

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

MISCELLANEOUS TOPICS

PART 525

SUSTAINABLE FORESTRY ON STATE FORESTLANDS

**324.52501 Definitions.**

Sec. 52501. As used in this part:

- (a) “Breast height” means 4.5 feet from highest ground at the base of the tree.
- (b) “Certification” means a process where an independent third party organization assesses and evaluates forest management practices according to the standards of a certification program resulting in an issuance of a certificate of compliance or conformity.
- (c) “Certification program” means a program that develops specific standards that measure whether forest management practices are consistent with principles of sustainable forestry.
- (d) “Conservation” means the wise use of natural resources.
- (e) “Diameter class specifications” means a classification of trees based on the diameter at breast height.
- (f) “Plan” means the forestry development, conservation, and recreation management plan for state forests as provided for in section 52503.
- (g) “Reforestation” means adequate stocking of forestland is assured by natural seeding, sprouting, suckering, or by planting seeds or seedlings.
- (h) “Residual basal area” means the sum of the cross-sectional area of trees 4 inches or greater in diameter measured at breast height left standing within a stand after a harvest.
- (i) “State forest” means state land owned or controlled by the department that is designated as state forest by the director.
- (j) “Sustainable forestry” means forestry practices that are designed to meet present and future needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual qualities.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2004, Act 125, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

**324.52502 Management of state forest; manner; duties of department.**

Sec. 52502. The department shall manage the state forest in a manner that is consistent with principles of sustainable forestry and in doing so shall do all of the following:

- (a) Manage forests with consideration of its economic, social, and environmental values by doing all of the following:
  - (i) Broaden the implementation of sustainable forestry by employing an array of economically, environmentally, and socially sound practices in the conservation of forests, using the best scientific information available.
  - (ii) Promote the efficient utilization of forest resources.
  - (iii) Broaden the practice of sustainable forestry by cooperating with forestland owners, wood producers, and consulting foresters.
  - (iv) Plan and manage plantations in accordance with sustainable forestry principles and in a manner that complements the management of and promotes the restoration and conservation of natural forests.
- (b) Conserve and protect forestland by doing all of the following:
  - (i) Ensure long-term forest productivity and conservation of forest resources through prompt reforestation, soil conservation, afforestation, and other measures.
  - (ii) Protect the water quality in streams, lakes, and other waterbodies in a manner consistent with the department's best management practices for water quality.
  - (iii) Manage the quality and distribution of wildlife habitats and contribute to the conservation of biological diversity by developing and implementing stand and landscape-level measures that promote habitat diversity and the conservation of forest plants and animals including aquatic flora and fauna and unique ecosystems.
  - (iv) Protect forests from wildfire, pests, diseases, and other damaging agents.
  - (v) Manage areas of ecologic, geologic, cultural, or historic significance in a manner that recognizes their

special qualities.

(vi) Manage activities in high conservation value forests by maintaining or enhancing the attributes that define such forests.

(c) Communicate to the public by doing all of the following:

(i) Publicly report the department's progress in fulfilling its commitment to sustainable forestry.

(ii) Provide opportunities for persons to participate in the commitment to sustainable forestry.

(iii) Prepare, implement, and keep current a management plan that clearly states the long-term objectives of management and the means of achieving those objectives.

(d) Monitor forest management by promoting continual improvement in the practice of sustainable forestry and monitoring, measuring, and reporting performance in achieving the commitment to sustainable forestry.

(e) Consider the local community surrounding state forestland by doing both of the following:

(i) Require that forest management plans and operations comply with applicable federal and state laws.

(ii) Require that forest management operations maintain or enhance the long-term social and economic well-being of forest workers and local communities.

**History:** Add. 2004, Act 125, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52503 Forestry development, conservation, and recreation management plan.**

Sec. 52503. (1) The department shall adopt a forestry development, conservation, and recreation management plan for state owned lands owned or controlled by the department. Parks and recreation areas, state game areas, and other wildlife areas on these lands shall be managed according to their primary purpose. The department may update the plan as the department considers necessary or appropriate. The plan and any plan updates shall be consistent with section 52502 and shall be designed to assure a stable, long-term, sustainable timber supply from the state forest as a whole.

(2) The plan and any plan updates shall include all of the following:

(a) An identification of the interests of local communities, outdoor recreation interests, the tourism industry, and the forest products industry.

(b) An identification of the annual capability of the state forest and management goals based on that level of productivity.

(c) Methods to promote and encourage the use of the state forest for outdoor recreation, tourism, and the forest products industry.

(d) A landscape management plan for the state forest incorporating biodiversity conservation goals, indicators, and measures.

(e) Standards for sustainable forestry consistent with section 52502.

(f) An identification of environmentally sensitive areas.

(g) An identification of the need for forest treatments to maintain and sustain healthy, vigorous forest vegetation and quality habitat for wildlife and environmentally sensitive species.

**History:** Add. 2004, Act 125, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52504 Harvest and sale of timber; deposit of proceeds into forest development fund; report.**

Sec. 52504. (1) The department shall harvest timber from the state forest and other state owned lands owned or controlled by the department in compliance with the plan and any plan updates.

(2) Unless otherwise dedicated by law, proceeds from the sale of timber from the state forest and other state owned lands owned or controlled by the department shall be forwarded to the state treasurer for deposit into the forest development fund established pursuant to section 50507.

(3) Not later than December 31 of each year, the department shall submit a report, to the standing committees of the senate and house of representatives with jurisdiction over forestry issues, that includes all of the following:

(a) The total number of acres in the state forest that have been identified by the department as having site conditions that restrain timber sales.

(b) The site conditions applicable to acreage identified under subdivision (a).

(c) The total number of acres identified under subdivision (a) in the previous year's report that are not identified under subdivision (a) in the current report and have been made available for timber sale.

(d) The locations where the acres identified under subdivision (a) and acres as identified under subdivision

(c) are located.

(e) A statement of what the department intends to do to remove the particular site conditions identified under subdivision (b).

**History:** Add. 2004, Act 125, Imd. Eff. May 28, 2004;—Am. 2006, Act 500, Imd. Eff. Dec. 29, 2006.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52505 Third-party certification that forestry standards satisfied; report.**

Sec. 52505. (1) The department shall seek and maintain third-party certification that the management of the state forest and other state owned lands owned or controlled by the department satisfies the sustainable forestry standards of at least 1 credible nonprofit, nongovernmental certification program and this part.

(2) Beginning January 1, 2006, the department shall ensure that the state forest is certified as provided for in subsection (1).

(3) Beginning the effective date of the amendatory act that added this section, the department shall commence a review and study to determine the appropriateness of certifying parks and recreation areas, state game areas, and other wildlife areas on state owned lands owned or controlled by the department. Not later than 1 year after the effective date of the amendatory act that added this section, the department shall report and recommend to the legislature the appropriateness and feasibility of certifying those lands.

**History:** Add. 2004, Act 125, Imd. Eff. May 28, 2004.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52506 Report.**

Sec. 52506. By January 1 of each year, the department shall prepare and submit to the commission of natural resources, the standing committees of the senate and the house of representatives with primary jurisdiction over forestry issues, and the senate and house appropriations committees a report that details the following from the previous state fiscal year:

(a) The number of harvestable acres in the state forest as determined by the certification program under section 52506.

(b) The number of acres of the state forest that were harvested and the number of cords of wood that were harvested from the state forest.

(c) The number of acres of state owned lands owned or controlled by the department other than state forestlands that were harvested and the number of cords of wood that were harvested from those lands.

(d) Efforts by the department to promote recreational opportunities in the state forest.

(e) Information on the public's utilization of the recreational opportunities offered by the state forest.

(f) Efforts by the department to promote wildlife habitat in the state forest.

(g) The status of the plan and whether the department recommends any changes in the plan.

(h) Status of certification efforts required in section 52505 and, beginning in 2006, a definitive statement of whether the department is maintaining certification of the entire state forest.

(i) A description of any activities that have been undertaken on forest pilot project areas described in section 52511.

**History:** Add. 2004, Act 125, Imd. Eff. May 28, 2004.

**Compiler's note:** In subdivision (a), the reference to "the certification program under section 52506" evidently should read "the certification program under section 52505."

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52511 Repealed. 2004, Act 123, Eff. Dec. 31, 2011.**

**Compiler's note:** The repealed section pertained to establishment and design of forest pilot project areas and contracts for management of each area.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 527 MUNICIPAL FORESTS

### **324.52701 Definitions.**

Sec. 52701. As used in this part:

(a) "Forestry commission" means a forestry commission appointed by a municipality pursuant to this part.

(b) "Legislative body" means any board of supervisors, township board, city or village legislative body, or school district board.

(c) "Municipality" means a county, township, city, village, or school district.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52702 Municipality; right to acquire and use lands for forestry.**

Sec. 52702. Any municipality may acquire by purchase, gift, or devise, or may provide land already in its possession, and use the land for a forestry or recreational purpose, or both, either within or outside of the territorial limits of the municipality, and may carry on forestry or recreational activities, or both, on the land. However, the use of the land for forestry is the highest priority objective of the land and use of the land for recreational activities shall not interfere with its use for forestry. Any municipality may also receive and expend or hold in trust gifts of money or personalty for a forestry or recreational purpose, or both.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2012, Act 488, Imd. Eff. Dec. 28, 2012.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52703 Municipal forestry commission; members; appointment; terms; vacancies.**

Sec. 52703. The legislative body of any municipality desiring to proceed under this part may appoint a forestry commission for the municipality to consist of 3 members, only 1 of whom shall be a member of the legislative body making the appointment. The members of a forestry commission shall hold office for a term of 4 years and until their successors are appointed and have qualified, except that when first appointed 1 shall be appointed for a term of 4 years, 1 for a term of 3 years, and 1 for a term of 2 years. Any vacancy shall be filled by appointment by the legislative body at any regular session.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52704 Forestry commission; powers and duties.**

Sec. 52704. A forestry commission shall supervise and manage all land of the municipality devoted to forestry and provide labor on forest land by foresters and others as may be necessary for the proper care and maintenance of the land as a forest producing area, to make reasonable rules and regulations concerning the land, and to expend money as may be appropriated or received for this purpose.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52705 Forestry commission; report; contents; filing.**

Sec. 52705. Every forestry commission shall annually at a time to be designated by the legislative body make a report to the legislative body showing the activities of the forestry commission and embracing a detailed statement of its receipts and expenditures during the preceding year. The forestry commission shall also file a copy of the report with the board of supervisors if it is not a county commission and a copy with the department.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52706 Authority to sell state lands to municipalities for forestry; reversion; relinquishing reversionary interest; re-acquisition; definitions; use of term "this section."**

Sec. 52706. (1) The department, the department of treasury, or a state officer having charge of state land, may sell homestead, tax, swamp, or primary school land to a public agency for a forestry or recreational purpose, or both, at a price set by the department, the department of treasury, or the state officer. However, the amount of land sold shall not exceed the amount that may be necessary for the public agency, and any land that is sold shall be suitable for and used for a forestry or recreational purpose, or both, unless conveyed as provided in this section. Land sold to a public agency under this section or section 6 of former 1931 PA

217 shall be used only for a forestry or recreational purpose, or both, if the land is prime land. When the prime land is no longer used for a forestry or recreational purpose, or both, the land shall revert to this state.

(2) Except as provided in subsection (6), the department shall relinquish a reversionary interest in municipal forestland, conveyed to a public agency under this section or section 6 of former 1931 PA 217 before October 12, 2004, within 90 days after the department receives, on a form prescribed by the department, a written request for relinquishment from the public agency that owns the municipal forestland subject to the reversionary interest. The department shall relinquish its reversionary interest by an instrument approved by the department of attorney general and recorded by the department with the register of deeds of the county where the municipal forestland is located. The instrument shall include provisions implementing subsections (3) through (8). The department may charge the public agency an amount equal to the charge for recording the release.

(3) A public agency to which a reversionary interest was relinquished under subsection (2) shall not convey the municipal forestland formerly subject to the reversionary interest unless the conveyance is approved by the department.

(4) Subject to subsection (5), a public agency to which a reversionary interest was relinquished under subsection (2) and any public agency that is a successor in interest shall not convey the municipal forestland formerly subject to the reversionary interest, or any part thereof, unless the conveyance is to a public agency for \$1.00 or to a public agency or any other person for fair market value. If the conveyance is to a public agency for \$1.00, the deed shall recite "MCL 324.52706 requires an accounting and specifies how proceeds are to be distributed when the property is subsequently conveyed for fair market value.". If the conveyance is to a public agency or any other person for fair market value, the public agency conveying the property shall have an accounting taken, shall retain 50% of the proceeds, and shall submit the remaining 50% of the proceeds to the department of treasury for deposit as follows:

(a) The first \$18,000,000.00 in total proceeds from all such conveyances shall be deposited in the general fund.

(b) Any proceeds in excess of \$18,000,000.00 shall be deposited in the fire protection fund created in section 732a of the Michigan vehicle code, 1949 PA 300, MCL 257.732a.

(5) Once the municipal forestland or part thereof formerly subject to a reversionary interest is conveyed for fair market value and an accounting is taken and the proceeds are distributed as provided under subsection (4), subsection (4) does not apply to subsequent conveyances of that municipal forestland or part thereof, respectively.

(6) Subsection (2) does not apply to prime land.

(7) A public agency to which a reversionary interest is relinquished under subsection (2) shall not convey the municipal forestland formerly subject to the reversionary interest to a third person unless the public agency has conducted a public hearing on the proposed conveyance. The public agency may conduct a second public hearing on the proposed conveyance if the public agency determines that a second public hearing may be necessary. Notice of a public hearing under this subsection shall be published at least twice in a newspaper of general circulation in the county or counties where the municipal forestland is located, not more than 28 or less than 7 days before the hearing. The notice shall describe where the municipal forestland is located, specify the approximate size of the municipal forestland, describe its current use, and identify the person to whom the municipal forestland is proposed to be sold, if known. The public agency shall provide a copy of the notice to the director of the department not less than 7 days before the hearing.

(8) The requirements of subsection (7) do not relieve the public agency of any notice, hearing, or other requirements imposed by any other law.

(9) If municipal forestland was conveyed to a public agency under this section or section 6 of former 1931 PA 217 and the municipal forestland is subsequently conveyed by the public agency to the department, then, for purposes of subparts 13 and 14 of part 21, the municipal forestland shall not be considered to have been reacquired by the department on or after January 1, 1933 for natural resource purposes unless the municipal forestland was originally acquired by the department on or after January 1, 1933 for natural resource purposes.

(10) As used in this section:

(a) "Basal area" means the sum of the cross-sectional area of trees 4 inches or greater in diameter measured at 4.5 feet from the highest ground at the base of each tree.

(b) "Municipal forestland" means homestead, tax, swamp, or primary school land sold to a public agency under this section or section 6 of former 1931 PA 217 for a forestry or recreational purpose, or both.

(c) "Prime land" means municipal forestland that meets 1 or more of the following requirements:

(i) Is within a boundary of a program administered by the department.

(ii) Provides access to a public body of water.

(iii) Is not less than 121 acres in size and, at any time during the preceding 10 years, had a basal area of not less than 90 square feet per acre.

(d) "Public agency" means a school district, public educational institution, governmental unit of this state or agency of this state, or a municipality.

(e) "Recreational purpose" includes any motorized or nonmotorized recreational activity.

(11) The use in this section of the phrase "this section or section 6 of former 1931 PA 217" does not imply that the term "this section" as used elsewhere in this act does not include the relevant section as it existed in former law codified in this act.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2002, Act 356, Imd. Eff. May 23, 2002;—Am. 2004, Act 377, Imd. Eff. Oct. 12, 2004;—Am. 2006, Act 179, Imd. Eff. June 6, 2006;—Am. 2012, Act 488, Imd. Eff. Dec. 28, 2012.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52707 Forestry commissions and department of natural resources; cooperation.**

Sec. 52707. A forestry commission and the department shall cooperate with each other in all matters pertaining to the establishment and maintenance of public forests. The department may inspect municipal forests as often as it considers necessary.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52708 Municipality; appropriation for forestry; limitation.**

Sec. 52708. The legislative body of any county, city, or village or the electors of any township or school district in which a forestry commission has been appointed may appropriate money to be used by the forestry commission to carry out the purposes of this part. However, if the legislative body desires to spend an amount in excess of 1/10 mill per dollar assessed valuation or in excess of \$5,000.00, or both, in any 1 year for the purposes of this part, the sum shall not be appropriated unless the electors of the county, city, or village agree to the expenditure at any general or special election by a 3/5 vote.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52709 Forestry funds; accounting.**

Sec. 52709. A separate account of all revenue and expense of all funds appropriated or invested, or both, to the forestry commission shall be kept by the financial officer of the municipality and the funds may be expended upon the warrant of 2 members of the forestry commission.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52710 Special forestry fund; creation; payments in lieu of property taxes.**

Sec. 52710. Any income from forest land shall be paid into the general fund of the municipality and may be set up in a special forestry fund by the municipality. A forestry commission and the townships and school districts in which its municipal forest lies by agreement shall determine a formula under which the forestry commission shall make payments to the townships and school districts in lieu of general property taxes which would otherwise be levied against the land and forests comprising the municipal forest.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

## PART 529

### CHRISTMAS TREES, BOUGHS, PLANTS, AND OTHER TREES

### **324.52901 Removal of certain plants; "plant" defined; bill of sale or other evidence of title required.**

Sec. 52901. (1) A person shall not cut, remove, or transport, without having in possession a bill of sale from the owner or other evidence of title on a form prescribed by and available from the department or the department of agriculture or the federal agency that has jurisdiction, any of the following:

- (a) Christmas trees.
- (b) Evergreen boughs.
- (c) Any other trees, shrubs, or vines.
- (d) Trailing arbutus..... Epigaea.
- (e) Bird's foot violet..... Viola pedata.
- (f) Climbing bittersweet..... Celastrus scandens.
- (g) Club mosses..... Lycopodiaceae.
- (h) Flowering dogwood..... Cornus florida.
- (i) All Michigan holly..... Ilex sp. and nemopanthus sp.
- (j) North American lotus..... Nelumbo sp.
- (k) Pipsissewa..... Chimaphila umbellata.
- (l) All native orchids..... Orchidaceae.
- (m) Trilliums..... Trillium sp.
- (n) Gentians..... Eustoma sp.
- (o) Parts of any plant listed in this subsection.

(2) As used in this part, "plant" means a tree, bough, shrub, vine, or other native plant, or a part of a tree, bough, shrub, vine, or other native plant, listed in subsection (1).

(3) A person shall produce a bill of sale for a plant listed in subsection (1) or other evidence of title upon demand of a law enforcement officer.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52902 Transportation of plants.**

Sec. 52902. A person shall not transport within this state any plant in either of the following circumstances:

(a) If the plant has been removed from property owned by the person, unless he or she has in possession a current tax receipt or deed with respect to the property or a copy of the receipt or deed.

(b) If the plant has been removed from property not owned by the person, unless either of the following has been met:

(i) Each plant bears a tag placed on the plant by and identifying the person and his or her address and stating from whom the plant was acquired.

(ii) The person has in his or her possession a bill of sale or other evidence of title acquisition in a form prescribed by and available from the department or the department of agriculture or the federal agency that has jurisdiction. The person shall display the bill of sale or other evidence of title upon demand of a law enforcement officer.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52903 Sale of plants; bill of sale or other evidence of title required; records of transactions.**

Sec. 52903. A person shall not sell or offer for sale any plant without having in his or her possession the evidence of title prescribed by section 52902 or without furnishing the purchaser with a bill of sale or other evidence of title acquisition in a form prescribed by the department or the department of agriculture or the federal agency that has jurisdiction. Vendors shall maintain and keep records of their transactions for the period of time that the department or the department of agriculture or the federal agency that has jurisdiction prescribes by rule or regulation.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52904 Trees, shrubs, vines or plants; shipment; evidence of title.**

Sec. 52904. A common carrier shall not accept for shipment any of the trees, boughs, shrubs, vines, or plants listed in section 52901 unless the consignor whose name and address is recorded at the time of consignment exhibits the evidence of title prescribed by section 52902.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

Popular name: NREPA

**324.52905 Law enforcement officers; inspection; impoundment of plants or equipment; failure to exhibit bill of sale or other evidence of title.**

Sec. 52905. A law enforcement officer having probable cause to believe that this part is being violated, including authorized employees of the department of agriculture or the department, may make inspections to determine whether this part has been violated, including the right to stop any vehicle that is transporting a plant at any time, to inspect and make copies of bills of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction, to arrest persons found to have any plants in possession in violation of this part and to impound any plants or equipment used to remove or transport the plants. Pursuant to court order, any plants or equipment impounded pursuant to this section shall be permanently seized and disposed of as required under sections 1603 and 1604. Failure to exhibit a bill of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction is prima facie evidence that a bill of sale or other evidence of title does not exist.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.52906 Construction of part.**

Sec. 52906. Nothing in this part shall be construed to interfere with the insect pest and plant disease act, Act No. 189 of the Public Acts of 1931, being sections 286.201 to 286.226 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.52907 Enforcement of part; rules.**

Sec. 52907. The director of agriculture and the department, in cooperation with law enforcement agencies, shall enforce this part. The director of agriculture, after consultation with the department, shall promulgate rules as he or she considers necessary for the enforcement of this part.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA

**324.52908 Violation of part; penalties; determination of total value; prior convictions; prohibition; additional penalties.**

Sec. 52908. (1) A person who violates this part is guilty of a crime as follows:

(a) If the damages are less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or 3 times the aggregate value of the property involved, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the property involved is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this part.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the property involved is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this part. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(i) The property involved has a value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting

to commit an offense under this part. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The values of property damaged in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property damaged.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(5) A person who forges a bill of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(6) In addition to the penalties provided for in this section, a person who violates this part by illegally removing or cutting a plant is liable in a civil action filed by the state or the property owner for up to 3 times the fair market value of the damage caused by the unlawful act or \$100.00, whichever is greater, and for court costs and attorney fees. Damages collected under this subsection shall be paid to the owner of the lands from which the plants were illegally removed or, if removed from state owned lands, to the state treasurer, who shall credit the deposit to the fund that was used to purchase the land on which the violation occurred.

(7) A person who violates this part by not having in his or her possession a current tax receipt or deed with respect to property, or a copy of the receipt or deed, indicating that the person owned the land from which the plants were taken shall not be prosecuted under this part for that violation if he or she subsequently produces a current tax receipt or deed showing that person's ownership of the property from which the plants were taken.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995;—Am. 2001, Act 155, Eff. Jan. 1, 2002.

**Popular name:** Act 451

**Popular name:** NREPA

### **324.52909 Christmas trees; transportation during December.**

Sec. 52909. This part does not apply to the sale of or the transportation by any 1 person of not more than 2 Christmas trees between November 30 and December 31 of the same year.

**History:** Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**Popular name:** Act 451

**Popular name:** NREPA