

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1127

By: Representative Mahony

For An Act To Be Entitled

"THE ARKANSAS CAVE RESOURCES PROTECTION ACT."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Findings and Policy. The General Assembly of Arkansas hereby finds that caves are uncommon geologic phenomena, and that the minerals deposited therein may be rare and occur in unique forms of great beauty which are irreplaceable if destroyed. Also irreplaceable are the archaeological resources in caves which are of great scientific and historic value. It is further found that the organisms which live in caves are unusual and of limited numbers; that many are rare and endangered species; and that caves are a natural conduit for groundwater flow and are highly subject to water pollution, thus having far-reaching effects transcending man-made property boundaries. It is therefore declared to be the policy of the State of Arkansas and the intent of this act to protect these unique natural and cultural resources.

SECTION 2. Definitions. As used in this act: (a) "Cave" means any void, cavity, recess, sinkhole, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems, but not including any mine, tunnel or other manmade excavation.

(b) "Cave life" means any life form which occurs in, uses, visits or inhabits any cave or subterranean water system.

(c) "Cave resource" means any cave and its contents, together with associated topographic and hydrological features.

(d) "Gate" means any structure or device located to limit or prohibit access or entry to any cave.

(e) "Material" means all or any part of any archaeological,

paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.

(f) "Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and specifically including the State of Arkansas and any of its agencies, departments, boards, commissions, and other political subdivisions.

(g) "Speleogen" means the surrounding natural material or bedrock in which a cave is formed, including walls, floors and ceiling and similar related structural and geological components.

(h) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone, et cetera.

SECTION 3. Vandalism: penalties. (a) It shall be unlawful for any person, without express, prior, written permission of the owner, to:

(1) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, and sedimentary deposits.

(2) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(3) Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this act.

(4) Excavate, remove, destroy, injure, deface or in any manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including relics, inscriptions, saltpeter workings, fossils, bones, remains of historical human activity, or any other such features which may be found in any cave.

(b) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

(c) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

SECTION 4. Pollution: penalties. (a) It shall be unlawful for any person to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic substances harmful to cave life or humans, in any cave or sinkhole.

(b) It shall be unlawful to burn within a cave or sinkhole any material which produces any smoke or gas which is harmful to any naturally occurring organism in any cave.

(c) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

SECTION 5. Disturbance of cave life: penalties.

(a) It shall be unlawful to remove, kill, harm, or otherwise disturb any cave life except as may be permitted by the Arkansas Game and Fish Commission.

(b) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

SECTION 6. Sale of speleothems: penalties. (a) It shall be unlawful for any person to sell or offer for sale any speleothems in this State, or to export them for sale outside the State.

(b) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

SECTION 7. Liability of owners and agents limited. Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave.

SECTION 8. Enforcement. Any law enforcement officer shall have the right to issue citations and apprehend persons detected violating the provisions of this act and take offenders before any court having jurisdiction in the county where the offense is committed. The owner may apply to the chancery court of any county in which a violation of this act is occurring or

in which the owner has reasonable cause to believe a violation of this act is about to occur, and that court shall have jurisdiction to grant a temporary or permanent injunction restraining any person from violating this act without requiring the owner to post bond during the pendency of this action.

SECTION 9. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.