



February 2, 2016

The Honorable Andy Gardiner
President, Florida Senate
409 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

The Honorable Arthenia Joyner
Minority Leader, Florida Senate
228 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senators Gardiner and Joyner,

The people of the State of Florida have provided that the Legislature is charged with preserving the State's natural resources (Fl. Const. Art. II, Sec. 7). The recently-introduced Senate Bill 1054 (SB 1054) contravenes this constitutional policy by creating a statutory mechanism for private parties to pillage the State's natural resources through the sanctioning of archaeological and historic site looting. The Society for American Archaeology (SAA) strongly urges that the Legislature reject this proposal.

SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With more than 7,900 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

Florida has always been at the forefront of archaeological and historical site protection. Florida's protection of Native American graves and burial artifacts predated the federal government's action in this regard. Florida's Legislature also recognized early-on the importance of protecting archaeological materials on public property. The State acted early and swiftly to protect its maritime heritage from salvors and looters following the discovery of the *Nuestra Señora de Atocha* in the 1980s through both legislation and court action—beating Congress in its efforts at protection of such resources with the federal Abandoned Shipwrecks Act in 1987. Given this history, SB 1054 is troubling and inconsistent with the State's prior

efforts to protect its resources and, indeed, threatens to violate the constitutional public trust doctrine of the State, and would conflict with federal statutes.

Under a previous program, the State could acquire some archaeological site information from prior looting activity, while continuing to maintain that cultural materials so procured were done so unlawfully, thus dissuading future site destruction. The legislation in question, however, would twist this narrow exception into a carte blanche for individuals with little or no training in the proper handling and protection of archaeological and historical sites and materials to pillage the State's heritage. Unlike the prior program, which was limited to isolated finds in the State's navigable rivers and streams, SB 1054 would sanction looting in all of Florida's sovereign waters. Such a change would put Spanish and French shipwrecks squarely within reach of looters—a reality that is in direct conflict with recent court decisions in Florida and around the country. SB 1054 would also declare open season for looting on Native American sites on Florida's submerged continental shelf and its internal waters, where epochal discoveries from the Ice Age have been found. These places often contain burials and burial artifacts, thus meaning that the bill, if passed, would sanction looting on State lands that is prohibited by the federal government and virtually all other states in the Union, and it would conflict with Florida's own laws mandating the protection of grave sites.

In recent years, Congress has also enacted the Sunken Military Craft Act, which is aimed at protecting submerged warships of all nations. SB 1054 would directly conflict with these protections as well, and would place those authorized to loot sites by this State program in jeopardy of arrest and prosecution under federal law.

In short, should Florida enact SB 1054 in its current form, the State will regress by more than thirty years in the protection of its cultural heritage, and it will be substantially out of step with other states and the federal government in this regard. This proposed law would violate the State's public trust doctrine, federal law, and contradict other existing State laws. At a minimum, it needs to be reconciled with existing laws and amended to contain protections for Native American burials and funerary artifacts, shipwrecks, and other submerged war graves.

SAA respectfully requests that the Florida House defeat this bill, and offers its expertise should efforts be made to revise this instrument to conform with other laws and policies.

Sincerely yours,



Diane Gifford-Gonzalez, Ph.D.
President

Cc: Sen. Charles Dean