

CHAPTER 170

AN ACT providing for the protection of certain publicly owned archaeological findings and archaeological sites, and amending P.L.1983, c.324 and supplementing Title 23, Title 27, Title 40, and Title 58 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.40:10D-1 Findings, declarations relative to protection of archaeological findings, sites.

1. The Legislature finds and declares that it is of critical importance to protect archaeological sites in New Jersey to prevent their despoliation; that archaeological sites in the State have been pillaged by relic hunters; that these collectors generally dig without permission, almost always lack the technical training required to conduct scientific archaeological excavations, and seldom conduct legitimate research; and that illicit diggings have resulted in the loss of scientific data and archaeological findings that would make these sites invaluable to cultural research and to the State's heritage, destroying irreplaceable records of human activities and history.

The Legislature therefore determines that it is in the State's historic and cultural interests to prevent the unauthorized excavation and removal of archaeological findings from certain public lands in New Jersey.

2. Section 10 of P.L.1983, c.324 (C.13:1L-10) is amended to read as follows:

C.13:1L-10 Destruction of park property, archaeological findings, sites prohibited.

10. a. (1) Except as may be provided pursuant to subsection c. or subsection d. of this section, no person may alter, deface, destroy, disturb, or remove any State park or forest property, whether man-made or natural, or any animal, or any archaeological findings on State park or forest property or which are held by the department pursuant to the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.), without the written permission of the department. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating in a State park or forest property without the written permission of the department.

b. No person may litter or abandon any material on State park or forest property held pursuant to the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.).

c. The department shall provide for exceptions to the prohibitions concerning archaeological findings set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any State park or forest property.

d. No provision of this section shall be construed to restrict or affect in any way fishing, hunting, trapping, or other such activities or related activities otherwise authorized or permitted on State park or forest property by the Department of Environmental Protection.

e. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

3. Section 23 of P.L.1983, c.324 (C.13:1L-23) is amended to read as follows:

C.13:1L-23 Injunctive relief; penalties.

23. a. If any person violates any of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.) or any rule, regulation or order promulgated pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner.

Any person who violates any of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.) or any rule, regulation or order promulgated pursuant thereto shall be liable to a penalty of not more than \$1,000 for each offense, except as otherwise provided under subsection b. of this section, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law

of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and municipal courts shall have jurisdiction to hear and determine violations of the provisions of P.L.1983, c.324 (C.13:1L-1 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. If the damage resulting from any violation of P.L.1983, c.324 (C.13:1L-1 et seq.) or from any violation of any rule, regulation or order promulgated pursuant thereto exceeds \$1,000, the person causing the damage shall be liable to a penalty equal to the value of the damage caused.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of section 10 of P.L.1983, c.324 (C.13:1L-10) shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, in addition to any penalty provided pursuant to subsection a. of this section, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the department to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

c. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.23:7-1.2 Archaeological findings in wildlife management area protected.

4. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings in any wildlife management area administered by the Department of Environmental Protection, without the written permission of the department. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any such archaeological findings originating in a wildlife management area without the written permission of the Department of Environmental Protection.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the State, if warranted, as determined by the courts. Further, restitution and damages may be ordered to compensate the State for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. All fines, restitution payments, and damages collected shall be remitted to the Department of Environmental Protection to be used for the preservation, remediation or protection of State archaeological sites. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the State and, upon recovery, shall be deposited with the New Jersey State Museum.

c. The Department of Environmental Protection shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered in any wildlife management area.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.58:4-14 Archaeological findings on reservoir lands protected.

5. (New section) a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings on any reservoir lands administered by the Department of Environmental Protection or by a State authority or commission, without written permission from the department or the respective administrative body as appropriate. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the Department of Environmental Protection or the respective administrative body shall require that all excavation and exploration for archaeological findings be conducted in the least destructive manner possible. The administering authority or commission may also, in its discretion, require a person or persons granted such permission to consult with the Department of Environmental Protection prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating on any reservoir lands administered by the Department of Environmental Protection or by a State authority or commission without the written permission of the department or the respective administrative body as appropriate.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the department or to the State authority or commission, if warranted, as determined by the courts. All fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the department or State authority or commission for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The State authority or commission shall consult with the department for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to a State authority or commission shall be made upon verification of ownership by the Department of Environmental Protection that the State authority or commission owns the archaeological findings.

c. The Department of Environmental Protection and each State authority and commission administering reservoir lands shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any reservoir lands.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval

of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.40:10D-2 Archaeological findings on lands owned by political subdivision protected.

6. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb or remove any archaeological findings on lands owned by a county, municipality, or any political subdivision thereof, without written permission from the respective county, municipality, or political subdivision thereof. As used in this section, "archaeological findings" shall include, but not need be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the respective county, municipality, or political subdivision thereof shall require that all excavation and exploration for archaeological findings be conducted in the least destructive manner possible. The county, municipality, or political subdivision thereof may also, in its discretion, require a person or persons granted such permission to consult with the Department of Environmental Protection prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any such archaeological finding originating on lands owned by a county, municipality, or any political subdivision thereof, without the written permission of the respective county, municipality, or political subdivision thereof.

b. A person who knowingly violates, solicits or employs any other person to violate the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the county, municipality, or political subdivision thereof, if warranted, as determined by the courts. All fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the county, municipality, or political subdivision thereof, for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The county, municipality, or political subdivision thereof shall consult with the department for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to a county, municipality, or political subdivision thereof shall be made upon verification of ownership by the Department of Environmental Protection that the county, municipality, or political subdivision thereof owns the archaeological findings.

c. A county, municipality, or any applicable political subdivision thereof shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on lands owned by the respective local governmental entity.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

C.27:5J-1 Archaeological findings on property of DOT, various authorities, protected.

7. a. (1) Except as may be provided pursuant to subsection c. of this section, no person may alter, deface, destroy, disturb, or remove any archaeological findings on any lands or rights-of-way owned by the Department of Transportation, the New Jersey Transit Corporation, the New Jersey Turnpike Authority, or the South Jersey Transportation Authority, without written permission from the respective administrative body as appropriate. As used in this section, "archaeological findings" shall include, but need not be limited to, relics, objects, fossils, or artifacts of an historical, prehistorical, geological, paleontological, archaeological or anthropological nature.

(2) As a condition of granting permission pursuant to paragraph (1) of this subsection, the owner of the property or right-of-way shall require that all excavation and exploration for archaeological findings be conducted in the least destructive manner possible. The owner of the property or right-of-way may also, in its discretion, require a person or persons granted such permission to consult with the owner of the property or right-of-way prior to undertaking an approved project to verify that the methods and techniques selected are the least destructive and most appropriate to the site.

(3) No person may sell, transfer, exchange, transport, purchase, receive or offer to sell, transfer, exchange, transport, purchase or receive any archaeological findings originating on any lands or right-of-ways owned by the Department of Transportation, the New Jersey Transit Corporation, the New Jersey Turnpike Authority or the South Jersey Transportation Authority without the written permission of the owner of the property or right-of-way as appropriate.

b. A person who knowingly violates, or who solicits or employs any other person to violate, the provisions of subsection a. of this section shall be subject to the following penalties: a fine of not less than \$750 nor more than \$1,500 for the first offense; a fine of not less than \$1,500 nor more than \$3,000 for the second offense; and a fine of not less than \$3,000 nor more than \$5,000 for any subsequent offense. Penalties assessed pursuant to this subsection shall be collected in a civil action by a summary proceeding. Any vessel, vehicle or equipment used in the commission of the violation shall be subject to confiscation and forfeiture to the owner of the property or right-of-way, if warranted, as determined by the courts. All fines collected shall be remitted to the Department of Environmental Protection to be used for Statewide preservation, remediation or protection of archaeological sites. Further, restitution and damages may be ordered to compensate the owner of the property or right-of-way for the cost of remediating any violation of this section and for the value of any lost, damaged, or destroyed archaeological findings. The owner of the property or right-of-way shall consult with the Department of Environmental Protection for proper remediation of affected lands. Any archaeological findings obtained as a result of a violation of this section shall be subject to confiscation, forfeiture, and return to the proper owner. Upon recovery, the archaeological findings shall be deposited with the Department of Environmental Protection for verification of ownership. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to ensure the appropriate disposition of any confiscated, forfeited, or returned archaeological findings. The return of archaeological findings to the owner of the property or right-of-way shall be made upon verification of ownership by the Department of Environmental Protection that the owner of the property or right-of-way owns the archaeological findings.

c. The owner of the property or right-of-way shall provide for exceptions to the prohibitions set forth in subsection a. of this section for archaeological findings of de minimis value innocently discovered on any lands or rights-of-way.

d. Notwithstanding any provision of this section to the contrary, examination or retrieval of artifacts, or scientific research, conducted by a State department, agency, commission, authority or corporation otherwise required or permitted by federal or State law are exempt from the provisions of this section.

8. This act shall take effect immediately.

Approved December 7, 2004.