

SECOND REGULAR SESSION

HOUSE BILL NO. 1072

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JETTON (Sponsor), FRASER,
BISHOP AND WALKER (Co-sponsors).

Read 1st time January 14, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2928L.02I

AN ACT

To repeal section 253.420, RSMo, and to enact in lieu thereof two new sections relating to shipwreck site protection, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 253.420, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 253.420 and 253.421, to read as follows:

253.420. 1. **As used in sections 253.420 and 253.421, the following words and phrases mean:**

(1) **"Embedded", firmly affixed in lands such that the use of excavation tools is required in order to gain access to historic shipwreck materials;**

(2) **"Historic shipwreck materials", artifacts and remains of historic shipwreck sites including but not limited to a ship's structure and rigging, machinery, hardware, tools, utensils, cargo, personal items of crew passengers, and monetary or treasure trove;**

(3) **"Lands beneath navigable waters":**

(a) **All lands within the boundaries of this state which are covered by nontidal waters that are now navigable, or were navigable under the laws of the United States at the time this state became a member of the Union or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, river channel shifts, and reliction;**

(b) **All filled in, made, or reclaimed lands which formerly were lands beneath navigable waters;**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

(4) "National Register", the National Register of Historic Places maintained by the Secretary of the Interior under 16 U.S.C. Section 470a;

(5) "Professional maritime archaeologist", an individual who has a graduate degree in archaeology, anthropology, or closely related field with a specialty in underwater, maritime, or nautical archaeology, at least one year of supervised field and analytic experience, and at least four years of full-time professional supervisory experience or equivalent specialized training in maritime or nautical archaeological research, administration, or management;

(6) "Shipwreck", a vessel or wreck, its cargo, and other contents;

(7) "Visitation", the act of visiting the location of a shipwreck for the purposes of viewing and taking of photographs without disturbance to the site or its environment.

2. Pursuant to the Abandoned Shipwreck Act of 1987, 43 U.S.C. Sections 2101-2106, all historic shipwreck materials and such objects having intrinsic or historical and archaeological value which have been abandoned on lands beneath navigable waters shall belong to the state with jurisdiction thereto vested in the department of natural resources and the state historic preservation office for the purposes of administration and protection. The department of natural resources shall have the authority to promulgate rules and regulations for the acceptable visitation, study, and salvage of such historic shipwreck materials.

3. After August 28, 1991, no person, corporation, partnership, proprietorship or organization shall initiate salvage operations, excavation or similar ground disturbing activities of any [submerged or embedded abandoned] **historic shipwreck materials** in this state which meets the national register of historic places criteria without obtaining [a permit] **the required permits** from the department of natural resources as provided in this section. [As used in this section, the term "embedded" means firmly affixed in lands such that the use of excavation tools is required in order to gain access to any part of the shipwreck or its cargo.

2.] 4. The state shall require the positive identification of each specific shipwreck for which the applicant wishes to apply for a salvage permit. The applicant shall apply for an exploratory permit from the department of natural resources, state historic preservation office. The applicant shall pay a nonrefundable, one thousand five hundred dollar application fee to the director of the department of revenue, who shall deposit all funds received pursuant to this subsection in the state treasury to the credit of the general revenue fund. The permit shall allow the applicant to search for and identify the precise location of the individual shipwreck. The department of natural resources, state historic preservation office, shall comment on any application for a permit pursuant to this section within sixty days of receipt of application. The successful applicant shall have no more

52 than one year from the date of issue to demonstrate that the specific shipwreck has been
53 located. If, after one year, the shipwreck has not been located, the permit shall expire. The
54 applicant may reapply for another permit for the same wreck after one year from the
55 expiration of the previous permit. The applicant may not hold more than three
56 exploratory permits during any period of time.

57 **5. Professional maritime archaeologists shall apply for a research permit for the**
58 **purposes of performing any activity associated with any survey or research project, or**
59 **student training field school. The department of natural resources shall not issue a permit**
60 **pursuant to this section unless the applicant submits a detailed excavation, conservation,**
61 **and preservation plan of the activities regulated by this section to be made by the applicant**
62 **and such plan is approved by the department. All excavation, conservation, and**
63 **preservation plans shall meet the current professional standards for such activities, which**
64 **minimize the risk of loss or damage to the shipwreck and historic shipwreck materials.**
65 **The applicant shall pay a nonrefundable, one hundred dollar application fee to the director**
66 **of the department of revenue, who shall deposit all funds received pursuant to this**
67 **subsection in the state treasury to the credit of the general revenue fund. The department**
68 **of natural resources, state historic preservation office, shall comment on any application**
69 **for a permit pursuant to this section within sixty days of receipt of application.**

70 **6. For shipwrecks that have been previously, positively identified and located, an**
71 **exploratory permit shall not be necessary and the applicant may apply for a salvage**
72 **permit.**

73 **7. For shipwrecks upon which ongoing professional archaeological research is**
74 **taking place, or upon which professional archaeological research has taken place, an**
75 **applicant shall not be allowed to apply for a salvage permit.**

76 **8. Neither exploratory nor salvage permits shall be available for shipwrecks located**
77 **in state parks or historic sites.**

78 **9. Should a shipwreck be successfully located and adequately documented to the**
79 **department of natural resources and the state historic preservation office, the applicant**
80 **may then apply for a salvage permit.** The department of natural resources shall not issue a
81 permit under this section unless the applicant submits a detailed **excavation, conservation, and**
82 **preservation** plan of the activities regulated by this section to be made by the applicant and such
83 plan is approved by the department. The department is authorized to promulgate appropriate
84 regulations for the administration of this section. All [recovery and investigation] **excavation,**
85 **conservation, and preservation** plans shall meet the current professional standards for such
86 activities, which minimize the risk of loss or damage to the shipwreck or its cargo.

87 **10. An applicant shall be a professional maritime archaeologist[, as defined in section**

88 194.400, RSMo,] or shall hire a professional **maritime** archaeologist as a staff member or
89 consultant to the activities regulated by this section. **The professional maritime archaeologist**
90 **shall direct, on site, all aspects of the proposed excavations.**

91 [Upon approval of a permit application] **11. At the time of application for a salvage**
92 **permit,** the applicant shall pay a **nonrefundable** permit fee of [one] **five** hundred dollars to the
93 director of the department of revenue, who shall deposit all funds received pursuant to this
94 section in the state treasury to the credit of the general revenue fund. The department of natural
95 resources, **state historic preservation office,** shall [approve or deny] **comment on** any
96 application for a permit [under] **pursuant to** this section within [thirty] **sixty** days of **receipt of**
97 application. **The applicant shall have prepared a preservation, conservation, and curation**
98 **plan available at the time of application for a salvage permit. The applicant shall present**
99 **proof acceptable to the department of natural resources and the state historic preservation**
100 **office that there exists appropriate funding available for the successful completion of the**
101 **project as defined in the scope of work, up to and including the curation phase.**

102 [3.] **12.** In the event there is a sale, at least fifty percent of each class, category or type
103 of all artifacts or recovered materials shall be donated or offered for sale at fair market value to
104 public or private museums or to other public institutions in this state. Such museums and
105 institutions shall **have to agree to** study, interpret and display such materials or artifacts **before**
106 **the transfer of the items shall be approved by the department of natural resources and the**
107 **state historic preservation office.** To the maximum extent possible, such artifacts shall remain
108 in Missouri.

109 [4.] **13.** Any person, corporation, partnership, proprietorship or organization who violates
110 the provisions of this section shall be guilty of a class A misdemeanor. Upon conviction, all
111 specimens, objects and materials collected or excavated by such person, together with all
112 photographs and records relating to such material, are property of the state. Each day of a
113 continuing violation of [subsection 1] **the provisions** of this section shall constitute a separate
114 offense.

115 [5.] **14. A permit holder, whether a person, corporation, partnership,**
116 **proprietorship, or organization, who does not fulfill all tasks in the scope of work shall**
117 **forfeit all recovered historic shipwreck materials and all generated data and related**
118 **information to the state.**

119 **15.** No rule or portion of a rule promulgated under the authority of this section shall
120 become effective unless it has been promulgated pursuant to the provisions of [section 536.024]
121 **chapter 536, RSMo.**

253.421. 1. The state shall not limit visitation to shipwrecks unless threats are
2 **apparent to any of the following:**

- 3 **(1) Natural resources or habitats;**
4 **(2) The shipwreck site itself; and**
5 **(3) Visitors of the shipwreck site.**

6 **2. Any possible threat to a shipwreck site shall be reviewed by the department of**
7 **natural resources and the state historic preservation office in consultation with other**
8 **appropriate state and federal agencies. The state shall make clear the dangers of diving**
9 **on submerged shipwrecks.**

10 **3. Any person who knowingly takes historic shipwreck materials from the**
11 **navigable waters of the state or destroys or vandalizes a shipwreck in violation of sections**
12 **253.420 to 253.422 is guilty of a class A misdemeanor for a first offense, and is guilty of a**
13 **class D felony for a second or subsequent offense.**