

Life, Liberty

By Steve Lehto

I am an attorney in Michigan and I metal detect. When other detectorists hear this, the first thing they ask is, "What are the laws regarding metal detecting?" Most people want to know where they can detect legally and where they might run afoul of the law. Their questions are inspired by the vast confusion in this area. As an attorney, I'll try to clarify some important points.

On public property at the local level, I always say to presume that you are allowed to detect unless there is a specific law that says you can't.

This is America—it's not the other way around, as some would have you believe (that you can't do something unless there's a law that says you can.) Still, remember that "public" areas fall into various jurisdictions. Federal, state, and local authorities oversee park lands and each have their own rules to enforce.

First, at the local (city or township) level, parks are the most common areas to hunt. I've seen advice posted on the Internet such as, "Go ask at the police station to see if you're allowed to hunt." That advice is misguided. If there actually is a law against metal detecting in a city park, it is most likely posted at the park along with the list of rules regarding dog leashes, park hours, and picnicking rules. Municipalities cannot pass laws and then not post them.

Next, remember that the police don't write the laws and while I hate to say this, they often don't know the law very well. I've seen a police officer refer to his notes in court when

asked, "What color was the light?" (Hint: we wouldn't have been in court if those notes said the light was anything other than red.) I've also had a police officer misstate the law to me. For example, I was driving a car barefoot when pulled over by an officer. He then told me it was illegal to drive barefoot (it's not in Michigan). I told him that it wasn't, and when he insisted it was, I said, "Fine, give me a ticket for it and let's see what happens." Instead, he told me he'd let me go with a "warning."

If you want to know the law in a

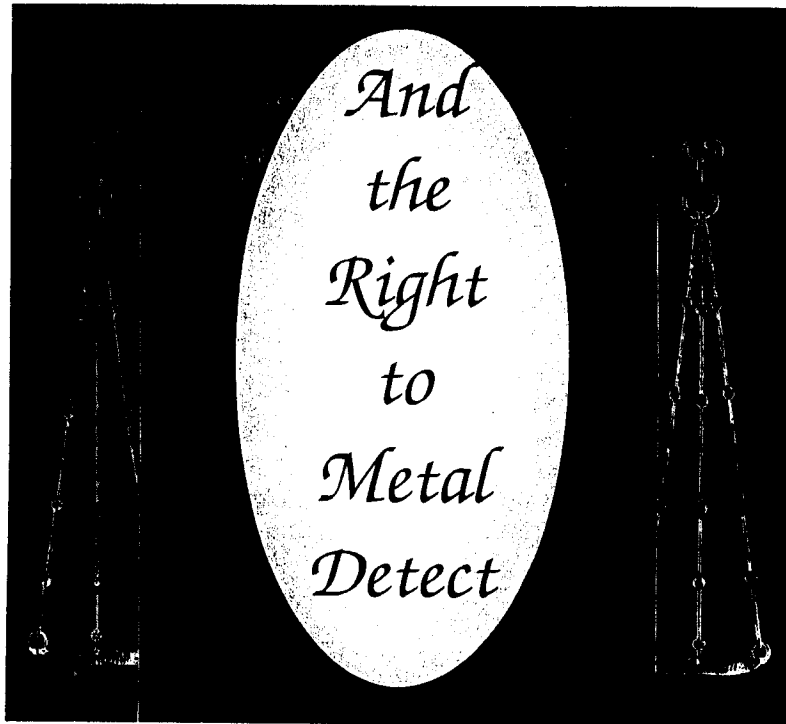
the taxes on any given lot in town. I've often gotten answers on this over the phone by supplying a location. If they ask you why you want it, just say you want to talk to the owner. And, if you're lucky, they'll tell you that the city owns it.)

Even with no law, it doesn't mean that an officer couldn't hassle you if he wanted. There will be rules against destruction of city property, for instance, and it wouldn't take much imagination to see the holes we dig as destructive—especially if you're not filling them in properly or if

you're digging with a shovel. My advice? Be polite, learn the law, and follow it. Call little attention to yourself and leave no signs that you were there, and you should be fine. If you get ticketed in Michigan for detecting at a local park, call me and I'll defend you for free. That's how strongly I feel about the above.

In most states, public schools are public property as well, but they are overseen by the school administration. They will probably have no specific rules against metal detecting, but they will have rules regarding the hours that non-students can visit (don't detect on a school day while class

is in session) and so on. These rules must be followed as well, and if a person with authority tells you to leave, honor their request (if you can't change their mind with a polite discussion or demonstration). Keep in mind that most of their rules will be for the purpose of eliminating disturbances that disrupt learning (noise and distractions) or maintaining safety (times that you can be on property or what you can carry on the property). With that in mind, you should



local municipality, go to City Hall (or its equivalent). Ask them about metal detecting, and if they say there is a law, ask to see it. They have a copy of the Municipal Code at City Hall, and they know it very well. If they show you such a law, honor it. If they can't show you one, it probably doesn't exist. (While you are at City Hall, you can also do some quick research. Want to find out who owns a vacant lot in town? Ask the tax assessor – they know who pays

stay clear of students if they are still on campus and also not carry a digging tool that looks like, or could be used, as a weapon.

State parks and Federal parks are quite different. There you can find the rules in one location for all the parks in the given system, and quite often you will run into prohibitions against metal detecting. These laws

may seem misguided, but often times parks are located at historically or archaeologically important places and metal detecting by amateurs could be a threat to a state or national resource. I wouldn't want, for example, Little Bighorn Battlefield National Monument opened to the public for metal detecting because there are quite a few important artifacts still in the ground, and quite a few questions they could still answer if found by the right people. Rather than have the items on Ebay and lost forever.

For your state's laws, go to your state's website and look up the parks department. The rules are probably posted there. They are also probably posted at the entrance and near the parking area of the parks you visit. When in doubt, ask a ranger, but again, ask to see a copy of the rule. They will be written if they exist.

The same thing applies here, however, as to how you should deal with the rangers. If they want to hassle you they will find a way. For instance, most parks have rules against harming plants within the park. It's not a huge stretch to say that a detectorist was harming plants by digging in the ground the plants call home. Your best bet again is to be polite and respectful, call little attention to yourself, and abide by the law.

Also be aware that many states are now in the process of examining this issue and are often drafting laws with little or no input from our community. Contact your state's parks department and find out if such laws are in the works even if they are not yet on the books. The laws were recently rewritten in Michigan, and I have heard from detectorists around the country that Texas and Florida have begun looking at placing restrictions on detecting within state parks. The department overseeing the parks usually drafts rules and regulations, but they do so with direction and authority from your state's legislature. Don't spend too much time arguing with the parks department—contact your local legislators and bend their ear. Since you can vote for or against them (and not for or against the

bureaucrat in the parks department) they are more likely to listen to you..

National parks are, of course, their own animal. Before even bringing your detector into a national park, I would advise you to log onto the National Park Service homepage and search "metal detecting" and the name of the park you intend to visit. For example, if you were going to Kennesaw Mountain National Battlefield Park in Georgia, that search would show you the warning, "Metal detecting is prohibited. Possession of a metal detector on park grounds is a felony and subject to up to one year imprisonment and \$100,000 fine." Even the parks without such draconian rules often prohibit collecting anything except "berries and nuts."

My advice? When visiting national parks, leave the detector at home. If vacationing and passing through a national park, dismantle your detector and place it out of view within your vehicle. Although I've heard people suggest that removing the batteries would protect you, I'd go a bit further. With the batteries in or out, a detector looks the same to a layman. Remove the coil, too, so it's obvious that it can't be used. And don't give in to the urge to check around your campsite for change lost by last week's campers. The ranger doesn't know if that's your plan or you're warming up for an outing to the nearby Civil War battlefield.

To recap: Learn the law from the correct source. Obey the law. Call little attention to your activity and be nice and polite to everyone. If you disagree with the law, try to change it through the proper legislative process.

Hmmmm. After reading this last paragraph, I realized that it's sound advice on any topic – but even more so on metal detecting.

Editor's note: Steve Lehto is a practicing attorney who graduated from Southwestern University School of Law, as well as an adjunct professor of law at the University of Detroit Mercy School of Law. He metal detects a couple hundred hours per year. [L]



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