

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
ONE HUNDRED AND FOURTH LEGISLATURE
1969

Chapter 398

AN ACT to Regulate the Removal and Disposition of Certain State-owned Objects and Specimens.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 27, c. 13, sub-c. II, additional. Chapter 13 of Title 27 of the Revised Statutes is amended by adding a new subchapter II, to read as follows:

SUBCHAPTER II

STATE-OWNED OBJECTS AND SPECIMENS

§ 371. Statement of policy

It is in the public interest to provide for the preservation and interpretation of archaeological artifacts and natural science specimens for the benefit of the people of the State. In order to insure proper preservation and interpretation of artifacts, specimens and materials which are public property by virtue of having been found on, in or beneath state-controlled lands, it is in the public interest that a single state department be designated to hold title, as trustee for the State, to all such artifacts, specimens and materials. The State Museum is best qualified to assume such trusteeship by virtue of the fact that its facilities are intended to function primarily for the purpose of preserving and interpreting artifacts, specimens and materials as herein defined.

§ 372. Legislative intent

The several departments of the State are authorized to transfer any archaeological objects or natural science specimens in their possession to the custody and trusteeship of the State Museum.

The State designates the State Museum to hold title, as trustee for the State, to all archaeological objects and natural science specimens found on, in or beneath state-controlled lands. The State further charges the State Museum with the responsibility of protecting, preserving and interpreting such objects and specimens which may be placed under its trusteeship; preventing the defacement, damage, destruction or unauthorized removal of such objects and specimens; and insuring the continued availability of such objects and specimens for scientific study by qualified persons, agencies or institutions.

§ 373. Definitions

1. Authorized representative. "Authorized representative" means any official or group of officials employed by the State; or other competent person authorized in writing by the permittors.

2. **Materials.** "Materials" means 3-dimensional items, other than artifacts and specimens as defined, and excluding books, papers, manuscripts and archival or library material, which are commonly included in the display or research collections of museums.

3. **Object.** "Object" means any archaeological monument, artifact, relic or article.

4. **Permitters.** "Permitters" means the Museum Director of the Maine State Museum and the Senior Archaeologist in residence at the University of Maine, acting in concert in the review, approval and granting of permits. When it is deemed to be advisable or necessary, the permittees may consult with the Maine Archaeological Society, interested agencies or individuals regarding permit conditions or requirements.

5. **Site.** "Site" means an area containing historical or archaeological artifacts or materials as herein defined, or other evidence of habitation, occupation or other use by historic or prehistoric peoples.

6. **Specimen.** "Specimen" means any items, set of items or parts of items collected as representative samples of geological media or biological forms found within the State.

7. **State-controlled land.** "State-controlled land" means any land or water area owned by the State or under the primary administrative jurisdiction of any state department, with the exception of those lands contained within Baxter State Park or the 3 Indian Tribal Reservations within the State. Such state-controlled land includes, but is not restricted to, state parks, state recreation areas, wilderness and wildlife preserves, navigable bodies of inland, estuarine or coastal water and highway rights-of-way or other easements.

§ 374. Legislative provisions

Any person, agency or institution, other than the several departments of the State and their authorized representatives, desiring to remove prehistoric, aboriginal artifacts from or excavate a prehistoric, aboriginal site on state-controlled land or those desiring to remove other artifacts or materials from or excavate an historic site on state-controlled land shall submit a written application for such authorization to the Maine State Museum not less than 10 days prior to the proposed time of removal or excavation. This provision notwithstanding, requirements for a written application and 10-day waiting period may be waived in an emergency in which prompt action is required to save artifacts, materials or sites threatened by construction or demolition projects or by natural disaster. Such application shall state the nature and specific location of the artifacts and materials to be removed; the legal name and address of the person, agency or institution seeking authorization and the date or dates on which the artifacts or materials are to be removed. If the activity 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. Upon receipt of such an application, the permittees may issue a written permit authorizing the excavation of the site and the proposed removal of artifacts or materials. Such permit shall be retained in the personal possession of the permittee during the course of removal activities, and shall be made available for inspection upon demand of any authorized representative of the State. Any persons engaged in the re-

removal of artifacts or materials from, or engaged in archaeological excavation of state-controlled lands, who shall not produce a valid permit upon demand of an authorized representative of the State, shall be assumed to be engaged in unauthorized removal activity.

In order to minimize damages to state-controlled lands and to artifacts or materials to be removed, and in order to insure the recording and preservation of significant data regarding such artifacts, materials or sites, the permit may set forth requirements or limitations regarding the methods and equipment to be employed in such removal, the procedures to be followed in documenting such removal, and the report or reports, if any, to be submitted to officials or agencies of the State upon completion of such removal activities.

The permittors may, at their discretion, require that an authorized representative of the State be present to witness and document the removal of artifacts or materials from state-controlled land.

The permit shall clearly indicate the type of artifacts or materials to be removed; the location of the site; the time of the proposed removal activity or excavation; the legal name and address of the permittee; and any other limitations and requirements that may be imposed by the permittors.

The permittors, or their authorized representatives, may revoke or suspend a permit if there is evidence to indicate that the permittee has violated or exceeded the limitations of his permit, or if there is evidence to indicate that artifacts, materials or the site are being unnecessarily defaced, damaged or destroyed in the course of their removal. Any willful violation of the provisions or limitations of a permit shall be grounds for immediate revocation of such permit and shall be construed as unauthorized removal.

Defacement, damage, destruction, displacement or unauthorized removal of artifacts, materials or sites on, in or beneath state-controlled lands shall be prohibited, and shall be punishable by a fine of not more than \$500 for each item so defaced, damaged, destroyed, displaced or removed without authorization.

Notwithstanding the privilege of removal, and custody which may be granted to a permittee, the State reserves to itself the ownership of all artifacts and materials removed from state-controlled lands. Title to such artifacts and materials shall rest with the Maine State Museum as trustee for the State. Custody of such artifacts or materials shall not be transferred by sale, gift, trade, bequest or in any other manner without the written consent of the Museum Director of the State Museum. The designated custodian, where applicable, of such artifacts or materials shall, insofar as practicable, guard and protect such artifacts and materials against loss, theft, destruction, damage or deterioration, and shall make them available for reasonably convenient study by qualified persons, agencies and institutions. Physical possession of such artifacts and materials shall revert to the State Museum if the designated custodian ceases to exist, or if the permittors concur in the opinion that the designated custodian is not properly caring for such artifacts or materials or is not keeping them available for reasonably convenient study by qualified persons, agencies and institutions.

The several departments of the State and their authorized representatives, though exempt from the permit requirements of this subchapter, shall advise

the State Museum of any anticipated departmental activity which is likely to involve the defacement, damage, destruction, displacement or removal of artifacts or materials or sites found on, in or beneath state-controlled lands and all permits issued on state-controlled land shall have the approval of the department under whose jurisdiction the land is held. The State Museum shall cooperate with the several state departments in efforts to preserve, salvage or minimize damage to artifacts, materials or sites, which may be endangered by departmental activities.

Effective October 1, 1969

Chapter 399

AN ACT Relating to Comparative Negligence in Civil Actions.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 14, § 156, amended. The 2nd paragraph of section 156 of Title 14 of the Revised Statutes, as enacted by chapter 424 of the public laws of 1965, is repealed and the following enacted in place thereof:

Where damages are recoverable by any person by virtue of this section, subject to such reduction as is mentioned, the court shall instruct the jury to find and record the total damages which would have been recoverable if the claimant had not been at fault, and further instruct the jury to reduce the total damages by dollars and cents, and not by percentage, to the extent deemed just and equitable, having regard to the claimant's share in the responsibility for the damages, and instruct the jury to return both amounts with the knowledge that the lesser figure is the final verdict in the case.

The trial judge shall read the foregoing 2 paragraphs to the jury in their entirety.

Sec. 2. R. S., T. 14, § 156, amended. Section 156 of Title 14 of the Revised Statutes, as enacted by chapter 424 of the public laws of 1965, is amended by adding at the end the following new paragraph:

In a case involving multi-party defendants, each defendant shall be jointly and severally liable to the plaintiff for the full amount of the plaintiff's damages. However, any defendant shall have the right through the use of special interrogatories to request of the jury the percentage of fault contributed by each defendant.

Effective October 1, 1969