

Chapter 121.

North Carolina Department of Cultural Resources Division of Archives and History

ARTICLE 3.

Salvage of Abandoned Shipwrecks and Other Underwater Archaeological Sites

121-22. Title to bottoms of certain waters and shipwrecks, etc., thereon declared to be in State.-- Subject to chapter 82 of the General Statutes, entitled "Wrecks" and to the provisions of chapter 210, Session Laws of 1963 [121-7, 121.8.1 to 121-8.3 and 143-31.2], and to any statute of the United States, the title to all bottoms of navigable waters within one marine league seaward from the Atlantic seashore measured from the extreme low watermark; and the title to all shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts which have remained unclaimed for more than 10 years lying on the said bottoms, or on the bottoms of any other navigable waters of the State, is hereby declared to be in the State of North Carolina, and such bottoms, shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts shall be subject to the exclusive dominion and control of the State. (1967, c.533, s.1)

Editor's Note.-- Section 10 of Session Laws 1967, c.533, makes the act effective July 1, 1967.

Common Law.-- Under the common law, wrecks or derelicts became the property of the Crown or its grantee after a year and a day if no owner appeared within the time to claim them. State ex rel. Bruton v. Flying "W" Enterprises, Inc., 273 N.C. 399, 160 S.E. 2d 482 (1968).

121-23. Department is custodian of underwater personal property of the State and may adopt rules concerning the property.-- The Department of Cultural Resources is the custodian of shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts to which the State has title under G.S. 121-22. The Department of Cultural Resources may adopt rules necessary to preserve, protect, recover, or salvage any or all of these properties. (1967, c.533, s.2)

121-24. Department authorized to establish professional staff.-- The Department of Cultural Resources, is also authorized to establish a professional staff for the purpose of conducting and/or supervising the surveillance, protection, preservation, survey and systematic underwater archaeological recovery of underwater materials as defined in 121-22 hereof. (1967, c.533, s.3)

121-25. License to conduct exploration, recovery or salvage operations.-- Any qualified person, firm or corporation desiring to conduct any type of exploration, recovery or salvage operations, in the course of which any part of a derelict vessel or its contents or other archaeological site may be removed, displaced or destroyed, shall first make application to the Department of Cultural Resources and obtain a permit or license

to conduct such operations. If the Department of Cultural Resources shall find that the granting of such permit or licenses is in the best interest of the State, it may grant such applicant a permit or license for such a period of time under such conditions as the Department may deem to be in the best interest of the State. Such permit or license may include but need not be limited to the following:

- 1) Payment of monetary fee to be set by the Department
- 2) That a portion or all of the historic material or artifacts be delivered to the custody and possession of the Department
- 3) That a portion of all of such relics or artifacts may be sold or retained by the licensee
- 4) That a portion or all of such relics or artifacts may be sold or traded by the Department

Permits or licenses may be renewed upon or prior to expiration upon such terms as the applicant and the Department may mutually agree. Holders of permits or licenses shall be responsible for obtaining permission of any federal agencies having jurisdiction, including the United States Coast Guard, the United States Department of the Navy and the United States Army Corps of Engineers prior to conducting any salvaging operations. (1967, c.533, 2.4)

121-25.1. Criminal Record Checks of Applicants for Permit or License.--

(A) The following definitions apply to this section:

- 1) Applicant. - A person or entity applying for a permit or license under G.S. 121-25 to conduct any type of exploration, recovery, or salvage operations of any part of a derelict vessel or its contents or other archaeological site.
- 2) Criminal History. - A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears upon an applicants fitness to conduct activities related to the surveillance, protection, preservation, and archaeological recovery of property subject to the exclusive dominion and control of the state under G.S. 121-22. The crimes include the criminal offenses set forth in any of the following articles of Chapter 14 of the General Statutes: Article 5, counterfeiting and issuing monetary substitutes; Article 5A, endangering executive and legislative officers and court officers; Article 6, homicide; Article 7A, rape and other sex offenses; Article 8, assaults; Article 10, kidnapping and abduction; Article 13, malicious injury or damage by use of explosive or incendiary device or material; Article 14, burglary and other housebreakings; Article 15, arson and other burnings; Article 16, larceny; Article 17, robbery; Article 18, embezzlement; Article 19, false pretenses and cheats; Article 19A, obtaining property or services by false or fraudulent use of credit device or other means; Article 19B, financial transaction card crime act; Article 19C, financial identity fraud; Article 20, frauds; Article 21, forgery; Article 26, offenses against public morality and decency; Article 26A, adult

establishments; Article 27, prostitution; Article 28, perjury; Article 29, bribery; Article 31, misconduct in public office; Article 35, offenses against the public peace; Article 36A, riots and civil disorders; Article 39, protection of minors; Article 40, protection of the family; Article 59, public intoxication; and Article 60, computer-related crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to under age persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

- (B) All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check or to the use of fingerprints or other identifying information may constitute grounds for the Department of Cultural Resources to deny a permit or license to an applicant. The Department of Cultural Resources shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the Department of Justice. If the applicant is not an individual, the applicant shall provide fingerprints for the principals, officers, directors, and controlling persons of the applicant. Each set of fingerprints shall be certified by an authorized law enforcement officer. The Department of Cultural Resources shall keep all information obtained under this section confidential.
- (C) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (A)(2) of this section, the conviction shall not automatically bar the issuance of a permit or a license. When determining whether to issue a permit or license to an applicant, the Department of Cultural Resources shall consider all of the following factors regarding the conviction:
- (1) The level and seriousness of the crime.
 - (2) The date of the crime.
 - (3) The age of the person at the time of conviction.
 - (4) The circumstances surrounding the commission of the crime, if known.
 - (5) The nexus between the criminal conduct of the person and the person's responsibilities pursuant to the application.
 - (6) The incarceration, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
 - (7) The subsequent commission by the person of a crime.

121-26. Funds received by Department under 121-25.-- Any funds which may be paid to or received by the Department of Cultural Resources under the terms of 121-25 hereof may be allocated for use by the Department of Cultural Resources for

continuing its duties under this article, subject to the approval of the Budget Division of the Department of Administration. (1967, c.533, s.5)

121-27. Law-enforcement agencies empowered to assist Department.--

All law-enforcement agencies and officers, State and local, are hereby empowered to assist the Department of Cultural Resources in carrying out its duties under this article. (1967, c.533, s.6)

121-28. Violation of article a misdemeanor.-- Any person violating the provisions of this article or any rules or regulations established thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in cases of misdemeanor. (1967, c.533, s.8)