

HOUSE BILL No. 4496

April 9, 2013, Introduced by Reps. MacMaster, MacGregor, Kelly, Franz, Foster, Pettalia, Pscholka, Schmidt, Jacobsen, Jenkins and Genetski and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 32501, 32512, 76101, 76102, 76103, 76104, 76105, 76107, 76108, 76109, 76110, 76111, 76112, 76113, 76114, 76115, and 76118 (MCL 324.1301, 324.32501, 324.32512, 324.76101, 324.76102, 324.76103, 324.76104, 324.76105, 324.76107, 324.76108, 324.76109, 324.76110, 324.76111, 324.76112, 324.76113, 324.76114, 324.76115, and 324.76118), section 1301 as amended by 2012 PA 249, sections 32501 and 32512 as amended by 2012 PA 247, sections 76101 and 76115 as added by 1995 PA 58, sections 76102, 76103, 76104, 76108, 76110, 76111, 76112, 76113, 76114, and 76118 as amended by 2001 PA 75, sections 76105 and 76109 as amended by 2004 PA 325, and section 76107 as amended by 2001 PA 155, and by adding sections 32512b and 76112a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1301. As used in this part:

2 (a) "Application period" means the period beginning when an
3 application for a permit is received by the state and ending when
4 the application is considered to be administratively complete under
5 section 1305 and any applicable fee has been paid.

6 (b) "Department" means the department, agency, or officer
7 authorized by this act to approve or deny an application for a
8 particular permit.

9 (c) "Director" means the director of the state department
10 authorized under this act to approve or deny an application for a
11 particular permit or the director's designee.

12 (d) "Permit" means a permit or operating license required by
13 any of the following sections or by rules promulgated thereunder,
14 or, in the case of section 9112, by an ordinance adopted
15 thereunder:

16 (i) Section 3104, floodplain alteration permit.

17 (ii) Section 3503, permit for use of water in mining iron ore.

18 (iii) Section 4105, sewerage system construction permit.

19 (iv) Section 6516, vehicle testing license.

20 (v) Section 6521, motor vehicle fleet testing permit.

21 (vi) Section 8310, restricted use pesticide dealer license.

22 (vii) Section 8310a, agricultural pesticide dealer license.

23 (viii) Section 8504, license to manufacture or distribute
24 fertilizer.

25 (ix) Section 9112, local soil erosion and sedimentation control
26 permit.

1 (x) Section 11509, solid waste disposal area construction
2 permit.

3 (xi) Section 11512, solid waste disposal area operating
4 license.

5 (xii) Section 11542, municipal solid waste incinerator ash
6 landfill operating license amendment.

7 (xiii) Section 11702, septage waste servicing license or septage
8 waste vehicle license.

9 (xiv) Section 11709, septage waste site permit.

10 (xv) Section 30104, inland lakes and streams project permit.

11 (xvi) Section 30304, state permit for dredging, filling, or
12 other activity in wetland. Permit includes an authorization for a
13 specific project to proceed under a general permit issued under
14 section 30312.

15 (xvii) Section 31509, dam construction, repair, or removal
16 permit.

17 (xviii) Section 32312, flood risk, high risk, or environmental
18 area permit.

19 (xix) Section ~~32503~~ **32512**, permit for dredging and filling
20 bottomland.

21 (xx) Section 32603, permit for submerged log removal from Great
22 Lakes bottomlands.

23 (xxi) Section 35304, department permit for critical dune area
24 use.

25 (xxii) Section 36505, endangered species permit.

26 (xxiii) Section 41702, game bird hunting preserve license.

27 (xxiv) Section 42101, dog training area permit.

1 (xxv) Section 42501, fur dealer's license.

2 (xxvi) Section 42702, game dealer's license.

3 (xxvii) Section 44513, charter boat operating permit under
4 reciprocal agreement.

5 (xxviii) Section 44516, boat livery operating permit.

6 (xxix) Section 45503, permit to take frogs for scientific use.

7 (xxx) Section 45902, game fish propagation license.

8 (xxxi) Section 45906, game fish import license.

9 (xxxii) Section 61525, oil or gas well drilling permit.

10 (xxxiii) Section 62509, brine, storage, or waste disposal well
11 drilling or conversion permit or test well drilling permit.

12 (xxxiv) Section 63103a, ferrous mineral mining permit.

13 (xxxv) Section 63514 or 63525, surface coal mining and
14 reclamation permit or revision of the permit, respectively.

15 (xxxvi) Section 63704, sand dune mining permit.

16 (xxxvii) Section 72108, use permits for Michigan trailway.

17 **(xxxviii) SECTION 76105, PERMIT FOR EXPLORATION OR EXCAVATION OF**
18 **ABORIGINAL REMAINS.**

19 **(xxxix)** ~~(xxxviii)~~ Section 76109, sunken aircraft or watercraft
20 abandoned property recovery permit.

21 **(xxxx)** ~~(xxxix)~~ Section 76504, Mackinac Island motor vehicle and
22 land use permits.

23 **(xxxxi)** ~~(xxx)~~ Section 80159, buoy or beacon permit.

24 (e) "Processing deadline" means the last day of the processing
25 period.

26 (f) "Processing period" means the following time period after
27 the close of the application period, for the following permit, as

1 applicable:

2 (i) Twenty days for a permit under section 61525 or 62509.

3 (ii) Thirty days for a permit under section 9112 or 44516.

4 (iii) Thirty days after the department consults with the
5 underwater salvage and preserve committee created under section
6 76103, for a permit under section 76109.

7 (iv) Sixty days, for a permit under section 30104 for a minor
8 project as established by rule under section 30105(7) or for a
9 permit under section 32312.

10 (v) Sixty days or, if a hearing is held, 90 days for a permit
11 under section 35304.

12 (vi) Sixty days or, if a hearing is held, 120 days for a permit
13 under section 30104, other than a permit for a minor project as
14 established by rule under section 30105(7), or for a permit under
15 section 31509.

16 (vii) Ninety days for a permit under section 11512, a revision
17 of a surface coal mining and reclamation permit under section
18 63525, or a permit under section 72108.

19 (viii) Ninety days or, if a hearing is held, 150 days for a
20 permit under section 3104, 30304, or ~~32503~~**32512** or an
21 authorization for a specific project to proceed under a general
22 permit issued under section 30312.

23 (ix) Ninety days after the close of the review or comment
24 period under section ~~32604~~**32605**, or if a public hearing is held,
25 90 days after the date of the public hearing for a permit under
26 section 32603.

27 (x) One hundred twenty days for a permit under section 11509,

1 11542, 63103a, 63514, or 63704.

2 (xi) One hundred fifty days for a permit under section 36505.
3 However, if a site inspection or federal approval is required, the
4 150-day period is tolled pending completion of the inspection or
5 receipt of the federal approval.

6 (xii) For any other permit, 150 days or, if a hearing is held,
7 90 days after the hearing, whichever is later.

8 Sec. 32501. As used in this part:

9 (a) "Department" means the department of environmental
10 quality.

11 (b) "Director" means the director of the department.

12 (c) "Marina purposes" means an operation making use of
13 submerged bottomlands or filled-in bottomlands of the Great Lakes
14 for the purpose of service to boat owners or operators, which
15 operation may restrict or prevent the free public use of the
16 affected bottomlands or filled-in lands.

17 **(D) "RECREATIONAL DIVING STRUCTURE" MEANS ANY OF THE**
18 **FOLLOWING:**

19 **(i) A VESSEL.**

20 **(ii) AN AIRCRAFT.**

21 **(iii) AN ARTIFACT OF MARITIME HISTORY OTHER THAN A VESSEL OR**
22 **AIRCRAFT.**

23 **(iv) AN ARTIFACT OR OTHER STRUCTURE THAT MAY BE USED FOR**
24 **RECREATIONAL SCUBA DIVING THAT WILL ENHANCE HABITAT FOR SPORT FISH**
25 **SPECIES AND PROMOTE UNDERWATER RECREATION.**

26 Sec. 32512. (1) Except as provided in subsection (2), unless a
27 permit has been granted by the department pursuant to part 13 or

1 authorization has been granted by the legislature, or except as to
2 boat wells and slips facilitating private, noncommercial,
3 recreational boat use, not exceeding 50 feet in length where the
4 spoil is not disposed of below the ordinary high-water mark of the
5 body of water to which it is connected, a person shall not do any
6 of the following:

7 (a) Construct, dredge, commence, or do any work with respect
8 to an artificial canal, channel, ditch, lagoon, pond, lake, or
9 similar waterway where the purpose is ultimate connection of the
10 waterway with any of the Great Lakes, including Lake St. Clair.

11 (b) Connect any natural or artificially constructed waterway,
12 canal, channel, ditch, lagoon, pond, lake, or similar waterway with
13 any of the Great Lakes, including Lake St. Clair, for navigation or
14 any other purpose.

15 (c) Dredge or place spoil or other material, **INCLUDING A**
16 **RECREATIONAL DIVING STRUCTURE, on ~~bottomland~~.BOTTOMLANDS.**

17 (d) Construct a marina.

18 (2) Except as provided in subsection (3), the following
19 activities are not subject to regulation under this part:

20 (a) Leveling of sand, removal of vegetation, grooming of soil,
21 or removal of debris, in an area of unconsolidated material
22 predominantly composed of sand, rock, or pebbles, located between
23 the ordinary high-water mark and the water's edge.

24 (b) Mowing of vegetation between the ordinary high-water mark
25 and the water's edge.

26 (3) Subsection (2) does not apply to lands included in the
27 survey of the delta of the St. Clair River, otherwise referred to

1 as the St. Clair flats, located within Clay township, St. Clair
2 county, as provided for in 1899 PA 175.

3 SEC. 32512B. (1) A PERSON WHO WISHES TO PLACE A RECREATIONAL
4 DIVING STRUCTURE ON BOTTOMLANDS MAY SUBMIT AN APPLICATION TO THE
5 DEPARTMENT.

6 (2) THE DEPARTMENT SHALL GRANT A PERMIT UNDER SECTION 32512 TO
7 PLACE A RECREATIONAL DIVING STRUCTURE ON BOTTOMLANDS IF THE
8 DEPARTMENT DETERMINES ALL OF THE FOLLOWING:

9 (A) THE RECREATIONAL DIVING STRUCTURE HAS BEEN DECOMMISSIONED,
10 AS APPLICABLE, IN COMPLIANCE WITH BEST PRACTICES DESCRIBED IN THE
11 DOCUMENT ENTITLED "NATIONAL GUIDANCE: BEST MANAGEMENT PRACTICES FOR
12 PREPARING VESSELS INTENDED TO CREATE ARTIFICIAL REEFS" PUBLISHED BY
13 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE UNITED
14 STATES MARITIME ADMINISTRATION, DATED MAY 2006, OR OTHER PRACTICES
15 AS DETERMINED BY THE DEPARTMENT.

16 (B) THE RECREATIONAL DIVING STRUCTURE IS SUITABLE OR WILL BE
17 MADE SUITABLE FOR RECREATIONAL SCUBA DIVING.

18 (C) THE PUBLIC TRUST WILL NOT BE IMPAIRED OR SUBSTANTIALLY
19 INJURED BY THE PLACEMENT OF THE RECREATIONAL DIVING STRUCTURE ON
20 BOTTOMLANDS.

21 (D) THE LOCATION OF THE PROPOSED PLACEMENT OF THE RECREATIONAL
22 DIVING STRUCTURE WILL PROVIDE OPPORTUNITIES FOR RECREATIONAL SCUBA
23 DIVING OR GLASS BOTTOM BOAT TOURS, OR BOTH.

24 (E) IF THE RECREATIONAL DIVING STRUCTURE IS PROPOSED TO BE
25 PLACED WITHIN A GREAT LAKES BOTTOMLANDS PRESERVE ESTABLISHED UNDER
26 PART 761, THE UNDERWATER SALVAGE AND PRESERVE COMMITTEE ESTABLISHED
27 IN SECTION 76103 HAS DETERMINED THAT THE PLACEMENT OF THE

1 RECREATIONAL DIVING STRUCTURE IS CONSISTENT WITH THE PRESERVATION
2 AND USE OF THE GREAT LAKES BOTTOMLAND PRESERVE.

3 (F) THE PLACEMENT OF THE RECREATIONAL DIVING STRUCTURE WILL
4 NOT CAUSE NEGATIVE IMPACTS TO AQUATIC SPECIES.

5 (G) THE APPLICANT AGREES TO REASONABLE CONDITIONS OF THE
6 DEPARTMENT RELATED TO THE TRANSPORT AND SINKING OF THE RECREATIONAL
7 DIVING STRUCTURE.

8 (H) THE APPLICANT WILL TRANSFER OWNERSHIP AND RELINQUISH ALL
9 RIGHTS ASSOCIATED WITH THE RECREATIONAL DIVING STRUCTURE TO THE
10 STATE UPON PLACEMENT OF THE RECREATIONAL DIVING STRUCTURE ON
11 BOTTOMLANDS.

12 Sec. 76101. As used in this part:

13 (a) "Abandoned property" means an aircraft; a watercraft,
14 including a ship, boat, canoe, skiff, raft, or barge; the rigging,
15 gear, fittings, trappings, and equipment of an aircraft or
16 watercraft; the personal property of the officers, crew, and
17 passengers of an aircraft or watercraft; and the cargo of an
18 aircraft or watercraft, which have been deserted, relinquished,
19 cast away, or left behind and for which attempts at reclamation
20 have been abandoned by owners and insurers. Abandoned property also
21 means materials resulting from activities of historic and
22 prehistoric Native Americans.

23 (b) "Bottomlands" means the unpatented lake bottomlands of the
24 Great Lakes.

25 (c) "Committee" means the underwater salvage and preserve
26 committee created in section 76103.

27 (d) "Great Lakes" means lakes Erie, Huron, Michigan, St.

1 Clair, and Superior.

2 (e) "Great Lakes bottomlands preserve" means an area located
3 on the bottomlands of the Great Lakes and extending upward to and
4 including the surface of the water, which is delineated and set
5 aside by rule for special protection of abandoned property of
6 historical value, or ecological, educational, geological, or scenic
7 features or formations having recreational, educational, or
8 scientific value. A preserve may encompass a single object,
9 feature, or formation, or a collection of several objects,
10 features, or formations.

11 (f) "Historical value" means value relating to, or
12 illustrative of, Michigan history, including the statehood,
13 territorial, colonial, and historic, and prehistoric native
14 American periods.

15 (g) "Mechanical or other assistance" means all humanmade
16 devices, including pry bars, wrenches and other hand or power
17 tools, cutting torches, explosives, winches, flotation bags, lines
18 to surface, extra divers buoyancy devices, and other buoyance
19 devices, used to raise or remove artifacts.

20 **(H) "RECREATIONAL DIVING STRUCTURE" MEANS THAT TERM AS IT IS**
21 **DEFINED IN SECTION 32501.**

22 **(I)** ~~(h)~~ "Recreational value" means value relating to an
23 activity that the public engages in, or may engage in, for
24 recreation or sport, including scuba diving and fishing.

25 Sec. 76102. (1) The state reserves to itself the exclusive
26 right and privilege, except as provided in this part, of exploring,
27 surveying, excavating, and regulating through its authorized

1 officers, agents, and employees, all aboriginal records and other
2 antiquities, including mounds, earthworks, forts, burial and
3 village sites, mines or other relics, and abandoned property of
4 historical or recreational value found upon or within any of the
5 lands owned by or under the control of the state.

6 (2) The state reserves to itself a possessory right or title
7 superior to that of a finder to abandoned property of historical or
8 recreational value found on the state owned bottomlands of the
9 Great Lakes. This property shall belong to this state with
10 administration and protection ~~jointly~~ vested in the department. ~~and~~
11 ~~the department of history, arts, and libraries.~~

12 Sec. 76103. (1) The underwater salvage and preserve committee
13 is created in the department to provide technical and other advice
14 to the department ~~and the department of history, arts, and~~
15 ~~libraries~~ with respect to their ~~ITS~~ responsibilities under this
16 part.

17 (2) The underwater salvage and preserve committee shall
18 consist of 9 members appointed as follows:

19 (a) Two individuals appointed by the department who have
20 primary responsibility in the department for administering this
21 part.

22 ~~— (b) Two individuals appointed by the director of the~~
23 ~~department of history, arts, and libraries who have primary~~
24 ~~responsibility in the department of history, arts, and libraries~~
25 ~~for administering this part.~~

26 (B) ONE INDIVIDUAL APPOINTED BY TRAVEL MICHIGAN.

27 (C) ONE INDIVIDUAL APPOINTED BY THE DIRECTOR OF THE DEPARTMENT

1 **OF ENVIRONMENTAL QUALITY.**

2 (D) ~~(e)~~ Five individuals appointed by the governor with the
3 advice and consent of the senate from the general public. Two of
4 these individuals shall have experience in recreational scuba
5 diving.

6 (3) An individual appointed to the committee shall serve for a
7 term of 3 years. A vacancy on the committee shall be filled in the
8 same manner as an original appointment and the term of a member
9 appointed to fill a vacancy shall be for 3 years. Members of the
10 committee shall serve without compensation, except for their
11 regular state salary where applicable.

12 (4) The chairperson of the committee ~~shall alternate between~~
13 ~~the representatives from the department and the department of~~
14 ~~history, arts, and libraries. The chairperson shall be designated~~
15 ~~by the department or the director of the department of history,~~
16 ~~arts, and libraries, whichever is applicable from among his or her~~
17 **ITS** representatives on the committee. The chairperson's term shall
18 run for 12 months, from October 1 through September 30. ~~The~~
19 ~~department shall appoint the first chairperson of the committee for~~
20 ~~a term ending September 30, 1989.~~ The chairperson shall call
21 meetings as necessary but not less than 4 times per year, set the
22 agenda for meetings, ensure that adequate minutes are taken, and
23 file an annual report of committee proceedings with the ~~head of the~~
24 ~~department of natural resources and the director. of the department~~
25 ~~of history, arts, and libraries.~~

26 (5) The committee is an advisory body and may perform all of
27 the following functions:

1 (a) Make recommendations with regard to the creation and
2 boundaries of Great Lakes underwater preserves.

3 (b) Review applications for underwater salvage permits and
4 make recommendations regarding issuance.

5 (c) Consider and make recommendations regarding the charging
6 of permit fees and the appropriate use of revenue generated by
7 those fees.

8 (d) Consider the need for and the content of rules intended to
9 implement this part and make recommendations concerning the
10 promulgation of rules.

11 (e) Consider and make recommendations concerning appropriate
12 legislation.

13 (f) Consider and make recommendations concerning program
14 operation.

15 (6) The committee shall not replace or supersede the
16 responsibility or authority of the department ~~of history, arts, and~~
17 ~~libraries or the department~~ to carry out ~~their~~ **ITS** responsibilities
18 under this part.

19 Sec. 76104. A deed, as provided by this part, given by this
20 state, except state tax deeds for the conveyance of any land owned
21 by the state, shall contain a clause reserving to this state a
22 property right in aboriginal antiquities including mounds,
23 earthworks, forts, burial and village sites, mines, or other relics
24 and also reserving the right to explore and excavate for the
25 aboriginal antiquity by and through this state's authorized agent
26 and employee. This section applies only to the sale of tax reverted
27 land. The department ~~, with the approval of the department of~~

1 ~~history, arts, and libraries,~~ may waive this reservation when
2 conveying platted property and when making conveyances under
3 subpart 3 of part 21.

4 Sec. 76105. (1) A person, either personally or through an
5 agent or employee, shall not explore or excavate an aboriginal
6 remain covered by this part upon lands owned by the state, except
7 as authorized by a permit issued by the department ~~, with written~~
8 ~~approval of the department of history, arts, and libraries,~~
9 pursuant to part 13. A permit shall be issued without charge.

10 (2) Subsection (1) does not apply to the Mackinac Island state
11 park commission on lands owned or controlled by the Mackinac Island
12 state park commission.

13 Sec. 76107. (1) Except as provided in section 76108, a person
14 shall not recover, alter, or destroy abandoned property which is
15 in, on, under, or over the bottomlands of the Great Lakes,
16 including those within a Great Lakes bottomlands preserve, unless
17 the person has a permit issued ~~jointly~~ by the department ~~of~~
18 ~~history, arts, and libraries and the department~~ under section
19 76109.

20 (2) A person who recovers abandoned property without a permit
21 when a permit is required by this part shall transmit the property
22 to the department, ~~of history, arts, and libraries and the~~
23 recovered property shall be the property of the department. ~~of~~
24 ~~history, arts, and libraries.~~

25 (3) A person shall not remove, convey, mutilate, or deface a
26 human body or the remains of a human body located on the
27 bottomlands of the Great Lakes. This subsection does not apply to a

1 person who removes or conveys a human body or the remains of a
2 human body pursuant to a court order, pursuant to the written
3 consent of the decedent's next of kin if the decedent's death
4 occurred less than 100 years before the removal or conveying, or to
5 a person who removes or conveys the body for law enforcement,
6 medical, archaeological, or scientific purposes. A person who
7 violates this subsection is guilty of a felony punishable by
8 imprisonment for not more than 10 years or a fine of not more than
9 \$5,000.00, or both.

10 (4) A person who violates subsection (1) is guilty of a crime
11 as follows:

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

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

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

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

27 (c) If any of the following apply, the person is guilty of a

1 felony punishable by imprisonment for not more than 5 years or a
2 fine of not more than \$10,000.00 or 3 times the value of the
3 property involved, whichever is greater, or both imprisonment and a
4 fine:

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

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

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

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

18 (ii) The person violates subdivision (c) (i) and has 2 or more
19 prior convictions for committing or attempting to commit an offense
20 under this section. For purposes of this subparagraph, however, a
21 prior conviction does not include a conviction for a violation or
22 attempted violation of subdivision (a) or (b) (ii).

23 (5) The values of property recovered or destroyed in separate
24 incidents pursuant to a scheme or course of conduct within any 12-
25 month period may be aggregated to determine the total value of the
26 property recovered or destroyed.

27 (6) If the prosecuting attorney intends to seek an enhanced

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

- 10 (a) A copy of the judgment of conviction.
11 (b) A transcript of a prior trial, plea-taking, or sentencing.
12 (c) Information contained in a presentence report.
13 (d) The defendant's statement.
14 (7) If the sentence for a conviction under this section is
15 enhanced by 1 or more prior convictions, those prior convictions
16 shall not be used to further enhance the sentence for the
17 conviction pursuant to section 10, 11, or 12 of chapter IX of the
18 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and
19 769.12.

20 Sec. 76108. (1) A person may recover abandoned property
21 outside a Great Lakes bottomlands preserve without a permit if the
22 abandoned property is not attached to, nor located on, in, or
23 located in the immediate vicinity of and associated with a sunken
24 aircraft or watercraft **OR OTHER RECREATIONAL DIVING STRUCTURE** and
25 if the abandoned property is recoverable by hand without mechanical
26 or other assistance.

27 (2) A person who recovers abandoned property valued at more

1 than \$10.00 without a permit pursuant to subsection (1) shall file
2 a written report within 30 days after removal of the property with
3 the department ~~or the department of history, arts, and libraries~~ if
4 the property has been abandoned for more than 30 years. The written
5 report shall list all recovered property that has been abandoned
6 for more than 30 years and the location of the property at the time
7 of recovery. For a period of 90 days after the report is filed, the
8 person shall make the recovered property available to the
9 department ~~and the department of history, arts, and libraries~~ for
10 inspection at a location in this state. If the department ~~of~~
11 ~~history, arts, and libraries~~ determines that the recovered property
12 does not have historical value, the department ~~of history, arts,~~
13 ~~and libraries~~ shall release the property to the person by means of
14 a written instrument.

15 Sec. 76109. (1) A person shall not recover abandoned property
16 located on, in, or located in the immediate vicinity of and
17 associated with a sunken aircraft or watercraft **OR OTHER**
18 **RECREATIONAL DIVING STRUCTURE** except as authorized by a permit
19 issued by the department ~~and the department of history, arts, and~~
20 ~~libraries~~ pursuant to part 13.

21 (2) ~~Notwithstanding section 1303(1), a person shall file an~~ **AN**
22 application for a permit ~~with the department on a form prescribed~~
23 ~~by the department and approved by the department of history, arts,~~
24 ~~and libraries. The application shall contain all of the following~~
25 information:

26 (a) The name and address of the applicant.

27 (b) The name, if known, of the watercraft or aircraft **OR OTHER**

1 **RECREATIONAL DIVING STRUCTURE** on or around which recovery
2 operations are to occur and a current photograph or drawing of the
3 watercraft or aircraft **OR OTHER RECREATIONAL DIVING STRUCTURE**, if
4 available.

5 (c) The location of the abandoned property to be recovered and
6 the depth of water in which it may be found.

7 (d) A description of each item to be recovered.

8 (e) The method to be used in recovery operations.

9 (f) The proposed disposition of the abandoned property
10 recovered, including the location at which it will be available for
11 inspection by the department. ~~and the department of history, arts,~~
12 ~~and libraries.~~

13 (g) Other information ~~which~~ **THAT** the department ~~or the~~
14 ~~department of history, arts, and libraries~~ considers necessary in
15 evaluating the request for a permit.

16 (3) An application for a permit is not complete until all
17 information requested on the application form and any other
18 information requested by the department ~~or the department of~~
19 ~~history, arts, and libraries~~ has been received by the department.
20 After receipt of an otherwise complete application, the department
21 may request additional information or documents as are determined
22 to be necessary to make a decision to grant or deny a permit.

23 (4) The department ~~and the department of history, arts, and~~
24 ~~libraries~~ shall approve or deny an application for a permit with
25 the advice of the committee. A condition to the approval of an
26 application shall be in writing on the face of the permit. The
27 department ~~and the department of history, arts, and libraries~~ may

1 impose such conditions as are considered reasonable and necessary
2 to protect the public trust and general interests, including
3 conditions that accomplish 1 or more of the following:

4 (a) Protect and preserve the abandoned property to be
5 recovered, and the recreational value of the area in which
6 recovery is being accomplished.

7 (b) Assure reasonable public access to the abandoned property
8 after recovery.

9 (c) Conform with rules applying to activities within a Great
10 Lakes bottomlands preserve.

11 (d) Prohibit injury, harm, and damage to a bottomlands site or
12 abandoned property not authorized for removal during and after
13 salvage operations by the permit holder.

14 (e) Prohibit or limit the amount of discharge of possible
15 pollutants, such as floating timbers, planking, and other debris,
16 which may emanate from the shipwreck, plane wreck, or salvage
17 equipment.

18 (f) Require the permit holder to submit a specific removal
19 plan prior to commencing any salvaging activities. Among other
20 matters considered appropriate by ~~either the department, or the~~
21 ~~department of history, arts, and libraries, or both,~~ the removal
22 plan may be required to ensure the safety of those removing or
23 assisting in the removal of the abandoned property and to address
24 how the permit holder proposes to prevent, minimize, or mitigate
25 potential adverse effects upon the abandoned property to be
26 removed, that portion of the abandoned property which is not to be
27 removed, and the surrounding geographic features.

1 (5) The department shall approve an application for a permit
2 unless the department determines that the abandoned property to be
3 recovered has substantial recreational value in itself or in
4 conjunction with other abandoned property in its vicinity
5 underwater, or the recovery of abandoned property would not comply
6 with rules applying to a Great Lakes bottomlands preserve.

7 ~~(6) The department of history, arts, and libraries shall~~
8 ~~approve the application for a permit unless the department of~~
9 ~~history, arts, and libraries determines that the abandoned property~~
10 ~~to be recovered has substantial historical value in itself or in~~
11 ~~conjunction with other abandoned property in its vicinity. If the~~
12 **ABANDONED** property has substantial historical value, the
13 department, ~~of history, arts, and libraries,~~ pursuant to subsection
14 (4), may impose a condition on the permit requiring the permittee
15 to turn over recovered property to the department ~~of history, arts,~~
16 ~~and libraries~~ for the purpose of preserving the property or
17 permitting public access to the property. The department ~~of~~
18 ~~history, arts, and libraries~~ may authorize the display of the
19 property in a public or private museum or by a local unit of
20 government. In addition to the conditions authorized by subsection
21 (4), the department ~~of history, arts, and libraries~~ may provide for
22 payment of salvage costs in connection with the recovery of the
23 abandoned property.

24 (7) A person shall not recover cargo situated on, in, or
25 associated with an abandoned watercraft that is located outside of
26 a Great Lakes bottomlands preserve except as authorized by a permit
27 issued pursuant to this section and part 13. Subject to subsection

1 (4), the permit shall be issued to the first person applying for
2 the permit. However, only the person who discovered the abandoned
3 watercraft may apply for a permit during the first 90 days after
4 the discovery. When a watercraft containing cargo is simultaneously
5 discovered by more than 1 person, a permit shall be approved with
6 respect to the first person or persons jointly applying for a
7 permit.

8 (8) A person aggrieved by a condition contained on a permit or
9 by the denial of an application for a permit may request an
10 administrative review of the condition or the denial by the
11 ~~commission or the department of history, arts, and libraries,~~
12 ~~whichever disapproves the application or imposes the condition.~~ A
13 person shall file the request for review with the ~~commission or the~~
14 ~~department of history, arts, and libraries, whichever is~~
15 ~~applicable,~~ within 90 days after the permit application is
16 submitted to the department. An administrative hearing conducted
17 pursuant to this subsection shall be conducted under the procedures
18 set forth in chapter 4 of the administrative procedures act of
19 1969, 1969 PA 306, MCL 24.271 to 24.287. ~~If neither the department~~
20 ~~nor the department of history, arts, and libraries approves the~~
21 ~~application and an administrative review is requested from both the~~
22 ~~commission and the department of history, arts, and libraries, the~~
23 ~~appeals shall be combined upon request of the appellant or either~~
24 ~~the commission or the department of history, arts, and libraries~~
25 ~~and a single administrative hearing shall be conducted. The~~
26 ~~commission and~~ **FOLLOWING THE ADMINISTRATIVE HEARING,** the department
27 ~~of history, arts, and libraries shall issue jointly the final~~

1 decision and order in the case.

2 (9) A permit issued under this section is valid until December
3 31 of the year in which the application for the permit was filed
4 and is not renewable. If an item designated in a permit for
5 recovery is not recovered, a permit holder may, upon request
6 following the expiration of the permit, be issued a new permit to
7 remove the same abandoned property if the permit holder
8 demonstrates that diligence in attempting recovery was exercised
9 under the previously issued permit.

10 (10) A permit issued under this section shall not be
11 transferred or assigned unless the assignment is approved in
12 writing by ~~both the department. and the department of history,~~
13 ~~arts, and libraries.~~

14 Sec. 76110. (1) Within 10 days after recovery of abandoned
15 property, a person with a permit ~~issued pursuant to~~ **UNDER** section
16 76109 shall report the recovery in writing to the department. The
17 person recovering the abandoned property shall give authorized
18 representatives of the department ~~and the department of history,~~
19 ~~arts, and libraries~~ an opportunity to examine the abandoned
20 property for a period of 90 days after recovery. Recovered
21 abandoned property shall not be removed from this state without
22 written approval of the department. ~~and the department of history,~~
23 ~~arts, and libraries.~~ If the recovered abandoned property is removed
24 from the state without written approval, the attorney general, upon
25 request from the department, ~~or the department of history, arts,~~
26 ~~and libraries,~~ shall bring an action for the recovery of the
27 property.

1 (2) If the department ~~of history, arts, and libraries~~
2 determines that the recovered abandoned property does not have
3 historical value, the department ~~of history, arts, and libraries~~
4 shall release the property to the person holding the permit by
5 means of a written instrument.

6 Sec. 76111. (1) Subject to subsection (7), the department ~~of~~
7 ~~environmental quality~~ shall establish Great Lakes bottomlands
8 preserves by rule. A Great Lakes bottomlands preserve shall be
9 established by emergency rule if it is determined by the department
10 that this action is necessary to immediately protect an object or
11 area of historical or recreational value.

12 (2) A Great Lakes bottomlands preserve may be established
13 whenever a bottomlands area includes a single watercraft of
14 significant historical value, includes 2 or more abandoned
15 watercraft, or contains other features of archaeological,
16 historical, recreational, geological, or environmental
17 significance. Bottomlands areas containing few or no watercraft or
18 other features directly related to the character of a preserve may
19 be excluded from preserves.

20 (3) In establishing a Great Lakes bottomlands preserve, the
21 department ~~of environmental quality~~ shall consider all of the
22 following factors:

23 (a) Whether creating the preserve is necessary to protect
24 either abandoned property possessing historical or recreational
25 value, or significant underwater geological or environmental
26 features.

27 (b) The extent of local public and private support for

1 creation of the preserve.

2 (c) Whether a preserve development plan has been prepared by a
3 state or local agency.

4 (d) The extent to which preserve support facilities such as
5 roads, marinas, charter services, hotels, medical hyperbaric
6 facilities, and rescue agencies have been developed in or are
7 planned for the area.

8 (4) The department ~~of environmental quality and the department~~
9 ~~of history, arts, and libraries~~ shall not grant a permit to recover
10 abandoned artifacts within a Great Lakes bottomlands preserve
11 except for historical or scientific purposes or when the recovery
12 will not adversely affect the historical, cultural, or recreational
13 integrity of the preserve area as a whole.

14 (5) An individual Great Lakes bottomlands preserve shall not
15 exceed 400 square miles in area. Great Lakes bottomlands preserves
16 shall be limited in total area to not more than 10% of the Great
17 Lakes bottomlands within this state. However, the limitations
18 provided in this subsection do not apply to the Thunder Bay Great
19 Lakes bottomland preserve established in subsection (7).

20 (6) Upon the approval of the committee, ~~not more than 1 vessel~~
21 ~~associated with Great Lakes maritime history~~ **RECREATIONAL DIVING**
22 **STRUCTURES** may be sunk intentionally within a Great Lakes
23 bottomlands preserve **IF A PERMIT IS OBTAINED UNDER SECTION 32512B.**
24 However, state money shall not be expended to purchase, transport,
25 or sink the vessel.

26 (7) The Thunder Bay Great Lakes state bottomland preserve
27 established under R 299.6001 of the Michigan administrative code

1 shall have boundaries identical with those described in 15 ~~C.F.R.~~
2 **CFR** 922.190 for the Thunder Bay national marine sanctuary and
3 underwater preserve. As long as the Thunder Bay national marine
4 sanctuary and underwater preserve remains a designated national
5 marine sanctuary, the right and privilege to explore, survey,
6 excavate, and regulate abandoned property of historical or
7 recreational value found upon or within the lands owned by or under
8 control of the state within those boundaries shall be jointly
9 managed and regulated by the department ~~of environmental quality~~
10 and the national oceanic and atmospheric administration. However,
11 this subsection shall not be construed to convey any ownership
12 right or interest from the state to the federal government of
13 abandoned property of historical or recreational value found upon
14 or within the lands owned by or under control of the state.

15 Sec. 76112. (1) The department ~~and the department of history,~~
16 ~~arts, and libraries, jointly or separately,~~ may promulgate rules as
17 are necessary to implement this part.

18 (2) ~~Within each Great Lakes bottomlands preserve, the~~ **THE**
19 ~~department and the department of history, arts, and libraries may~~
20 ~~jointly~~ promulgate rules that govern access to and use of a Great
21 Lakes bottomlands preserve. These rules may regulate or prohibit
22 the alteration, destruction, or removal of abandoned property,
23 features, or formations within a preserve.

24 **SEC. 76112A. THE DEPARTMENT, IN CONJUNCTION WITH TRAVEL**
25 **MICHIGAN, SHALL DO ALL OF THE FOLLOWING:**

26 (A) **PUBLICIZE AND PROMOTE THE USE OF GREAT LAKES BOTTOMLANDS**
27 **PRESERVES.**

1 (B) PUBLICIZE AND PROMOTE RECREATIONAL SCUBA DIVING IN THE
2 GREAT LAKES.

3 (C) UPON THE SINKING OF RECREATIONAL DIVING STRUCTURES IN THE
4 GREAT LAKES, PUBLICIZE AND PROMOTE RECREATIONAL SCUBA DIVING
5 OPPORTUNITIES ASSOCIATED WITH RECREATIONAL DIVING STRUCTURES.

6 Sec. 76113. Sections 76107 to 76110 shall not be considered to
7 impose the following limitations:

8 (a) A limitation on the right of a person to engage in diving
9 for recreational purposes in and upon the Great Lakes or the
10 bottomlands of the Great Lakes.

11 (b) A limitation on the right of the department ~~or the~~
12 ~~department of history, arts, and libraries~~ to recover, or to
13 contract for the recovery of, abandoned property in and upon the
14 bottomlands of the Great Lakes.

15 (c) A limitation on the right of a person to own either
16 abandoned property recovered before July 2, 1980 or abandoned
17 property released to a person after inspection.

18 Sec. 76114. (1) If the department ~~or the department of~~
19 ~~history, arts, and libraries~~ finds that the holder of a permit
20 issued pursuant to section 76105 or 76109 is not in compliance with
21 this part, a rule promulgated under this part, or a provision of or
22 condition in the permit, or has damaged abandoned property or
23 failed to use diligence in attempting to recover property for which
24 a permit was issued, the department ~~or the department of history,~~
25 ~~arts, and libraries, individually or jointly,~~ may summarily suspend
26 or revoke the permit. If the permit holder requests a hearing
27 within 15 days following the effective date of the suspension or

1 revocation, the ~~commission or the~~ department of history, arts, and
2 ~~libraries~~ shall conduct an administrative hearing pursuant to
3 chapter 4 of the administrative procedures act of 1969, 1969 PA
4 306, MCL 24.271 to 24.287, to consider whether the permit should be
5 reinstated.

6 (2) The attorney general, on behalf of the department, ~~or the~~
7 ~~department of history, arts, and libraries, individually or~~
8 ~~jointly,~~ may commence a civil action in circuit court to enforce
9 compliance with this part, to restrain a violation of this part or
10 any action contrary to a decision denying a permit, to enjoin the
11 further removal of artifacts, geological material, or abandoned
12 property, or to order the restoration of an affected area to its
13 prior condition.

14 Sec. 76115. Each person who participates in the sport of scuba
15 diving on the Great Lakes bottomlands accepts the dangers that
16 ~~adhere~~ **INHERE** in that sport insofar as the dangers are obvious and
17 necessary. Those dangers include, but are not limited to, injuries
18 which can result from entanglements in sunken watercraft or
19 aircraft **OR OTHER RECREATIONAL DIVING STRUCTURES**; the condition of
20 sunken watercraft or aircraft **OR OTHER RECREATIONAL DIVING**
21 **STRUCTURES**; the location of sunken watercraft or aircraft **OR OTHER**
22 **RECREATIONAL DIVING STRUCTURES**; the failure of the state to fund
23 staff or programs at bottomlands preserves; and the depth of the
24 objects and bottomlands within preserves.

25 Sec. 76118. (1) The underwater preserve fund is created as a
26 separate fund in the state treasury, and it may receive revenue as
27 provided in this part ~~7~~ or revenue from any other source.

1 (2) Money in the underwater preserve fund shall be
2 appropriated **TO THE DEPARTMENT** for only the following purposes:

3 (a) ~~To the department of history, arts, and libraries for the~~
4 **THE** development of maritime archaeology **IN THE GREAT LAKES.**

5 (B) **THE** ~~and for the~~ promotion of Great Lakes bottomlands
6 preserves in this state.

7 (C) **THE PROMOTION OF RECREATIONAL SCUBA DIVING IN THE GREAT**
8 **LAKES.**

9 (D) ~~(b) To the department for the~~ **THE** enforcement of this
10 part.