

HOUSE BILL NO. 392

INTRODUCED BY DOANE, ANKNEY, BERRY, RANDALL, REDFIELD, ROSENDALE, SALOMON,
WELBORN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR THE EXCAVATION AND SALE OF
PALEONTOLOGICAL REMAINS FROM MAKOSHIKA STATE PARK TO BENEFIT THE PARK; GRANTING
RULEMAKING AUTHORITY; AMENDING SECTIONS 22-3-432 AND 23-1-102, MCA; AND PROVIDING A
TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 22-3-432, MCA, is amended to read:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage
property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from
the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit
and after consultation with the appropriate state agency. Permits are subject to strict compliance with the
following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums,
universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view
toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the
historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee
the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its
antiquities.

(b) The antiquities permit must specify that a summary report of the investigations, containing relevant
maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic
preservation officer shall determine the appropriate time period allowable between all work undertaken and
submission of the summary report.

(3) ~~##~~ Except as provided in subsection (5), all heritage property and paleontological remains collected
under an antiquities permit are the permanent property of the state and must be deposited in museums or other

1 institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in
2 the antiquities permit.

3 (4) An antiquities permit is not a substitution for any other type of permit that a state agency may require
4 for other purposes.

5 (5) Antiquities permits may be granted for the excavation and removal of paleontological remains at
6 Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to
7 benefit Makoshika state park. Antiquities permits granted under this subsection must be used in accordance with
8 rules adopted pursuant to 23-1-102(5)."

9

10 **Section 2.** Section 23-1-102, MCA, is amended to read:

11 **"23-1-102. Powers and duties of department of fish, wildlife, and parks -- rulemaking.** (1) The
12 department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational
13 resources of the state. The department may by purchase, lease, agreement, or acceptance of donations acquire
14 for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state
15 parks, state recreational areas, state monuments, or state historical sites. The department, with the consent of
16 the commission, may acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the
17 purposes provided in 87-1-209(2).

18 (2) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects
19 conveyed, entrusted, donated, or devised to the state. It may accept gifts, grants, bequests, or contributions of
20 money or other property to be spent or used for any of the purposes of this part.

21 (3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred
22 until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains
23 to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land
24 commissioners shall specifically approve the acquisition.

25 (4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public
26 camping grounds, historical sites, and monuments, except wayside camps and other public conveniences
27 acquired, improved, and maintained by the department of transportation and contiguous to the state highway
28 system. The department may designate lands under its control as state parks, state historical sites, state
29 monuments, or by any other designation that it considers appropriate. The department may remove or change
30 the designation of any area or portion of an area and may name or change the name of any area. The department

1 may lease those portions of designated lands that are necessary for the proper administration of the lands in
2 keeping with the basic purpose of this part.

3 (5) The department may adopt rules establishing conditions for the use of antiquities permits granted
4 pursuant to 22-3-432(5)."

5

6 NEW SECTION. Section 3. Termination. [This act] terminates December 31, 2023.

7

- END -