CHAPTER 7

Shipwrecks and Salvage Operations

ARTICLE 1

General Provisions

**SECTION 54‑7‑10.** Custody and notice of unclaimed stranded goods.

 If any ship, vessel, goods or effects shall be stranded or cast on shore and no person appears to claim the goods which shall be so saved, the local magistrate shall take them into his custody or possession and, as soon as may be, give notice and a schedule in writing of the different articles to the county treasurer, keeping a copy thereof, and deliver safely all such goods and effects to such treasurer or his order who shall be responsible for them and who shall give public notice thereof in a newspaper of general circulation in the county for at least sixty days, if no claim should be made.

HISTORY: 1962 Code Section 54‑301; 1952 Code Section 54‑301; 1942 Code Section 6289; 1932 Code Section 6289; Civ. C. '22 Section 5141; Civ. C. '12 Section 3397; Civ. C. '02 Section 2286; G. S. 1623; R. S. 1813; 1783 (4) 552; 1972 (57) 2613.

**SECTION 54‑7‑20.** Sale of unclaimed stranded goods.

 If such goods be not claimed within sixty days after such delivery to the county treasurer they shall be publicly sold or, if the goods be perishable, they shall be sold forthwith and, after deducting reasonable charges, the residue shall be lodged in the county treasury, for the use of the State, subject to the claim of the proprietor, his agent or attorney.

HISTORY: 1962 Code Section 54‑302; 1952 Code Section 54‑302; 1942 Code Section 6289; 1932 Code Section 6289; Civ. C. '22 Section 5141; Civ. C. '12 Section 3397; Civ. C. '02 Section 2286; G. S. 1623; R. S. 1813; 1783 (4) 552; 1972 (57) 2614.

**SECTION 54‑7‑30.** Repelling entry into stranded vessels; carrying away saved goods.

 Any person, not empowered, who shall enter or try to enter forcibly on board any ship or vessel stranded or cast away or in distress or molest in the preservation thereof may be repelled by force. And any person who shall carry away or secrete any goods and effects saved as aforesaid shall forfeit and pay treble the value, to be recovered by the owner of such goods or his agent in any court of competent jurisdiction in this State.

HISTORY: 1962 Code Section 54‑303; 1952 Code Section 54‑303; 1942 Code Section 6290; 1932 Code Section 6290; Civ. C. '22 Section 5142; Civ. C. '12 Section 3398; Civ. C. '02 Section 2287; G. S. 1624; R. S. 1814; 1783 (4) 552.

**SECTION 54‑7‑40.** Issuance of warrants for stolen goods; penalty for retention.

 Any magistrate on information, upon oath, of any part of cargo or effects of any vessel lost or stranded on or near the seacoasts being unlawfully conveyed or concealed or of some cause or reasonable suspicion thereof may issue his warrant for searching for such goods or effects as in cases of stolen goods. If such goods or effects be found in any house or other place or in the possession of any person not legally authorized to have them and the person in whose possession they shall be found shall not immediately, upon demand, deliver them to the owner or person lawfully authorized to receive them, he shall forfeit and pay to the owner of such goods, his agent or attorney, treble the value of such goods.

HISTORY: 1962 Code Section 54‑304; 1952 Code Section 54‑304; 1942 Code Section 6291; 1932 Code Section 6291; Civ. C. '22 Section 5143; Civ. C. '12 Section 3399; Civ. C. '02 Section 2288; G. S. 1627; R. S. 1815; 1783 (4) 552.

**SECTION 54‑7‑50.** Salvage allowed informer.

 Any person discovering where any such goods are wrongfully bought, sold or concealed, so that the owner, his agent or attorney, shall regain them, shall be entitled to a reasonable salvage, not exceeding twenty‑five per cent on the value, to be adjusted by the next neighboring magistrate, who is hereby required to adjust such value.

HISTORY: 1962 Code Section 54‑305; 1952 Code Section 54‑305; 1942 Code Section 6292; 1932 Code Section 6292; Civ. C. '22 Section 5144; Civ. C. '12 Section 3400; Civ. C. '02 Section 2289; G. S. 1628; R. S. 1816; 1783 (4) 552.

**SECTION 54‑7‑60.** Restoration of goods taken from vessel; reward; penalty for offering for sale.

 If any person shall offer or expose for sale any goods or effects whatsoever belonging to any ship or vessel lost, stranded or cast on shore as aforesaid and unlawfully taken away or reasonably suspected to have been, the person to whom such goods or effects shall be so offered for sale or any magistrate may stop and seize such goods and effects and if the person who shall have offered them for sale or some other person in his behalf shall not, within ten days next after such seizure, make out to the satisfaction of such magistrate that he became honestly possessed of them, such goods and effects shall, by order of such magistrate, be forthwith delivered over to and for the use of the owner thereof, on proof of his claim and the payment of a reasonable reward, not exceeding five per cent on the value, to be ascertained by such magistrate, to the person who shall seize them. And he who offered such goods and effects for sale as aforesaid shall forfeit and pay to the owner twice the value of such goods, to be recovered according to law.

HISTORY: 1962 Code Section 54‑306; 1952 Code Section 54‑306; 1942 Code Section 6293; 1932 Code Section 6293; Civ. C. '22 Section 5145; Civ. C. '12 Section 3401; Civ. C. '02 Section 2290; G. S. 1629; R. S. 1817; 1783 (4) 552.

**SECTION 54‑7‑100.** Hunley Commission established; coordinates exempt from disclosure.

 (A) A committee of nine members of the "Hunley Commission" shall be appointed, three of whom must be members of the House of Representatives to be appointed by the Speaker, three of whom must be members of the Senate to be appointed by the President of the Senate, and three members to be appointed by the Governor. The committee shall make a study of the law regarding the rights to the salvage of the Hunley and any claim that a person or entity may assert with regard to ownership or control of the vessel. The committee is authorized to negotiate with appropriate representatives of the United States government concerning the recovery, curation, siting, and exhibition of the H.L. Hunley. Provided, inasmuch as actual locations or geographical coordinates of submerged archaeological historic properties are now exempt from disclosure as public records pursuant to Section 54‑7‑820(A), the geographical coordinates of the Hunley's location, regardless of the custodian, upon receipt from the Navy or receipt otherwise are expressly made exempt from disclosure pursuant to the Freedom of Information Act or any other law and no remedy for the disclosure of such coordinates exists pursuant to the Freedom of Information Act; and provided further, that with respect to the Hunley project, as described herein, the applicable duties and responsibilities contained in Article 5, Chapter 7 of this title shall be vested in the Hunley Commission; and provided further, that with respect to the Hunley project that the Hunley Commission shall be exempt from compliance with the provisions of Chapter 35, Title 11. However, the committee may not negotiate any agreement which would result in the siting outside South Carolina of any remains, not claimed by direct descendants, found in the Hunley or which would relinquish South Carolina's claim of title to the Hunley unless perpetual siting of the submarine in South Carolina is assured by the federal government in the agreement.

 (B) The committee shall make recommendations regarding the appropriate method of preservation of this historic vessel and is also authorized to direct the Attorney General on behalf of South Carolina to take appropriate steps to enforce and protect the rights of the State of South Carolina to the salvage of the Hunley and to defend the State against claims regarding this vessel. The committee shall submit a recommendation for an appropriate site in South Carolina for the permanent display and exhibition of the H.L. Hunley to the General Assembly for its review and approval.

 (C) The committee members shall not receive the subsistence, mileage, and per diem as may be provided by law for members of boards, committees, and commissions.

HISTORY: 1996 Act No. 247, Section 1, eff March 4, 1996; 1996 Act No. 361, Section 1, eff May 16, 1996; 2013 Act No. 1, Section 1, eff January 23, 2013; 2019 Act No. 1 (S.2), Section 94, eff January 31, 2019.

Effect of Amendment

The 1996 amendment revised the second paragraph of this section.

The 2013 amendment, in the first paragraph, changed the committee membership from nine to ten, added the second sentence relating to the Lieutenant Governor, and made other nonsubstantive changes.

2019 Act No. 1, Section 94, inserted the paragraph designators; and in (A), in the first sentence, substituted "committee of nine members" for "committee of ten members" and "President of the Senate" for "President Pro Tempore", and deleted the second sentence, which related to the tenth member of the commission being the Lieutenant Governor or his designee.

**SECTION 54‑7‑110.** Caption to be added to certain films relating to the Hunley.

 The Hunley Commission and the South Carolina Educational Television Commission on any film either makes relating to H. L. Hunley including, but not limited to, the recovery of the Hunley which is furnished to another party for other than a contractual fee shall insert in appropriate places at the bottom and end of the film a caption stating that the film taken by the Hunley Commission or the Educational Television Commission is "Provided courtesy of the Hunley Commission or the South Carolina Educational Television Commission and any person interested in making a donation for the preservation and exhibition of the Hunley may send it to The Hunley Commission, Post Office Box 142, Columbia, South Carolina 29202".

HISTORY: 2000 Act No. 387, Part II, Section 81, eff June 30, 2000.

**SECTION 54‑7‑120.** Repealed by 2007 Act No. 98, Section 3.

Editor's Note

Former Section 54‑7‑120 was entitled "CSS Pee Dee site; collection of artifacts" and was derived from 2007 Act No. 98, Section 2.

ARTICLE 3

Control of Salvage Operations [Repealed]

Editor's Note

Former Article 3, regulating salvage operations, was repealed and replaced with a new Article 4, the South Carolina Antiquities Act of 1982, by 1982 Act No. 365. Subsequently, Article 4 was repealed, and replaced with a new Article 5, the South carolina Underwater Antiquities Act of 1991, by 1991 Act No. 169. For current provisions governing underwater exploration, recovery or salvage operations, see Sections 54‑7‑610 et seq.

**SECTION 54‑7‑210.** [1962 Code Section 54‑321; 1968 (55) 3077; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑220.** [1962 Code Section 54‑322; 1968 (55) 3077; 1969 (56) 301; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑230.** [1962 Code Section 54‑323; 1968 (55) 3077; 1969 (56) 301; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑240.** [1962 Code Section 54‑324; 1968 (55) 3077; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑250.** [1962 Code Section 54‑325; 1968 (55) 3077; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑260.** [1962 Code Section 54‑326; 1968 (55) 3077; 1969 (56) 301; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑270.** [1962 Code Section 54‑327; 1968 (55) 3077; 1969 (56) 301; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

**SECTION 54‑7‑280.** [1962 Code Section 54‑328; 1968 (55) 3077; Am 1977 Act No. 1] Repealed by 1982 Act No. 365 Section 16.

ARTICLE 4

South Carolina Underwater Antiquities Act of 1982 [Repealed]

Editor's Note

Former Article 4, the South Carolina Antiquities Act of 1982, which replaced an earlier Article 3, regulating salvage operations, was repealed, and replaced with a new Article 5, the South Carolina Underwater Antiquities Act of 1991, by 1991 Act No. 169. For current provisions governing underwater exploration, recovery or salvage operations, see Sections 54‑7‑610 et seq.

**SECTIONS 54‑7‑400 to 54‑7‑450.** [En 1982 Act No. 365 Sections 1‑6] Repealed by 1991 Act No. 169 Section 2, eff June 12, 1991.

**SECTION 54‑7‑460.** [En 1982 Act No. 365, Section 7; 1983 Act No. 151 Part II Section 51A] Repealed by 1991 Act No. 169 Section 2.

**SECTION 54‑7‑470.** [En 1982 Act No. 365, Section 8] Repealed by 1991 Act No. 169 Section 2.

**SECTION 54‑7‑480.** [En 1982 Act No. 365, Section 9; 1983 Act No. 151 Part II Section 51B] Repealed by 1991 Act No. 169 Section 2.

**SECTIONS 54‑7‑490 to 54‑7‑540.** [En 1982 Act No. 365, Sections 10‑15] Repealed by 1991 Act No. 169 Section 2.

ARTICLE 5

The South Carolina Underwater Antiquities Act of 1991

**SECTION 54‑7‑610.** Short title.

 This article may be cited as the South Carolina Underwater Antiquities Act of 1991.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑620.** Definitions.

 As used in this article:

 (1) "Artifact", "artifactual item", or "artifactual material" means any object or assemblage of objects found in an archaeological context which yields or is likely to yield information of significance to the scientific study of human prehistory, history, or culture, and which have remained unclaimed for more than fifty years.

 (2) "Artifact recovery" means the recovery of artifactual material by hand or through excavation.

 (3) "Beneath or substantially beneath" means permanently or periodically covered, in whole or in part, by the territorial waters of the State.

 (4) "Commercial applicant" means an applicant for a license under this article for purposes other than those of a noncommercial applicant, such as commercial salvage or income‑producing purposes.

 (5) "Complete paleontological specimen" means a fossil which is more than eighty percent intact and has recognizable diagnostic features for identification.

 (6) "Data" means any information related to the site of submerged archaeological historic property or submerged paleontological property which includes, without limitation, artifactual and/or paleontological material, remote sensing survey charts, magnetic tape records of positions, site maps, feature plans, photographs, measurements, and historical documentation.

 (7) "Data collection" means the accumulation of data through methods which do not include excavation. "Data collection" includes the collection of artifactual and/or paleontological material that is exposed or resting on, but not embedded in, submerged lands.

 (8) Reserved.

 (9) "Data recovery" means a systematic study carried out in accordance with a research plan which may include data collection, excavation, and artifact or fossil recovery.

 (10) "Day" means a twenty‑four hour period beginning at 12:00 midnight.

 (11) "Debris field" means the area in which artifactual or paleontological materials associated with a site are found.

 (12) "Director" means the Director of the Institute or a designee of the director.

 (13) "Embedded" means firmly affixed in submerged lands such that the use of tools of excavation are required in order to move the bottom sediments to gain access to the submerged archaeological historic property or paleontological materials or any part of them.

 (14) "Excavation" means the process of moving, removing, or disturbing bottom sediments to expose submerged archaeological historic property or submerged paleontological materials.

 (15) "Field archaeologist" means a professional archaeologist selected by the licensee and approved by the institute to supervise operations under a license. The field archaeologist must hold an advanced academic degree with a specialization in underwater, nautical, or maritime archaeology and meet or exceed the Standards of the Secretary of the Interior (48 F.R. 44738‑44739) and act pursuant to the criteria set forth by the South Carolina State Historic Preservation Office Guidelines and Standards for Archaeological Investigations.

 (16) "Field paleontologist" means a paleontologist selected by the licensee and approved by the museum to supervise operations under a license.

 (17) "Historic property" means a district, site, building, structure, or object significant in the prehistory, history, upland and underwater archaeology, architecture, engineering, and culture of the State, including artifacts, records, and remains related to the district, site, building, structure, or object.

 (18) "Immediate environment" means that area surrounding a submerged archaeological historic property or submerged paleontological site which, if disturbed, could result in substantive injury to the property, including, without limitation, the debris field.

 (19) "Institute" means the South Carolina Institute of Archaeology and Anthropology.

 (20) "Intensive survey" means a field and archival investigation of an area designed to gather and identify fully information about submerged archaeological historic properties sufficient to evaluate them in relation to National Register criteria of significance within specific historical contexts. It may also mean a field and archival investigation of an area designed to gather and identify fully information about submerged paleontological materials sufficient to evaluate them for geologic time period and species identification. Intensive survey may include data collection, test excavation, data recovery, and specimen recovery on a limited basis.

 (21) "Licensee" means any person or entity authorized to perform certain recovery operations from a submerged archaeological historic property or submerged paleontological property under the provisions of this article by the South Carolina Institute of Archaeology and Anthropology. It is not a proof of qualification to skin or scuba dive nor that a person is qualified to skin or scuba dive.

 (22) "Monitoring archaeologist" means an underwater archaeologist selected by the institute for the purpose of monitoring work activity under a license issued by the institute.

 (23) "Monitoring paleontologist" means a paleontologist or Natural History Curator selected by the museum commission for the purpose of monitoring work activity under a license issued by the institute.

 (24) "Museum Commission", "museum", "commission", and "State Museum" means the South Carolina Museum Commission authorized by this article as custodians of paleontological materials.

 (25) "National Register" means the National Register of Historic Places maintained by the Secretary of the United States Department of the Interior.

 (26) "Navigable waters" means all waters belonging to the State which are navigable in fact or were navigable in the past. The term includes rivers and streams in which the tide ebbs and flows.

 (27) "Noncommercial applicant" means a person seeking a license for the purpose of gathering scientific, historical, or architectural data for either:

 (a) public exhibition, interpretation, or preservation and not for the purpose of producing income, profit, or gain; or

 (b) mitigation of adverse effects of a proposed undertaking on submerged archaeological historic property or submerged paleontological property.

 (28) "Object" means a material thing produced or resulting from human activity which has functional, aesthetic, cultural, historical, or scientific value and which includes artifactual material.

 (29) "Paleontological materials", "materials", "specimen", "fossil", "fossil materials", or "paleontology materials" means any object or assemblage of objects found in a paleontological context including, but not limited to, plant and animal fossils such as bones, teeth, natural casts, molds, impressions, and other remains of prehistoric fauna which yield or are likely to yield information of significance to the scientific study or educational potential of the past. Faunal means fossilized plant and animal remains from past geologic periods including, but not limited to, molds, casts, bones, and teeth.

 (30) "Paleontological property" means paleontological material or any site which contains paleontological material.

 (31) "Paleontological recovery" or "fossil recovery" means the recovery of paleontological materials by hand or through excavation.

 (32) "Person" means an individual, partnership, corporation, association, organized group of persons, or any other legal entity.

 (33) "Preservation" means the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and reconstruction of a submerged archaeological historic property or a submerged paleontological property.

 (34) "Primary scientific value" means any submerged archaeological historic property or submerged paleontological property which:

 (a) yields or may yield information of great importance or significance to state, regional, national or international history or prehistory. Significance may be judged by the potential of the property to provide information, its physical condition, the research questions it might answer, its educational or exhibit value, or its relationship to known archaeological and historical records and future research needs; or

 (b) is included in, or has been determined, or may be eligible for inclusion in the National Register of Historic Places.

 (35) "Reconnaissance survey" means a limited archival and field investigation, designed and accomplished in sufficient detail to make generalizations about the type, distribution, and value of an area's submerged archaeological historic properties or submerged paleontological sites, which may include data collection but may not include excavation, data recovery, or artifact recovery.

 (36) "Recreational value" means value related to an activity which the public engages in, or may engage in, for recreation or sport, including, but not limited to, scuba diving and fishing.

 (37) "Site" means:

 (a) the location of an event, a prehistoric or historic occupation or activity, or a building or structure including a shipwreck, whether standing, ruined, or vanished, and its debris field where the location itself maintains historical or archaeological value regardless of the value of any existing structure;

 (b) the location of an accumulation of paleontological material where the location itself maintains paleontological value.

 (38) "State" means the State of South Carolina.

 (39) "State Underwater Archaeologist" means a person appointed by the Director of the South Carolina Institute of Archaeology and Anthropology who administers this article.

 (40) "State Historic Preservation Officer" means the individual who administers the State Historic Preservation Program under the provisions of the National Historic Preservation Act of 1966.

 (41) "Structure" means a constructed work made up of interdependent and interrelated parts in a definite pattern of organization.

 (42) "Submerged" means beneath or substantially beneath the territorial waters of the State or submerged at mean low tide.

 (43) "Submerged archaeological historic property" means any site, vessel, structure, object, or remains which:

 (a) yields or is likely to yield information of significance to scientific study of human prehistory, history, or culture; and

 (b)(i) is embedded in or on submerged lands and has remained unclaimed for fifty years or longer; or

 (ii) is included in, or has been determined, or may be eligible for inclusion in the National Register of Historic Places.

 The term includes archaeological material which includes, but is not limited to, abandoned shipwrecks and their contents and individual assemblages of historic or prehistoric artifacts.

 (44) "Submerged lands" means lands beneath or substantially beneath the territorial waters of the State or which are submerged at mean low tide.

 (45) "Submerged paleontological property" means any object or assemblage of objects found in a paleontological context which yield or are likely to yield information of significance to the scientific study or educational potential of the past faunal diversity, past environments, geologic time, or other paleontological concerns.

 (46) "Substantive injury" means any action or influence which causes a change in the archaeological or paleontological context, the structural integrity, or the physical condition of a site as to render it more vulnerable to loss, damage, destruction, or diminution of historic or paleontological value.

 (47) "Territorial waters" means the navigable waters of the State, namely, all tidal waters within the boundaries of the State up to, but not above, the line of mean low tide and seaward to a line three geographical miles distant from the coastline of the State measured by reference to mean low tide elevation as defined in the Geneva Convention, Article 11, and such other waters of the State as may be included within the term "lands beneath navigable waters" as defined in the Federal Abandoned Shipwreck Act of 1987.

 (48) "Undertaking" means an activity by the institute or South Carolina Museum Commission that would otherwise require a license under this article. "Undertaking" does not include activities which, in the State Underwater Archaeologist's determination, must be conducted within sixty days in order to preserve submerged archaeological historic property or submerged paleontological property that is or may be of primary scientific value or of major archaeological, anthropological, or historic value and threatened with imminent destruction or substantial damage.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Sections 1‑3, eff September 26, 2002.

Effect of Amendment

The 2002 amendment, in paragraph (15), in the first sentence, substituted "a professional" for "an" and added the second sentence; in paragraph (39), substituted "State Underwater Archaeologist" for "State Archaeologist" and rewrote the paragraph; and, in paragraph (48), added "underwater" and made a nonsubstantive change.

**SECTION 54‑7‑630.** Title to all submerged paleontological property and submerged archaeological historic property and artifacts in state; may be conveyed to licensee.

 (A) All submerged archaeological historic property and artifacts and all submerged paleontological property located on or recovered from submerged lands over which the State has sovereign control, are declared to be the property of the State.

 (B) Title to submerged archaeological historic property and artifacts and all submerged paleontological property, or a portion of the property recovered from submerged lands over which the State has sovereign control, may be conveyed by the State to a licensee pursuant to a license issued by the institute.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑640.** Custodians of submerged archaeological historic property and artifacts, submerged paleontological material, and other things of value.

 (A) The custodian of submerged archaeological historic property and artifacts owned by the State or on state submerged lands is the South Carolina Institute of Archaeology and Anthropology. The South Carolina Institute of Archaeology and Anthropology may promulgate regulations as necessary to carry out its duties under this article.

 (B) The custodian of all submerged paleontological material is the South Carolina Museum Commission. The institute, after consultation with the South Carolina Museum Commission, may promulgate regulations regarding submerged paleontological property as necessary for this purpose. For the purposes of this article, and where submerged paleontological property is involved, the institute shall consult with the South Carolina State Museum.

 (C) The custodian of any other things of value not provided for in this section is the Department of Administration which may promulgate regulations as necessary for this purpose.

HISTORY: 1991 Act No. 169, Section 1.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 54‑7‑650.** Licenses to conduct activities affecting submerged archaeological historic properties or paleontological properties; disposition of recovered property; permission to recover other property.

 (A) A person desiring to conduct activities pursuant to this article in the course of which submerged archaeological historic properties or paleontological properties may be removed, displaced, or destroyed shall apply to the institute for a license to conduct the activity. If the institute finds that the granting of the license is in the best interests of the State, it may grant it for the time and under the conditions the institute considers appropriate to this article.

 (B) The institute may enter into agreements with licensees for the disposition of recovered submerged archaeological historic property and submerged paleontological property.

 (C) The disposition may include division of the recovered property with the licensee.

 (D) The division may be in value or in kind, with the institute acting as arbiter of the division in the best interests of the State and giving due consideration to the fair treatment of the licensee. Any agreement entered into by the institute must provide for the licensee to receive reasonable compensation for any recovered submerged archaeological historic property or submerged paleontological property claimed and turned over to the State.

 (E) No license is required of the institute or, where submerged paleontological property is involved, the South Carolina Museum Commission, which may conduct any undertakings provided for by this article. All recovered submerged archaeological historic property and submerged paleontological property belong to the State.

 (F) Any persons desiring to recover anything of value other than submerged archaeological historic property or submerged paleontological property must obtain permission from the Department of Administration under the terms the department determines.

 (G) A person may not knowingly recover, collect, excavate, or disturb a submerged archaeological historic property or submerged paleontological property on submerged lands over which the State has sovereign control without a license from the institute.

 (H) The institute shall issue and administer licenses for any activity involving the recovering, collecting, excavation, or disturbance of submerged archaeological historic property and submerged paleontological property on submerged lands over which the State has sovereign control.

HISTORY: 1991 Act No. 169, Section 1.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 54‑7‑660.** No license required for non‑disturbing inspection, study, and the like.

 A person may inspect, study, explore, photograph, measure, record, conduct a reconnaissance survey, use magnetic or acoustic detection devices, or otherwise use and enjoy a submerged archaeological historic property and/or submerged paleontological property without being required to obtain a license if the use or activity does not:

 (1) involve excavation, destruction, substantive injury, or disturbance of the historic property, a paleontological site, or its immediate environment;

 (2) endanger other persons or property; or

 (3) violate other regulations or provisions of federal, state, or local law or ordinance.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑670.** Hobby licenses; reports of hobby divers as to finds; restrictions.

 (A) A person desiring to conduct temporary, intermittent, recreational, small scale, noncommercial search and recovery of submerged archaeological historic property or submerged paleontological property shall apply for a hobby license from the institute. Any person collecting from state property such as river banks or beaches below the mean low watermark shall apply for a license.

 (B) A person desiring to apply for a hobby license shall submit a completed application on a standard form prescribed by the institute together with a license fee. A license fee of five dollars for residents of this State and ten dollars for nonresidents must be charged for a six‑month hobby license. A license fee of eighteen dollars for residents of this State and thirty‑six dollars for nonresidents must be charged for a two‑year hobby license.

 (C) This nonexclusive statewide license may be granted optionally for a six‑month or two‑year period.

 (D) Licenses may be granted to individuals or members of an immediate family.

 (E) Hobby license holders may not exercise the privileges of their licenses in waters for which any type of exclusive license has been granted and is in effect or in waters for which such exclusive licenses become effective during the life of that exclusive license.

 (F) This section limits the recovery of objects or materials from submerged archaeological historic property and submerged paleontological property under a hobby license to a limited number of objects which can be recovered by hand. All powered mechanical dredging and lifting devices and buoyancy equipment except a personal flotation device of any sort are prohibited including, but not limited to, prop wash, air lift, water dredge, and pneumatically‑operated lift bags under the license.

 (1) A person with a hobby license may collect from submerged lands of this State a reasonable number of artifactual items and/or complete and fragmented fossil specimens a day that:

 (a) are exposed or resting on the bottom sediments of submerged lands; and

 (b) do not require excavation to recover.

 (2) No artifactual or paleontological materials may be recovered from submerged lands of this State unless they can be obtained by hand.

 (3) No specimen may be recovered from a fossil specimen with joined or interrelated elements before contacting the museum.

 (G)(1) All persons who have collected objects in accordance with Section 54‑7‑670 shall furnish the institute with a report which is to include a list of the objects and a description of the places from which the objects were recovered. Hobby divers are also encouraged, but not required, to include photographs or drawings of artifacts recovered and rough sketch plans of the site or map of the location with the exception of shipwreck sites covered under item (2) of this subsection. Reports submitted under a two‑year hobby license must be filed within ten days following the end of the calendar quarter in which the activities took place. All reports under this license must be filed with the institute prior to submitting application for renewal of a hobby license. The institute will not consider applications for renewal until all outstanding reports have been received.

 (2) No more than ten artifacts a day may be recovered from a shipwreck site. Divers may not destroy the integrity of the ship's structure by removing or moving timbers, fittings, fastenings, or machinery. Hobby divers who have recovered any artifacts from a shipwreck site must include in the report both a locational reference to the shipwreck site by locating the site on a topographic or hydrographic chart and a sketch map of the wreck site showing the location from where the artifacts were recovered in relation to the wreck.

 (3)(a) The institute shall review each list of objects and within sixty days from the receipt of the quarterly report release title to all artifacts reported.

 (b) Objects recovered that are not considered by the institute to be artifactual items may be retained by the persons who collected the objects.

 (c) If the institute has not acted by the end of the sixty days, title to the artifactual material recovered and listed on the hobby diver's report is automatically conveyed to the licensee.

 (d) If the institute has determined that the licensee has violated any of the terms of this article, the institute may require that the artifacts be turned over to the institute and revoke the license.

 (H)(1) All persons who have collected fossil specimens in accordance with Section 54‑7‑670 shall furnish the museum commission with a report, which must include a list of the fossils and a description of the places from which the fossils were recovered. Hobby divers are also encouraged, but not required, to include photographs or drawings of fossils and rough sketch plans of the site or map of the location. All reports submitted under a two‑year hobby license must be filed within ten days following the end of the calendar quarter in which the activities took place. All reports under this license must be filed with the institute prior to submitting application for renewal of a hobby license. The institute will not consider applications for renewal until all outstanding reports have been received.

 (2)(a) The museum shall review each list of specimens and within sixty days from receipt of the quarterly report release title to all specimens reported.

 (b) Specimens recovered that are not considered by the museum to be paleontological material may be retained by the persons who collected the fossils.

 (c) If the museum has not acted by the end of the sixty days, title to the paleontological material recovered and listed on the quarterly report is automatically conveyed to the licensee.

HISTORY: 1991 Act No. 169, Section 1; 1992 Act No. 503, Section 2, eff July 1, 1993; 2002 Act No. 364, Sections 4‑6, eff September 26, 2002.

Effect of Amendment

The 1992 amendment, in (3)(a) of subsection (G), substituted "artifacts" for "specimens".

The 2002 amendment, in subsection (B), deleted the last sentence setting the license fee; in subsection (C), deleted the final clause of the first sentence and the second and third sentences dealing with renewals and weekend and two‑day hobby licenses; rewrote subsection (D) to delete references to hobby and instructional licenses; and in subsections (G)(1) and (H)(1), deleted references to Section 54‑7‑680 and the licenses issued under it, rewrote the fourth sentences and added the fifth sentences.

**SECTION 54‑7‑680.** Repealed by 2002 Act No. 364, Section 13, eff September 26, 2002.

Editor's Note

Former Section 54‑7‑680 was entitled "Instructional licenses; reports; restrictions" and was derived from 1991 Act No. 169, Section 1.

**SECTION 54‑7‑690.** Intensive survey licenses; data recovery licenses; waiver; applications.

 (A) The institute may issue an intensive survey license or a data recovery license. Each license is exclusive to the applicant so that, for the duration of the license and any applicable exclusive interest period, the institute may not issue a license to any other person for the same location.

 (B) An intensive survey license may be issued to an applicant to carry out an intensive survey for the purpose of delineating the boundaries of a specific location which the applicant believes may contain submerged archaeological historic property or submerged paleontological property.

 (C) A data recovery license may be issued to an applicant to conduct data recovery on submerged archaeological historic property or submerged paleontological property if the applicant has submitted positive results of an intensive survey license which was previously issued by the institute for the same location. The results must include, as applicable:

 (1) documentary archival evidence, and if no documentary evidence is found, primary and secondary sources consulted must be listed;

 (2) electronic remote sensing data; and/or

 (3) artifactual or fossil specimen evidence recovered from a proven site context.

 (D) A person who seeks to excavate or disturb submerged archaeological historic property or submerged paleontological property shall apply for a license from the institute. Upon receiving a report of a submerged archaeological historic property or submerged paleontological property, the institute shall, within sixty days of receipt of the report, assess the property to determine its significance.

 (E) The institute may waive the requirement of a license under this article if the activity underlying the license is an undertaking that is subject to Section 106 of the National Historic Preservation Act and the applicant is complying with the provisions of that law and any corresponding regulations.

 (F) Applications for licenses must be made upon standard forms prescribed by the institute. Each application must include at least:

 (1) the precise position of the project location including a map of sufficient detail to enable the location to be accurately depicted on a standard marine navigational chart;

 (2) the depth of the project location;

 (3) the applicant's opinion based upon archival or archaeological research as to specific characteristics of the submerged archaeological historic property including, at a minimum and where applicable, size, age, type and identity, methods and materials of construction, and the general condition of the property. In the case of submerged paleontological property, the applicant's opinion based upon archival or paleontological research as to specific characteristics of the submerged paleontological material including, at a minimum and where applicable, size, geologic time period, type and identity, and the general condition of the fossils. The institute may also require the applicant to submit pertinent archival, archaeological, paleontological, and other research data utilized by the applicant as the basis of the applicant's opinion;

 (4) a proposed research plan which must conform to the standards of underwater archeology established by the institute and designed to recover relevant scientific, historical, architectural, paleontological or other data as well as artifacts. It must be in a form prescribed by the institute and detail the proposed techniques and methods of excavation, recovery, conservation, inventory, recordation, storage of recovered materials, dissemination of data, and the proposed starting date and length of time expected to be devoted to the work. The proposed research plan must also consist of:

 (a) a description of the proposed methodology, identification, documentation, or other treatment of submerged archaeological historic property or submerged paleontological property that identifies the project's goals, methods, and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments;

 (b) a justification of the specific techniques and methods proposed to be used;

 (5) information regarding the personnel who will be performing the work. This information must include at least the following:

 (a) the name and address of the applicant;

 (b) the name and address of the field archaeologist who will be immediately supervising the work;

 (c) the names and addresses of all persons who will participate in the work; and

 (d) a listing for each individual, including the field archaeologist, of his relevant experience, training, and certifications in maritime archeology or related fields.

 (6) a listing of the proposed equipment to be used in the work or that will be available for use;

 (7) a copy of the applicant's most current financial statement and an explanation of the applicant's proposed resources financially to support the work; and

 (8) the appropriate license application fee.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑700.** Exclusive license for excavation or disturbance of submerged archaeological historic property and submerged paleontological property; conditions for issuance.

 (A) The institute may issue an exclusive license for the excavation or disturbance of submerged archaeological historic property and submerged paleontological property on submerged lands over which the State has sovereign control to any person or entity for the time and under the conditions as the institute considers appropriate. After an agreement has been entered into pursuant to Section 54‑7‑650(B), licenses may be issued if the institute determines that:

 (1) issuance of the license is in the best interests of the State; and

 (2) the applicant has completed an application which includes a research plan that meets standards established by the institute regarding professional qualifications, techniques, and methodology for recovery and dissemination of data and proper conservation of information and materials.

 (B) The institute may not issue an exclusive license to a person or entity seeking title to a submerged archaeological historic property or submerged paleontological property or a portion of such property, or to a person or entity seeking to utilize a submerged archaeological historic property or submerged paleontological property for commercial salvage or other income‑producing purposes, unless:

 (1) issuance of a license is consistent with the purposes of subsection (A)(2) of this section;

 (2) the applicant has provided the institute with some form of assurance acceptable to the institute that the project will be carried out and completed in accordance with the research plan approved by the institute; and

 (3) the institute finds one or more of the following conditions met:

 (a) the property to be excavated or disturbed is, in the opinion of the institute, threatened with imminent destruction or substantial damage by natural factors or by human factors unrelated to the commercial excavation or disturbance of the submerged archaeological historic property or submerged paleontological property in question;

 (b) the submerged archaeological historic property or submerged paleontological property is not, in the opinion of the institute, of primary scientific value, of major archaeological, anthropological, historical, recreational, or other public value;

 (c) the proposed disturbance will be minor in scale and will produce information relevant to the goals of the South Carolina Institute of Archaeology and Anthropology or the South Carolina Museum Commission regarding the management and preservation of submerged archaeological historic property and submerged paleontological property; or

 (d) that the subject property of the license will not be excavated by any other person in the foreseeable future and that property will remain submerged until that time.

 (C) The institute may apply the requirements of subsection (B) of this section to all noncommercial applicants.

 (D)(1) The institute may require a licensee to assist in defraying the cost of the institute's and/or museum's review, administration, and supervision of the license.

 (2) The application fee for an intensive survey license is fifty dollars for residents and one hundred dollars for nonresidents. The application fee for a data recovery license is five hundred dollars for residents and one thousand dollars for nonresidents.

 (3) The institute reserves the right to waive the license application fee, in whole or in part, if the institute considers it appropriate in order to adjust the reasonableness of the fee as a proportion of the potential value and risk in undertaking the licensed project to the anticipated costs of the institute to review, supervise, and administer the license.

 (4) The license application fee must be refunded if the institute rejects a license application.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑710.** Criteria for determining whether to issue exclusive license; public hearing optional.

 (A) The institute shall consider at least the following criteria when determining whether or not to issue an exclusive license:

 (1) the degree of archaeological, anthropological, historical, paleontological, and scientific importance and public educational potential of the proposed property including, without limitation, its eligibility for inclusion in the National Register;

 (2) the date the application was received in order to give priority to the first applicant requesting a license for a particular project location;

 (3) the degree and scope of planning undertaken by the applicant including project readiness and financial feasibility and commitment to undertake and complete the work;

 (4) the degree of training and experience of the applicant and his personnel, as well as his professional degrees and experience of his field archaeologist or field paleontologist in the field of maritime archeology or paleontology and underwater fossil recovery;

 (5) the extent to which the applicant's responses in the application are thorough;

 (6) the extent to which the applicant possesses, or will possess at the beginning of the work, the necessary equipment to undertake the license activity; and

 (7) the degree of public benefit to be derived from issuance of the license in relation to the degree of harm to the state's submerged archaeological historic property or submerged paleontological property to be expected from issuance of the license.

 (B) The institute may not issue an exclusive license under this article unless:

 (1) the institute has made a written determination that issuance of the license is in the best interest of the State; and

 (2) the institute has made a written determination that the applicant has submitted a complete application, including a research plan, in form and content satisfactory to the institute which satisfies all of the requirements of this section.

 (C) Accompanied by the applicant, a representative of the institute and/or the museum may visit the proposed project location to determine the license area boundaries and to confirm the information required.

 (D)(1) The institute may require a public hearing before a decision regarding the issuance of an exclusive license.

 (2) Public notice of an application must be posted in a prominent place at the institute and may be circulated to state, federal, and local agencies as appropriate.

 (3) The public hearing may be held at a location designated by the institute.

 (4) At a hearing the applicant shall present his application to the institute, agencies, and the public and allow questions, comments, and responses by these groups.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Section 7, eff September 26, 2002.

Effect of Amendment

The 2002 amendment, in subsection (A)(4), substituted "and" for ";" following "applicant", added "as well as his professional degrees and experience" following "personnel", and substituted "of" for "or" preceding "his field archaeologist".

**SECTION 54‑7‑720.** Delayed issuance of license; denial of license; reconsideration of denial.

 (A)(1) The institute may approve an exclusive license application from a commercial applicant but delay issuance of the license until the following conditions have been satisfied within a time period determined by the institute:

 (a) the applicant has designated and, if required, placed into escrow the costs associated with the institute's monitoring of the work undertaken, if monitoring is required by the institute;

 (b) the applicant has identified and received the institute's approval of the facility proposed to conduct conservation of any recovered artifacts and fossils needing stabilization or articulation;

 (c) in the case of a data recovery license, the institute and the applicant have agreed upon all issues of disposition and title to submerged archaeological historic property or submerged paleontological property which may be recovered by the applicant;

 (d) the applicant has furnished the institute with a form of assurance acceptable to the institute and adequate to guarantee that if work under the license is interrupted or abandoned, the necessary archaeological and/or paleontological fieldwork, analysis, report preparation, conservation, and curation will be carried out in accordance with the research plan approved by the institute. This assurance may be in the form of escrowed funds, a letter of credit, a performance bond, or other type of assurance acceptable to the institute. The type and amount of assurance may be negotiated between the applicant and the institute, but the amount normally must be a sum equal to at least one‑third the amount budgeted and approved by the institute for field recovery, unless a lesser amount is determined by the institute to be acceptable; and

 (e) any other condition that the institute considers necessary to protect the integrity of submerged archaeological historic property or submerged paleontological property.

 (2) The requirements of item (1) of this subsection also apply to noncommercial applicants for exclusive licenses who are seeking title to submerged archaeological historic property or submerged paleontological property, other than an agency or unit of the State.

 (B) If the institute determines not to issue a license, the institute shall issue a written notice of denial.

 (C)(1) An applicant may request reconsideration of a denial by submitting a written request to the institute which must be received within thirty days following the date of the institute's denial notice. The request for reconsideration must address each reason for the denial and provide documentation supporting reasons for reconsideration of the issues.

 (2) Any person aggrieved by the decision of the institute may request an institute hearing.

 (3) The hearing must be held and the institute's final decision issued within sixty days of the date of the hearing.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑730.** Provisions which must be shown on license issued by institute.

 (A) Each license issued by the institute must contain at least the following provisions:

 (1) the duration of the license;

 (2) the boundaries of the area in which the work will be undertaken;

 (3) a description of the scope of work to be undertaken by the licensee and, if a data recovery license, a description of the artifactual and/or paleontological materials expected to be recovered;

 (4) a listing of the key personnel including the field archaeologist who will be conducting the work; and

 (5) a description of the expected types of activity which must be undertaken by the licensee in order to restore the submerged lands following completion of the intensive survey or investigation.

 (B) A license issued by the institute may contain provisions requiring monitoring of the license activity by a monitoring archaeologist and/or a monitoring paleontologist in order to ensure compliance with the provisions of the license and this article. These provisions, if any, must be so noted on the license.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑740.** Additional provisions applicable to licenses issued by State Archaeologist.

 For each license issued by the State Underwater Archaeologist the following provisions also apply:

 (1)(a) The assignment of additional personnel or any change in the personnel from that scheduled in the application to perform the work is subject to prior approval by the institute in order to assure that the overall qualifications of the licensee are consistent with those originally considered by the institute in the issuance of the license.

 (b) The institute must be afforded at least ten business days to review the qualifications of proposed new personnel before approving their assignment. If the institute fails to respond within the ten‑day period the new personnel are considered approved.

 (2)(a) At all times there must be a person designated by and acting for the licensee aboard any vessel or present at any phase of the work carried out under the license who is responsible for the work and the proper accounting of all artifacts and fossil specimens located or recovered and who must be familiar with and responsible for compliance with the terms and requirements of the license.

 (b) At all times the work must be under the immediate supervision of a professional field archaeologist with training or experience in maritime archeology that is acceptable to the institute or, where a paleontological property is involved, a field paleontologist or museum curator that is acceptable to the museum.

 (c) The monitoring archaeologist, if any, shall ensure that the field archaeologist complies with the research plan approved by the institute.

 (d) The monitoring paleontologist, if any, shall ensure that the field paleontologist complies with the research plan approved by the institute and museum.

 (e) Any disputes or differences of opinion between the field archaeologist and the monitoring archaeologist must be resolved by the monitoring archaeologist.

 (f) Disputes or differences of opinion between the field paleontologist and the monitoring paleontologist must be resolved by the monitoring paleontologist.

 (g) If a license contains monitoring provisions, the licensee shall act in accordance with the direction given by the monitoring archaeologist and/or monitoring paleontologist, especially with respect to:

 (i) methods of handling any artifact or fossil specimen so as to minimize any risk of loss, damage, substantive injury to, or deterioration of, the artifact or specimen;

 (ii) methods of preserving from damage, decay, or deterioration any artifact or fossil specimen by contact with air, light, or otherwise;

 (iii) methods of entering upon or dealing with any site so to avoid as much as possible any damage to the site; and

 (iv) methods of cataloguing, indexing, or recording any artifacts and/or fossil specimens found upon or in the vicinity of any site whether or not those artifacts or specimens are brought to the surface.

 (3)(a) Changes in financial support or equipment for the project from that listed on the license application must be approved by the institute.

 (b) The licensee shall notify the institute in writing of changes or proposed changes in financial support or equipment from that noted in the license application. The notice shall contain information regarding the change in the form and detail required by the institute. The institute must be afforded at least ten business days to review the changes before making a decision whether or not to approve them. If the institute fails to respond within the ten‑day period, the changes are considered approved.

 (c) If the institute determines that changes or proposed changes in the financial support or the equipment for the project from that listed in the license application decrease materially the licensee's ability to carry out and complete the project in accordance with the research plan approved by the institute, the State Archaeologist may revoke the license.

 (4)(a) The institute may require that security be provided and maintained for sites where submerged archaeological historic property or submerged paleontological property are discovered that are sufficiently significant to warrant protection.

 (b) If the institute determines that a site warrants protection, the licensee is responsible for providing and maintaining security for the site.

 (c) The State is not responsible for marking or protecting a site except as the institute may determine to be desirable in the administration of this article.

 (5) During work carried out under a license granted by the institute, the applicant shall maintain logs of all activities related to the license on standard forms prescribed by the institute which must include:

 (a) a day log;

 (b) a survey log;

 (c) a diving log;

 (d) a photographic log; and

 (e) an artifact log, including a catalogue numbering system prescribed by the institute.

 (6)(a) The licensee may not use any means of survey or excavation that would destroy or substantially injure a submerged archaeological historic property or submerged paleontological property before its location has been documented.

 (b) The licensee may not use explosives, cutterhead dredges, draglines, clam dredges, airlifts, suction dredges, propwash deflectors, or other grossly destructive devices in any aspect of activities covered under a license without the prior written consent of the institute.

 (7)(a) Recovery of artifacts and/or fossils may be made only under the supervision of the monitoring archaeologist in accordance with the research plan approved by the institute.

 (b) Large artifacts such as cannons, anchors, and hull remains that have not been specified for recovery in the license may not be recovered unless the licensee has obtained specific written permission from the institute.

 (c) Before a division of artifacts and/or fossils in accordance with the method established at the issuance of the license, the licensee may not:

 (i) devise, bequeath, transfer, convey, or dispose of by any manner an artifact or fossil recovered under the authority of a license; or

 (ii) melt, render down, or in any way change the shape, character, or form of an artifact or fossil recovered under the authority of a license.

 (8)(a) The licensee is wholly responsible for transporting, storing, and stabilizing all artifacts and fossils raised under the license and for the costs associated with these activities. The licensee is wholly responsible for conserving all artifacts and/or fossils to which the licensee receives title in a division.

 (b) The licensee shall deliver by a safe means all artifacts and/or fossils recovered during each calendar month through the duration of the license to the conservation facility approved by the institute in accordance with Section 54‑7‑720(A)(1)(b) for secure storage until the artifacts and/or fossils are treated or disposed of in accordance with the license. The licensee shall ensure delivery of the artifacts and/or fossils to the conservation facility within a time that has been specified in the license.

 (c) Every artifact and fossil delivered for storage to the conservation facility must be catalogued on an inventory form. The inventory form shall indicate receipt of the artifacts and/or fossils through the signature of a person authorized by the facility to receive the artifacts and fossils from the licensee. One copy of the inventory must be retained by the licensee, one copy must be transmitted to the institute, and one copy must be kept with the artifacts and/or fossils at the conservation facility.

 (d) The institute may designate separate storage areas for artifacts and fossils which are bulky and of a comparatively low intrinsic historical, scientific, or educational value from those items of high intrinsic historical, scientific, or educational value.

 (e) While any artifact or fossil is in storage, the State may use whatever means appropriate to inspect, document, conserve, record, and analyze the artifact or fossil.

 (9)(a) The licensee shall comply fully with all applicable federal, state, or local safety regulations governing activities exercised under the privileges of the license.

 (b) The licensee shall agree to indemnify the State and the institute from liability in accordance with Section 54‑7‑820(B).

 (c) The licensee shall maintain adequate insurance coverage for workers' compensation and liability to cover all activities under the license.

 (10) The licensee shall remove all waste, refuse, rubbish, or litter from the submerged lands caused by the licensed activity.

 (11)(a) The licensee shall comply fully with all federal, state, and local laws and regulations which govern the activities exercised under the privileges of the license and shall apply for, receive, and fully comply with all necessary licenses and permits.

 (b) The licensee shall ensure that its operations are conducted in a manner so as not to impede navigation in existing federal or state navigation channels or to damage or destroy important natural areas, geologic formations, ecological preserves, or habitat areas.

 (12) In addition to any monitoring requirement that may be set forth in the license, a representative of the institute or, where paleontological property is involved, a representative of the museum may visit and be present at the location of operations carried out under a license including diving operations, storage, conservation, recordation, or any other aspect of the operations for which a license has been granted in order to ensure compliance with the license and this article.

 (13)(a) A representative of the institute or other designated state enforcement authority may at any time require the licensee to produce the license for examination.

 (b) A representative of the institute may examine all work done or being done under the license.

 (14) Licensees shall maintain records and file reports of activities as the institute specifies in the license. All records must be open to inspection by representatives of the institute or, where paleontological property is involved, representatives of the museum during reasonable working hours.

 (15) A license, or any part of a license, may not be assigned by the licensee to another person including a successor in interest of the licensee without the prior written consent of the institute. The work covered by a license may not be contracted or subcontracted by the licensee to any party not addressed by the license without the prior written consent of the institute.

 (16) The licensee shall retain full responsibility for the operations conducted under the license whether or not any of the work has been contracted or subcontracted. At all times there must be a person designated by the licensee aboard a vessel or present at any phase of the operation conducted under the privileges of the license who must be responsible for the work and who is familiar with the law, stipulations, and directives concerning the work and who is responsible for compliance with them in order to insure preservation of submerged archaeological historic property and/or submerged paleontological property.

 (17) The licensee shall prohibit its agents or employees from retaining any artifact and/or fossil specimens from a site.

 (18)(a) No applicant may be granted more than one exclusive license for the same time period.

 (b) To afford adequate protection for the interest of the State, it is the policy of the institute to limit the number of licenses granted to those that can be properly supervised, monitored, and administered by the authorized agents of the institute.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Section 8, eff September 26, 2002.

Effect of Amendment

The 2002 amendment, in the introductory paragraph, substituted "State Underwater Archaeologist" for "State Archaeologist".

**SECTION 54‑7‑750.** Additional provisions pertaining to intensive survey licenses.

 (A) The conditions set forth in this section for intensive survey licenses apply in addition to the terms and conditions for all licenses.

 (B)(1) The institute may issue an intensive survey license for up to a defined one square mile area.

 (2)(a) The institute may issue an intensive survey license for up to ninety days.

 (b) The licensee may request in writing renewal of the license for one additional period of up to ninety days. Upon application and payment to the institute of an additional fee in the same amount as the initial fee no later than fifteen days before the expiration of the license, the institute may renew a license under which the work has adhered to the license if the institute finds the renewal to be in the best interest of the State.

 (c)(i) Upon written request and payment to the institute of an additional fee in the same amount as the initial fee, at any time throughout the duration of a license, the licensee may reserve intensive survey rights in the square mile sections immediately surrounding and contiguous to the license area. Unless specifically approved in writing by the institute, the licensee may not carry out any activity in the reserved area until the institute's issuance of an additional license for the reserved area.

 (ii) The institute may issue an additional intensive survey license for the requested reserved area without any subsequent additional fee if the institute has determined that the licensee has adhered to the terms of the initial license.

 (C) With a minimum of disturbance to the site the licensee shall:

 (1) identify the source of anomalies;

 (2) delineate the extent of the site; and

 (3) evaluate the potential characteristics and significance of the submerged archaeological historic property or submerged paleontological property in consultation with the monitoring archaeologist or other representative of the institute or museum.

 (D) The licensee may not recover artifacts and/or fossil materials other than a limited number of small diagnostic artifactual and fossil materials that are useful in dating the site or in otherwise determining site significance.

 (E) If the institute determines that the licensee has carried out the intensive survey in compliance with the license and this article, the institute may:

 (1) retain the state's title and control of those artifactual and fossil items that the institute considers to be of primary scientific value or of major archaeological, anthropological, historical, paleontological, recreational, or other public value; and

 (2) release the state's title to those artifactual and fossil items the institute does not consider to be of primary scientific value or of major archaeological, anthropological, historical, recreational, or other public value.

 (F)(1)(a) Unless waived in writing by the licensee, the licensee has an exclusive interest for data recovery purposes in the intensive survey license area for one hundred eighty days from the expiration date of the license. The licensee must apply for a data recovery license in accordance with the provisions of this article within the one hundred eighty‑day period in order to exercise the licensee's exclusive interest.

 (b) If the licensee has reserved intensive survey rights in areas immediately surrounding and contiguous to the licensed one square mile section, then, unless waived in writing by the licensee, the licensee has an exclusive interest for data recovery purposes in those reserved areas, if an intensive survey has been conducted in those areas, for one hundred eighty days from the expiration of a license related to those areas that has been issued to the licensee. The licensee shall apply for a data recovery license in accordance with the provisions of this article within the one hundred eighty‑day period in order to exercise the licensee's exclusive interest.

 (2) If the institute does not receive the data recovery license application for the surveyed area within the one hundred eighty‑day period or the extended period, the institute may then accept license applications from other persons.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑760.** Additional provisions pertaining to data recovery licenses.

 (A) The conditions established in this section for data recovery licenses apply in addition to the terms and conditions for all licenses established in Sections 54‑7‑670 through 54‑7‑730.

 (B)(1) An applicant may not be issued more than one license at a time for a single submerged archaeological historic property or submerged paleontological property unless the institute determines that the applicant is capable of carrying out all proposed activities in a manner satisfactory to the institute and that the licenses can be properly supervised and administered by the institute.

 (2) The institute may issue a data recovery license for an appropriate period not to exceed one year. The licensee may request in writing renewal of the license for the same additional period. Upon application and payment of an additional fee not later than thirty days before the expiration of the license, the institute may renew a license under which work has adhered to the license if the institute finds the renewal to be in the best interest of the State.

 (C)(1) In areas disturbed under license, all artifacts encountered must be recovered by the licensee, with the exception of large artifacts such as cannons, anchors, and hull remains which would require special handling, storage, and preservation. The licensee shall contact the institute when large artifacts or hull remains are involved.

 (2) In areas disturbed under license, all specimens encountered must be recovered by the licensee, with the exception of fragile fossils which would require special handling, storage, and preservation or complete or partial intact skeletal remains. The licensee shall immediately contact the museum if complete or partial intact skeletal remains are found if the fossil needs special handling to insure its preservation on excavation.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑770.** Modification of licenses; property disposition agreements.

 Upon the written request of the licensee, or if considered necessary by the institute, the institute may issue a modification to the license that can add, delete, or modify provisions contained in the license if the modification is consistent with this article.

 (1) The institute may determine that with respect to a particular application for a data recovery license, it is in the best interest of the State to do either, or a combination of the following:

 (a) retain the state's title and control of all or a portion of recovered submerged archaeological historic property or submerged paleontological property; or

 (b) enter into a disposition agreement and convey the state's title to all or a portion of recovered submerged archaeological historic property or submerged paleontological property.

 (2)(a) A data recovery license issued by the institute also may include a disposition agreement that authorizes the state's conveyance of title to submerged archaeological historic property or submerged paleontological property, or a portion of the property, if:

 (i) the institute and the applicant have agreed upon a division of the artifacts and/or fossils expected to be recovered which may be in value, in kind, or a combination of both; and

 (ii) the applicant has agreed that its share of the division constitutes reasonable compensation for the recovery of artifacts and/or fossils to which the institute determines to retain the state's title.

 (b) The institute shall act as arbiter of the division of artifacts and fossils giving due consideration to the fair treatment of the applicant and acting in the best interest of the State which may include the desire to maintain the integrity of a collection as a whole.

 (c) The terms of a disposition agreement must include a provision that, except as provided in item (d) of this subsection, following the actual disposition of the artifacts and/or fossils, the licensee owns the artifacts and/or fossils free and clear of any interest of the institute or the State.

 (d) The terms of a disposition agreement may include:

 (i) an option or right of first refusal by the institute to purchase from the licensee after disposition of title one or more artifacts and/or fossils about which the institute has made a written determination to be of archaeological, anthropological, historical, recreational, or other public value to warrant reacquisition by the institute in certain circumstances; and

 (ii) the terms of additional compensation to be received by the licensee if, after recovery of the artifacts and/or fossils, the institute elects to retain title to more artifacts and/or fossils than as originally provided in the disposition agreement.

 (3) A representative of the institute or, where submerged paleontological property is involved, a representative of the museum, and the licensee shall inspect all artifacts and/or fossils recovered under the license within a reasonable time following recovery but in no event later than sixty days after the expiration of the license.

 (4) The institute and the licensee shall carry out the terms of disposition of artifacts as agreed upon in the license which will allow for a reasonable time for photography, study, research, and conservation of the artifacts and/or fossils.

 (5) The licensee is not entitled to claim any sum other than payment, if any, which may be provided for under the disposition agreement and is not entitled to claim reimbursement of expenses of data recovery.

 (6) For a commercial applicant for a data recovery license, the applicant, if licensed, must receive at least fifty percent of the artifacts and/or fossils recovered in value or in‑kind.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑785.** Finder of wreck other than licensed salvor; share of recovery.

 If the finder of a wreck is other than the licensed salvor (commercial applicant), the finder must receive twenty‑five percent of the licensed salvor's share.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑790.** License not required of institute or of museum.

 (A) A license is not required of the institute for any undertaking otherwise requiring a license under this article.

 (B) A license is not required of the museum for any undertaking involving paleontological property otherwise required under this article.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑800.** Suspension of license; revocation or restoration; grounds for revocation; notice and hearing; appropriation of data and artifacts recovered as result of violation of Article.

 (A) The institute may suspend operations under a license at any time for just cause if it has reason to believe that the terms and provisions of a license or other applicable law or regulation are being violated. Within ten days of the suspension, the State Underwater Archaeologist or his designee shall begin investigating the facts underlying a suspension. Upon conclusion of this investigation, the State Underwater Archaeologist shall issue a written determination recommending either that the license be restored or that the license be revoked. If the State Underwater Archaeologist recommends revocation of the license, then the license shall remain suspended until the matter is resolved as provided in this section.

 (B) The State Underwater Archaeologist may revoke a license for:

 (1) failure to begin work under the terms of the license within the first one‑third of the period of the license;

 (2) failure to work diligently toward completion of the project after it has been started or failure to maintain a presence on the site if weather permits;

 (3) if a licensee knowingly makes or causes to be made a false statement or report that is material to an action taken by the institute;

 (4) failure to comply with any of the provisions of the license;

 (5) violation of this article or any other pertinent law or regulation; or

 (6) when a license has been issued based upon incorrect information, mistaken belief, or clerical error, or any other just cause as provided by this article.

 (C)(1) The institute shall serve a notice of intent to revoke a license upon the licensee with a brief statement of the reasons alleged.

 (2) The licensee may request a hearing within thirty days of receiving the notice by filing a written request for a hearing with the institute.

 (3) The hearing must be held in accordance with Article 3, Chapter 23, Title 1, the Administrative Procedures Act.

 (D) The institute or anyone authorized by the institute may appropriate any artifacts and data that have been collected or recovered as a result of a violation of this article. The appropriated artifactual materials must be managed, cared for, and administered by the institute and the appropriated paleontological materials must be managed, cared for, and administered by the museum until a hearing can be held.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Section 9, eff September 26, 2002.

Effect of Amendment

The 2002 amendment, in subsections (A) and (B), substituted "State Underwater Archaeologist" for "State Archaeologist".

**SECTION 54‑7‑810.** Violation of Article a misdemeanor; penalties.

 (A)(1) A person who violates any of the provisions of Section 54‑7‑650(G), 54‑7‑660, or 54‑7‑670 is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than fifty dollars. If a person holds a hobby license issued under these sections, the license may be revoked by the institute.

 (2) Each day a violation continues constitutes a separate offense.

 (B)(1) A person who violates the terms of an exclusive license to utilize a submerged archaeological historic property or paleontological property for commercial salvage or other income producing purposes issued pursuant to Section 54‑7‑690 is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than ten thousand dollars or imprisonment for not more than one year, or both. If the person holds a license issued under that section, the license may be revoked by the institute.

 (2) Each day a violation continues constitutes a separate offense.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Section 10, eff September 26, 2002.

Effect of Amendment

The 2002 amendment deleted subsection (B) referring to hobby licenses under Section 54‑7‑680 and redesignated subsection (C) as subsection (B).

**SECTION 54‑7‑815.** Excavation or salvage of certain sunken warships unlawful.

 Notwithstanding any other provision of law, no person may excavate or salvage any sunken warship submerged in the waters of the Atlantic ocean within three miles of the South Carolina coast where there are, or it is believed that there are, human remains without the approval of the State Department of Administration. A person violating this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or sentenced to a term of imprisonment not to exceed five years, or both.

HISTORY: 1995 Act No. 83, Section 56, eff upon approval (became law without the Governor's signature on June 7, 1995).

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 54‑7‑820.** Retention and confidentiality of data provided to institute; exemption from liability; discovery of human remains or grave sites; issuance of licenses and administration of article; waivers and variances.

 (A) The institute reserves the right to retain and distribute for research or educational purposes data provided to the institute under this article. All archaeological and paleontological records of the South Carolina Institute of Archaeology and Anthropology and the South Carolina Museum Commission pertaining to submerged archaeological historic properties and submerged paleontological properties including, but not limited to, actual locations of the properties or mandatory reports from licensed divers concerning locations of the properties or objects or materials recovered from such properties, are not considered public record for purposes of the Freedom of Information Act. These records may only be opened when the State Underwater Archaeologist considers that it is in the best interest of the State to allow access to the records upon good cause shown by the persons petitioning to open the records.

 (B) The State and the institute are not liable or responsible for any accident, injury, or other harm sustained by any person or loss, damage, or harm to any vessel, equipment, or property in any way connected or associated with activities conducted on or about submerged lands with or without a license. Licensees shall agree to protect, indemnify, and hold harmless the institute and the State against liabilities, suits, actions, claims, demands, losses, expenses, and costs of every kind incurred by, or asserted or imposed against, the institute or the State as a result of or in connection with the license. All money expended by the institute or the State as a result of these liabilities, suits, actions, claims, demands, losses, expenses, or costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, is due and payable immediately and without notice by the licensee to the institute or the State, as appropriate.

 (C)(1) If, in the course of activity licensed under this article a person discovers human remains or an apparent grave site, the person shall:

 (a) leave the remains undisturbed unless the remains are a person who died in the course of diving operations or other immediate cause including, but not limited to, drowning, boating accident, or homicide;

 (b) immediately notify the State Underwater Archaeologist or a representative of the institute; and

 (c) suspend activity at the site until permitted to resume by the institute.

 (2) The State reserves the right to recover human remains for the purpose of study or reburial in accordance with any pertinent federal or state law.

 (D)(1) Except as may be otherwise specifically provided, the State Underwater Archaeologist is designated to issue licenses and otherwise administer this article.

 (2) The institute may establish from time to time detailed guidelines containing archeology standards, processing requirements, and other requirements or matters relating to the administration of this article.

 (E) The institute may waive or vary particular provisions of this article to the extent that the waiver or variance is not inconsistent with this article and if, in the written determination of the institute, the application of a provision of this article in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the article.

HISTORY: 1991 Act No. 169, Section 1; 2002 Act No. 364, Sections 11, 12, eff September 26, 2002.

Effect of Amendment

The 2002 amendment, in subsections (A) and (C)(1)(b), substituted "State Underwater Archaeologist" for "State Archaeologist", in subsection (C)(1)(b), deleted "Deputy State Archaeologist for Underwater", and in subsection (D)(1) substituted "State Underwater Archaeologist" for "Deputy State Underwater Archaeologist for Underwater".

**SECTION 54‑7‑830.** Privately‑owned land not subject to Article.

 Nothing in this article may be construed to limit or prohibit the use of privately‑owned land by its owner or require the owner to obtain a license required by this article for any activity on his privately‑owned land.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑840.** Educational program; underwater archaeologist on staff of institute.

 The institute shall:

 (1) establish and maintain an educational program for the training of interested members of the public in the identification, recordation, and registration of submerged archaeological historic property and certify those who have successfully completed such training; and

 (2) ensure that at least one member of the staff of the institute is qualified by training and experience in the field of underwater archaeology.

HISTORY: 1991 Act No. 169, Section 1.

**SECTION 54‑7‑850.** Retention and use of license fees.

 All license fees received by the institute pursuant to this article may be retained without regard to the fiscal year of receipt and must be used only to implement this article.

HISTORY: 1991 Act No. 169, Section 1.