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## **Alabama Underwater Cultural Resources Act.**

**Code of Alabama 1975, §41-9-290 through 41-0-299.2, as amended**

### **Section 41-9-291 Definitions.**

As used in this division, the following terms shall have the following meanings:

- (1) COMMISSION. The Alabama Historical Commission, acting as the custodian of cultural resources for the State of Alabama.
- (2) CONTRACTOR. Any individual, company, corporation, or private or public institution determined by the commission to be appropriately qualified that has applied for and received a permit or contract from the commission to begin exploration or excavation activities in state-owned waters.
- (3) CULTURAL RESOURCES. All abandoned shipwrecks or remains of those ships and all underwater archaeological treasures, artifacts, treasure troves, or other cultural articles and materials, whether or not associated with any shipwreck, that are contained in or on submerged lands belonging to the State of Alabama and the sea within the jurisdiction of the state, and that have remained unclaimed for more than 50 years, excluding therefrom sunken logs, cants, and timber resources of any other type not associated as part of a shipping vessel, and are eligible for, or listed in, the National Register of Historic Places.
- (4) EXCAVATION. The study and intentional removal from submerged land belonging to the state, by accepted scientific methods, of any objects recognized as cultural resources.
- (5) EXPLORATION. The systematic examination by actual survey of an area of submerged land belonging to the state for the purpose of locating and recognizing cultural resources.
- (6) SUBMERGED LANDS. Lands under navigable waterways owned or controlled by the State of Alabama.
- (7) TREASURE TROVE. Any gold bullion, gold ingots, gold dust, silver bars, and other precious metals or stones.

### **Section 41-9-292 Use of State Cultural Resources.**

- (a) All cultural resources as defined herein are declared to be state cultural resources subject to the exclusive dominion and control of the State of Alabama.
- (b) Cultural resources shall not be taken, damaged, destroyed, salvaged, excavated, or otherwise altered without a prior contract or permit obtained through the commission, which is designated as the official custodian of state cultural resources within the jurisdiction of the State of Alabama; provided, however, that issuance of any contract or permit shall also be subject to the prior written approval of the Commissioner of Conservation and Natural Resources.

### **Section 41-9-293 Management Plan; Rules and Regulations.**

- (a) The commission, in coordination with the Department of Conservation and Natural Resources, shall develop and implement a management plan for cultural resources. The commission may appoint an advisory committee to assist the commission in the development and implementation of a management plan for cultural resources, and to advise the commission with respect to needed rules or regulations. The commission, in coordination with the Department of

Conservation and Natural Resources, may promulgate, in accordance with the state Administrative Procedure Act and in the best interest of the state, any rule or regulation necessary to implement this division; provided however, that the rules and regulations shall be subject to the approval of the director of the commission and the Commissioner of Conservation and Natural Resources. The rules and regulations shall have the force and effect of law.

(b) These regulations shall include, but not be limited to, any of the following:

(1) The classification of historic maritime and submerged resources.

(2) Contracting or permitting for various activities.

(3) Establishing a repository or repositories for holding the ships, artifacts, treasure troves, or other cultural artifacts and materials recovered in the areas stipulated in this division.

(4) Methods of enforcement of this division and rules and regulations promulgated hereunder.

#### **Section 41-9-294 Permit Etc., for Exploration or Excavation.**

(a) Any qualified individual, company, corporation, or public institution desiring to conduct any type of exploration or excavation of cultural resources shall first make application to the commission for a permit or contract to conduct the operation. If the commission finds that the granting of a permit or contract is in the best interest of the state, it may, subject to the other provisions of this division, grant the applicant a permit or contract for a period of time and under those terms and conditions as the commission considers to be in the best interest of the state.

(b) Holders of permits or contracts shall be responsible for obtaining permission of any federal agencies having jurisdiction, including, but not limited to, the United States Department of the Navy and the United States Army Corps of Engineers, prior to conducting those activities.

(c) Permits or contracts may be issued or made for any of the following activities, without limitation:

(1) Recreational diving permit or contract.

(2) Exploration and evaluation permit or contract.

(3) Excavation and recovery permit or contract.

#### **Section 41-9-295 Commercial Fishing Restrictions.**

The commission may restrict, when necessary, as determined in writing in the sole discretion of the Commissioner of Conservation and Natural Resources, the activities of commercial fishing vessels in or around known underwater cultural resources when the likelihood of damage to or any alterations of the cultural resources is deemed evident. The restricted area shall encompass only the immediate area of the resource so as not to unduly disrupt fishing operations.

#### **Section 41-9-296 Distribution of Funds.**

(a) Any funds received by the commission under the terms and conditions of permits or contracts made pursuant to this division shall be placed in funds maintained in the State Treasury.

(b) The commission shall, pursuant to its rulemaking power, provide a procedure for the sale at public auction of any articles seized pursuant to this division, with the proceeds going to the State General Fund to be appropriated by the Legislature.

#### **Section 41-9-297 Theft or Disturbance of a Cultural Resource.**

(a) A person commits the crime of theft or disturbance of a cultural resource protected by the commission if the person does either of the following:

- (1) Intentionally and knowingly removes, alters, disturbs, or destroys any cultural resource without the prior written authorization of the commission by permit or contract.
- (2) Knowingly buys, receives, conceals, aids in the concealment of, or possesses any illegally obtained cultural resources.
- (b) Intentional and knowing theft or disturbance of a cultural resource having a value of less than one thousand dollars (\$1,000) shall constitute a Class A misdemeanor and be punishable, upon conviction, as provided by law.
- (c) Intentional and knowing theft or disturbance of a cultural resource with a value of one thousand dollars (\$1,000) or more shall constitute a Class C felony and shall be punishable, upon conviction, as provided by law.

**Section 41-9-298 Seizure of Equipment, Etc.**

In all cases of arrest and conviction under Section 41-9-297, all boats, instruments, and other equipment used directly in connection with the offenses are declared to be contraband and shall be seized and brought before the court having jurisdiction of the offense for proper disposal.

**Section 41-9-299 Enforcement of Division.**

All law enforcement agencies and officers, state and local, shall assist the commission in the enforcement of this division.

**Section 41-9-299.1 Exceptions.**

- (a) Notwithstanding any other provisions of this division to the contrary, no contract with or permit from or fee paid to the commission shall be required for activities performed pursuant to United States Army Corps of Engineers' permits, including general permits.
- (b) Notwithstanding any other provisions of this division to the contrary, any violation of this division caused by activities conducted for purposes not related to the exploration, excavation, or salvaging of cultural resources may be cured and any otherwise applicable crimes, penalties, or seizures will no longer apply if the activities in violation of this division are halted as soon as practicable after notice from the commission and an application for any contract or permit determined to be necessary is submitted to the commission.

**Section 41-9-299.2 Construction of Division.**

This division shall be construed in pari materia with Section 41-9-249.1.

*(Act 99-595, p. 1364; Act 2019-484)*

See also Alabama Historical Commission Administrative Code, Chapter 460-X-12.01