

Act No. 298
Public Acts of 1993
Approved by the Governor
December 23, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Bodem, Kukuk, Hill, Brackenridge, Hammerstrom, Anthony, Porreca, Gernaat, Dalman, Stille, Middaugh, Alley, Gnodtke, Shepich, Jacobetti and Lowe
Reps. DeMars, Dolan, Fitzgerald, Gagliardi, Gire, Goschka, Jersevic, London, McBryde, McManus, Randall, Scott, Shugars and Voorhees named co-sponsors

ENROLLED HOUSE BILL No. 4895

AN ACT to provide for the protection of state owned lands; to prohibit the unauthorized removal of forest products or other property from state owned lands; to provide for penalties and provide remedies; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "state owned lands protection act".

Sec. 2. As used in this act:

(a) "Damages" means the fair market value on the stump or at the mill, whichever is greater, of a forest product cut or removed, or the fair and actual value of any other property removed or damaged in trespass, plus any other damages caused before, during, or after the cutting or removal.

(b) "Department" means the director or the department of natural resources or his or her designee.

(c) "Director" means the director of the department.

Sec. 3. (1) Unless a person has the written permission of the department or is acting as authorized in R 299.321 or 299.331 of the Michigan administrative code, a person shall not enter upon or induce or direct any person to enter upon any state owned land and cut, or induce or direct to be cut, or remove or induce or direct to be removed, any logs, posts, poles, ties, shrubs, or trees, or any other forest product. In addition a person shall not injure or remove, or induce or direct any other person to injure or remove any buildings, fences, improvements, sand, gravel, marl or other minerals, or other property belonging to or appertaining to state owned land.

(2) A person shall not accept or receive by purchase or otherwise a forest product, improvement or other property unlawfully cut or removed, or both, knowing the property to have been unlawfully cut or removed, or both, in violation of subsection (1).

Sec. 4. (1) If the damages are \$100.00 or less, for a first violation of section 3, a person is responsible for a civil fine of not more than \$500.00. If the damages are \$100.00 or less, for a second or subsequent violation of section 3, a person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$50.00 or more than \$500.00, or both, and the costs of prosecution.

(2) If the damages are more than \$100.00 but less than \$1,000.00, a person who violates section 3 is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not less than \$500.00 or more than \$5,000.00, or both, and the costs of prosecution.

(3) If the damages are \$1,000.00 or more, a person who willfully violates section 3 is guilty of a felony, punishable by imprisonment for not more than 180 days or a fine of not less than \$1,000.00 or more than \$10,000.00, and the costs of prosecution.

Sec. 5. (1) In addition to the penalties provided for in section 4, a person convicted of violating this act shall forfeit in a civil action filed by the state a sum of up to 3 times the actual damages, but not less than \$50.00, that were caused by the unlawful act, and court costs and attorney fees. In addition, the material or other property cut or removed shall be seized by the state and title to the property shall be in the state. In addition, equipment used to violate this act may be seized and disposed of to the best advantage of the state as determined by the department as required under sections 3 and 4 of Act No. 192 of the Public Acts of 1929, being sections 300.13 and 300.14 of the Michigan Compiled Laws.

(2) A court in which a conviction for a violation of this act is obtained shall order the defendant to forfeit to the state a sum as set forth in subsection (1). If 2 or more defendants are convicted of a violation of this act, the forfeiture shall be declared against them jointly.

(3) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and require the defendant, as a condition of the sentence, to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that in the opinion of the court the defendant is able to pay.

(4) If a defendant defaults in payment of the sum forfeited or of an installment of that sum, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not due to an intentional refusal to obey the order of the court, or a failure to make a good faith effort to obtain the funds required for the payment, the court shall find that the default constitutes a civil contempt.

(5) If in the opinion of the court the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(6) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6001 to 600.6098 of the Michigan Compiled Laws.

(7) A court receiving forfeiture damages shall remit the damages with an abstract or register of actions to the department, which shall deposit the damages with the state treasurer who shall deposit the damages in the fund that was used to purchase the land on which the violation occurred.

(8) All money received by the disposal of seized property under this act shall be deposited with the state treasurer who shall deposit the money in the fund that was used to purchase the land on which the violation occurred.

Sec. 6. Act No. 126 of the Public Acts of 1939, being sections 322.131 to 322.138 of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.

