

identification numbers, credit cards, scramblers, and beep-tone devices as methods of limiting access.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1988.

Passed the Senate March 5, 1988.

Approved by the Governor March 18, 1988.

Filed in Office of Secretary of State March 18, 1988.

CHAPTER 124

[Substitute Senate Bill No. 6298]

UNDERWATER HISTORIC RESOURCES—OWNERSHIP CLARIFIED

AN ACT Relating to abandoned property with historical value; amending RCW 27.53-.030, 27.53.060, and 43.19.1919; adding new sections to chapter 27.53 RCW; adding a new section to chapter 79.90 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to protect the interest of the salvors who have invested considerable time and money in the salvage expedition.

Sec. 2. Section 3, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 17, chapter 266, Laws of 1986 and RCW 27.53.030 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development or the director's designee.

(4) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(5) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(6) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(7) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(8) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(9) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

NEW SECTION. Sec. 3. All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington.

Sec. 4. Section 6, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 18, chapter 266, Laws of 1986 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, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, 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, including, but not limited to, 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 a written ~~((permission))~~ permit from the director for such activities on public property or written permission from the private landowner for such activities on private land. A private landowner may request the director 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 public property landowner or agency responsible for the management of such land may condition its consent on the execution of a separate agreement, lease, or other real property conveyance with the applicant as may be necessary to carry out the legal rights or duties of the public property landowner or agency. The director, in consultation with the Washington state archaeological research center, shall develop guidelines for the issuance and processing of ~~((such))~~ permits. Such written ~~((permission))~~ permit and any agreement or lease or other conveyance required by any public property owner or agency responsible for management of such land 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 or within the intertidal zone))~~ which are not historic archaeological resources.

NEW SECTION. Sec. 5. Persons, firms, corporations, institutions, or agencies which discover a previously unreported historic archaeological resource on state-owned aquatic lands and report the site or location of such resource to the department shall have a right of first refusal to future salvage permits granted for the recovery of that resource, subject to the provisions of section 6 of this act. Such right of first refusal shall exist for five years from the date of the report. Should another person, firm, corporation, institution, or agency apply for a permit to salvage that resource, the reporting entity shall have sixty days to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

NEW SECTION. Sec. 6. The director is hereby authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, persons, firms, or corporations for the discovery and salvage of state-owned historic archaeological resources. Such contracts shall include but are not limited to the following terms and conditions:

- (1) Historic shipwrecks:

(a) The contract shall provide for fair compensation to a salvor. "Fair compensation" means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(b) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(c) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(d) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

(e) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state.

(2) Historic aircraft:

(a) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purpose of that salvage operation is to recover the aircraft for a museum, historical society, non-profit organization, or governmental entity.

(b) Title to the aircraft may only be passed by the state to one of the entities listed in (a) of this subsection.

(c) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (a) of this subsection or such other compensation as one of the entities listed in (a) of this subsection and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(3) Other historic archaeological resources: The director, in his or her discretion, may negotiate the terms of such contracts.

NEW SECTION, Sec. 7. The salvor shall agree to mitigate any archaeological damage which occurs during the salvage operation. The department shall have access to all property recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties following completion of the salvage operation. The department shall also have the right to publish scientific

papers concerning the results of all research conducted as project mitigation.

The director has the right to refuse to issue a permit for salvaging an historic archaeological resource if that resource would be destroyed beyond mitigation by the proposed salvage operation. Any agency, institution, person, firm, or corporation which has been denied a permit because the resource would be destroyed beyond mitigation by their method of salvage shall have a right of first refusal for that permit at a future date should technology be found which would make salvage possible without destroying the resource. Such right of first refusal shall be in effect for sixty days after the director has determined that salvage can be accomplished by a subsequent applicant without destroying the resource.

No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract.

Sec. 8. Section 43.19.1919, chapter 8, Laws of 1965 as amended by section 11, chapter 21, Laws of 1975-'76 2nd ex. sess. and RCW 43.19-.1919 are each amended to read as follows:

The division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under section 3 of this 1988 act.

NEW SECTION. Sec. 9. A new section is added to chapter 79.90 RCW to read as follows:

After consultation with the director of community development, the department of natural resources may enter into agreements, leases, or other conveyances for archaeological activities on state-owned aquatic lands. Such agreements, leases, or other conveyances may contain such conditions as are required for the department of natural resources to comply with its

legal rights and duties. All such agreements, leases, or other conveyances, shall be issued in accordance with the terms of chapters 79.90 through 79.96 RCW.

NEW SECTION. Sec. 10. The department of community development shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands.

NEW SECTION. Sec. 11. The department of community development shall have such rule-making authority as is necessary to carry out the provisions of this chapter.

NEW SECTION. Sec. 12. Any proceeds from the state's share of property under this chapter shall be transmitted to the state treasurer for deposit in the general fund to be used only for the purposes of historic preservation and underwater archaeology.

NEW SECTION. Sec. 13. This act shall not affect any ongoing salvage effort in which the state has entered into separate contracts or agreements prior to the effective date of this act.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. Sections 3, 5 through 7, and 10 through 12 of this act are each added to chapter 27.53 RCW.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1988.

Passed the House March 6, 1988.

Approved by the Governor March 18, 1988.

Filed in Office of Secretary of State March 18, 1988.

CHAPTER 125

[Second Substitute House Bill No. 1640]

G. ROBERT ROSS DISTINGUISHED FACULTY AWARD—FUTURE TEACHERS' CONDITIONAL SCHOLARSHIP PROGRAM, WAIVER OF GRADE-POINT CRITERIA—COLLEGE SAVINGS BOND ACT

AN ACT Relating to higher education; amending RCW 28B.10.870; amending section 12, chapter 8, Laws of 1987 (uncodified); adding a new section to chapter 28B.102 RCW; adding a new section to Title 28B RCW; adding a new chapter to Title 28B RCW; creating a new section; and making an appropriation.

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