

CHAPTER 82

[Engrossed Substitute Senate Bill No. 3003]

ARCHAEOLOGICAL RESOURCES

AN ACT Relating to archaeological resources; amending section 2, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.020; amending section 6, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.060; amending section 7, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.070; amending section 9, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.090; amending section 31, chapter 1, Laws of 1973 as amended by section 17, chapter 294, Laws of 1975 1st ex. sess. and RCW 42.17.310; and adding a new section to chapter 27.53 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.020 are each amended to read as follows:

The location, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The director of the state parks and recreation commission in consultation with the Washington archaeological research center shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the office of ((archaeological)) archaeology and historic preservation, the Washington archaeological research center, and other agencies of the state.

Sec. 2. Section 6, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.060 are each amended to read as follows:

On the private and public lands of this state it shall be unlawful for any person, firm, ((or)) corporation, or any agency or institution of the state or a political subdivision thereof to wilfully alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, American Indian or aboriginal camp site, dwelling site, rock shelter, cave dwelling site, storage site, grave, burial site, or skeletal remains and grave goods, cairn, or tool making site, or to remove from any such land, site, or area, grave, burial site, cave, rock shelter, or cairn, any skeletal remains, artifact or implement of stone, bone, wood, or any other material, including, but not limited to, projectile points, arrowheads, knives, awls, scrapers, beads or ornaments, basketry, matting, mauls, pestles, grinding stones, rock carvings or paintings, or any other artifacts or implements, or portions or fragments thereof without having obtained ((the)) written permission ((of)) from the director of the state parks and recreation commission for such activities on public property or from the private landowner for such activities on private land. A private landowner may request the director of the state parks and recreation commission to assume the duty of issuing such permits. The director must obtain the

consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The director of the state parks and recreation commission in consultation with the Washington state archaeological research center shall develop guidelines for the issuance and processing of such permits. Such written permission shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground nor to the excavation and removal of artifacts from state owned shorelands below the line of ordinary high water and from state owned tidelands below the line of ordinary high tide.

Sec. 3. Section 7, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.070 are each amended to read as follows:

It is the declared intention of the legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this chapter and persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the Washington archaeological research center. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in RCW 42.17.310, as now or hereafter amended, to avoid site depredation.

Sec. 4. Section 9, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.090 are each amended to read as follows:

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense. Violations shall be reported to the appropriate law enforcement agency or to the director of the state parks and recreation commission.

Sec. 5. Section 31, chapter 1, Laws of 1973 as amended by section 17, chapter 294, Laws of 1975 1st ex. sess. and RCW 42.17.310 are each amended to read as follows:

(1) The following shall be exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, except as the complainant may authorize: PROVIDED, That this subsection shall not apply to persons who file complaints with the public disclosure commission about any elected official or candidate for elective office: PROVIDED, FURTHER, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pre-trial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records, exempt under the provisions of this section, may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records, is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Passed the Senate February 27, 1976.

Passed the House February 26, 1976.

Approved by the Governor March 6, 1976.

Filed in Office of Secretary of State March 6, 1976.