Has demonstrated an ability to carry research to completion;
6. Has demonstrated the knowledge, skills, and experience to complete the type of investigations proposed; and
7. Has an active membership in or affiliation with a recognized professional archaeological organization, such as the Register of Professional Archaeologists, the Council of Virginia Archaeologists, or a similar organization or institution with an established code of professional ethics and conduct and documented grievance procedures.

In determining whether the field supervisor meets such standards, the Director may consider the performance of the field supervisor on any prior permitted field investigation, exploration, or recovery

operation.

C. The permit shall require that all objects of antiquity that are recovered from state-controlled land shall be the exclusive property of the Commonwealth. Title to some or all objects of antiquity ~~which~~ *that* are discovered or removed from a state archaeological site not located on state-controlled land may be retained by the owner of such land. All objects of antiquity that are discovered or recovered on or from state-controlled land shall be retained by the Commonwealth, unless they are released to the applicant by the Director.

D. All field investigations, explorations, or recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Director and in a manner to ensure that the maximum amount of historic, scientific, archaeologic, and educational information may be recovered and preserved in addition to the physical recovery of objects.

E. If the field investigation described in the application is likely to interfere with the activity of any state agency, no permit shall be issued unless the applicant has secured the written approval of such agency.

F. Any person who ~~violates the provisions of this section shall be~~ *conducts any field investigation, exploration, or recovery operation without first obtaining a permit pursuant to subsection A* is guilty of a Class 1 misdemeanor.

Any person who willfully misrepresents any information on an application for a permit pursuant to this section is guilty of a Class 1 misdemeanor.

Any person who willfully misrepresents the results, information, or data collected during a permitted field investigation, exploration, or recovery operation is guilty of a Class 1 misdemeanor.