

# HOUSE BILL No. 5494

February 6, 1992, Introduced by Reps. Bodem, Anthony, McBryde, Dalman, Dolan, Jaye, Allen, Fitzgerald, DeLange, Strand, Gernaat, Alley and Middaugh and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 2, 4, 5, and 6 of Act No. 126 of the Public Acts of 1939, entitled

"An act to provide for the protection of state owned and tax delinquent lands; to prohibit the unauthorized removal of forest products or other property therefrom; to provide penalties for the violation of any of the provisions of this act; and to repeal certain acts relating thereto,"

being sections 322.132, 322.134, 322.135, and 322.136 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 4, 5, and 6 of Act No. 126 of the  
2 Public Acts of 1939, being sections 322.132, 322.134, 322.135,  
3 and 322.136 of the Michigan Compiled Laws, are amended to read as  
4 follows:

5 Sec. 2. ~~When any person shall violate any of the~~  
6 ~~provisions of~~ IF A PERSON VIOLATES section 1 ~~of this act~~ and  
7 ~~when such~~ THE trespass is found by ~~the enforcing~~ A LAW

1 ENFORCEMENT officer to have been casual and involuntary, ~~such~~  
 2 THE LAW ENFORCEMENT officer may adjust and collect from ~~said~~  
 3 THE person THAT VIOLATED SECTION 1 the amount of damages caused  
 4 by ~~said~~ THE trespass. THE FUNDS COLLECTED UNDER THIS SECTION  
 5 SHALL BE CREDITED TO THE FOREST MANAGEMENT FUND.

6       Sec. 4. (1) ~~When any person shall violate any of the pro~~  
 7 ~~visions of~~ IF A PERSON VIOLATES section 1 ~~of this act,~~ and  
 8 ~~when such~~ THE trespass is found by the court or jury to have  
 9 been ~~wilful~~ WILLFUL and the amount of damages does not exceed  
 10 ~~\$200.00~~ \$100.00, ~~such~~ THE person ~~shall be deemed~~ IS guilty  
 11 of a misdemeanor, ~~and on conviction thereof shall be punished~~  
 12 PUNISHABLE by a fine OF not ~~exceeding~~ MORE THAN \$100.00 and  
 13 costs of prosecution or by imprisonment ~~in the county jail~~ for  
 14 ~~a period not to exceed~~ NOT MORE THAN 90 days, or ~~by~~ both.  
 15 ~~such fine and imprisonment in the discretion of the court.~~

16       (2) AS USED IN THIS SECTION AND SECTION 5, "WILLFUL" IN  
 17 ADDITION TO ITS COMMONLY UNDERSTOOD MEANING INCLUDES THE FAILURE  
 18 OF A PERSON TO EXERCISE ORDINARY CARE IN DETERMINING WHETHER THE  
 19 LAND THAT HE OR SHE ENTERS IN VIOLATION TO SECTION 1 IS LAND  
 20 DESCRIBED IN SECTION 1.

21       Sec. 5. (1) ~~When any person shall violate the provisions~~  
 22 ~~of~~ IF A PERSON VIOLATES this act ~~,~~ and ~~when such~~ THE tres-  
 23 pass is found by the court or jury to have been ~~wilful,~~ WILLFUL  
 24 and the amount of damages exceeds ~~\$200.00~~ \$100.00, ~~such~~ THE  
 25 person ~~shall be deemed~~ IS guilty of a felony, ~~and on convic~~  
 26 ~~tion thereof shall be punished~~ PUNISHABLE by a fine of not less  
 27 than ~~\$100.00~~ \$200.00 and not ~~exceeding \$500.00~~ MORE THAN

1 \$1,000.00 or imprisonment ~~in the state prison~~ for not more than  
2 2 years, or both. ~~such fine and imprisonment in the discretion~~  
3 ~~of the court.~~

4 (2) A PERSON WHO VIOLATES THIS ACT BY THE ILLEGAL REMOVING  
5 OR CUTTING OF A FOREST PRODUCT IS LIABLE TO THE STATE FOR 5 TIMES  
6 THE FAIR MARKET VALUE OF THE DAMAGES CAUSED BY THE UNLAWFUL ACT.  
7 DAMAGES COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE CREDITED  
8 TO THE GAME AND FISH PROTECTION FUND CREATED IN THE HUNTING AND  
9 FISHING LICENSE ACT, ACT NO. 86 OF THE PUBLIC ACTS OF 1980, BEING  
10 SECTIONS 316.101 TO 316.902 OF THE MICHIGAN COMPILED LAWS.

11 Sec. 6. ~~It shall be the duty of the Michigan state police~~  
12 ~~and~~ A LAW ENFORCEMENT OFFICER, THE director of ~~conservation~~  
13 THE DEPARTMENT OF NATURAL RESOURCES, and any special ~~assistants~~  
14 ASSISTANT or conservation ~~officers~~ OFFICER appointed by ~~said~~  
15 THE director ~~, to~~ SHALL enforce ~~the provisions of~~ this act.  
16 ~~and said~~ THE LAW ENFORCEMENT OFFICER, THE director, AND THE  
17 special ~~assistants~~ ASSISTANT or conservation ~~officers shall~~  
18 OFFICER APPOINTED BY THE DIRECTOR have the same power to serve  
19 criminal process as A deputy ~~sheriffs~~ SHERIFF, and ~~shall have~~  
20 the same right as A deputy ~~sheriffs~~ SHERIFF to require aid in  
21 executing ~~such~~ process.

22 ~~Any of said officers~~ A LAW ENFORCEMENT OFFICER, THE DIREC-  
23 TOR OF THE DEPARTMENT OF NATURAL RESOURCES AND ANY SPECIAL  
24 ASSISTANT OR CONSERVATION OFFICER APPOINTED BY THE DIRECTOR may  
25 arrest, without warrant, ~~any~~ A person who is or has been  
26 observed in the act of violating ~~the provisions of~~ section 1.  
27 ~~hereof. Such officers~~ THE OFFICER may seize in the name of the

1 people of the state ~~of Michigan~~ any of the ~~aforementioned~~  
2 forest products DESCRIBED IN THIS ACT THAT ARE unlawfully cut or  
3 removed, ~~or~~ ALL EQUIPMENT USED IN THE UNLAWFUL CUTTING, TAKING,  
4 OR TRANSPORTING, AND any other property unlawfully removed wher-  
5 ever ~~same may be~~ IT IS found within the jurisdiction of the  
6 state ~~when~~ IF in ~~their~~ THE discretion ~~such~~ OF THE PERSON  
7 MAKING THE ARREST THIS action is ~~deemed~~ CONSIDERED advisable or  
8 necessary to safeguard the interests of the state. Property ~~so~~  
9 seized UNDER THE AUTHORITY OF THIS SECTION may be disposed of ~~to~~  
10 ~~the best advantage of the state~~ AS REQUIRED UNDER SECTIONS 3 AND  
11 4 OF ACT NO. 192 OF THE PUBLIC ACTS OF 1929, BEING SECTIONS  
12 300.13 AND 300.14 OF THE MICHIGAN COMPILED LAWS. ~~Whenever any~~  
13 ~~of said officers shall make~~ IF A LAW ENFORCEMENT OFFICER FILES  
14 WITH A COURT OF COMPETENT JURISDICTION an affidavit ALLEGING that  
15 ~~any~~ A person has committed trespass on any of the lands  
16 ~~mentioned~~ DESCRIBED in section 1 ~~of this act~~ or has in any  
17 other manner violated ~~the provisions of said~~ section 1,  
18 ~~stating~~ AND THE AFFIDAVIT STATES the ~~approximate amount~~  
19 CURRENT MARKET VALUE of damages ~~occasioned thereby~~ CAUSED BY  
20 THE VIOLATION, and that ~~said~~ THE person is either not a resi-  
21 dent of this state, or has absconded ~~therefrom~~ FROM THE STATE,  
22 or is about to abscond to avoid service of process, ~~and such~~  
23 ~~affidavit is presented to a court having jurisdiction,~~ THE COURT  
24 MAY ISSUE a writ of attachment. ~~shall be issued, and such~~ THE  
25 affidavit ~~attached thereto~~ SHALL BE ATTACHED TO THE WRIT OF  
26 ATTACHMENT, ~~as the commencement of~~ AND THIS DOCUMENTATION  
27 COMMENCES suit against ~~such~~ THE alleged trespasser.