

HOUSE BILL No. 5493

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

A bill to amend the title and sections 1, 2, 3, 5, 7, and 8 of Act No. 182 of the Public Acts of 1962, entitled

"An act to prohibit the cutting, removal, transportation or sale within this state, for any purpose, of Christmas trees, evergreen boughs or other trees, shrubs or vines, or certain native plants, without a bill of sale or other proof of ownership from the owner of the land on which the same are grown; to provide for the enforcement of this act; to prescribe penalties for violation thereof; and to repeal certain acts and parts of acts,"

being sections 320.411, 320.412, 320.413, 320.415, 320.417, and 320.418 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 5, 7, and 8 of
2 Act No. 182 of the Public Acts of 1962, being sections 320.411,
3 320.412, 320.413, 320.415, 320.417, and 320.418 of the Michigan
4 Compiled Laws, are amended to read as follows:

1 TITLE

2 An act to prohibit the cutting, removal, transportation or
 3 sale within this state, for any purpose, of Christmas trees,
 4 evergreen boughs or other trees OR PARTS THEREOF, shrubs or
 5 vines, or certain native plants, without a bill of sale or other
 6 proof of ownership from the owner of the land on which the same
 7 are grown; to provide for the enforcement of this act; to pre-
 8 scribe penalties for violation thereof; and to repeal certain
 9 acts and parts of acts.

10 Sec. 1. (1) ~~No~~ A person shall NOT cut, remove, or trans-
 11 port, without having in possession a bill of sale from the owner,
 12 ~~in~~ OR OTHER EVIDENCE OF TITLE ON A form prescribed by and
 13 available from the department of ~~agriculture~~ NATURAL RESOURCES
 14 OR THE UNITED STATES FOREST SERVICE, any OF THE FOLLOWING:

15 (A) Christmas trees. ~~, evergreen~~

16 (B) EVERGREEN boughs. ~~or~~

17 (C) ANY other trees OR PARTS OF TREES, shrubs, or vines.

18 ~~or any of the following native plants: Trailing arbutus, bird's~~
 19 ~~foot violet, climbing bittersweet, club mosses, flowering dog-~~
 20 ~~wood, all Michigan holly, North American lotus, pipsissewa, and~~
 21 ~~all native orchids, trilliums and gentians.~~

22 (D) TRAILING ARBUTUS..... EPIGAEA

23 (E) BIRD'S FOOT VIOLET..... VIOLA PEDATA

24 (F) CLIMBING BITTERSWEET..... CELASTRUS SCANDENS

25 (G) CLUB MOSSES..... LYCOPODIACEAE

26 (H) FLOWERING DOGWOOD..... CORNUS FLORIDA

- 1 (I) ALL MICHIGAN HOLLY..... ILEX SP.
 2 (J) NORTH AMERICAN LOTUS..... NELUMBO SP.
 3 (K) PIPSISSEWA..... CHIMAPHILA UMBELLATA
 4 (L) ALL NATIVE ORCHIDS..... ORCHIDACEAE
 5 (M) TRILLIUMS..... TRILLIUM SP.
 6 (N) GENTIANAS..... EUSTOMA SP.

7 (2) AS USED IN THIS ACT, "PLANT" MEANS A TREE, BOUGH, SHRUB,
 8 VINE, OR PART THEREOF LISTED IN SUBSECTION (1).

9 Sec. 2. ~~No~~ A person shall NOT transport within this state
 10 any ~~of the trees, boughs, shrubs, vines or plants listed in~~
 11 ~~section 1~~ IN EITHER OF THE FOLLOWING CIRCUMSTANCES:

12 (a) If the ~~same~~ PLANTS have been removed from property
 13 owned by the person, unless he OR SHE has in possession a current
 14 tax receipt or deed with respect to ~~said property, or~~ THE
 15 PROPERTY.

16 (b) If the ~~same~~ PLANTS have been removed from property not
 17 owned by the person, unless EITHER OF THE FOLLOWING HAVE BEEN
 18 MET:

19 (i) ~~(1)~~ Each ~~tree, bough, shrub, vine or~~ plant bears a
 20 tag placed thereon by and identifying the person and his OR HER
 21 address and stating from whom the ~~same~~ PLANT was acquired. ~~→~~
 22 ~~or~~

23 (ii) ~~(2)~~ The person has in his OR HER possession a bill of
 24 sale or other evidence of title acquisition in form ~~to be~~ pre-
 25 scribed by AND AVAILABLE FROM the department of ~~agriculture~~
 26 NATURAL RESOURCES OR THE UNITED STATES FOREST SERVICE.

1 Sec. 3. ~~No~~ A person shall NOT sell or offer for sale any
2 ~~of the trees, boughs, shrubs, vines or plants listed in~~
3 ~~section~~ without having in his OR HER possession the evidence
4 of title prescribed by section 2, ~~nor~~ OR without furnishing the
5 purchaser a bill of sale or other evidence of title acquisition
6 in A form ~~to be~~ prescribed by the department of ~~agriculture~~
7 NATURAL RESOURCES OR THE UNITED STATES FOREST SERVICE. Vendors
8 shall maintain and keep RECORDS OF THEIR TRANSACTIONS for ~~such~~
9 THE period of time ~~such records of their transactions as~~ THAT
10 the department of ~~agriculture shall~~ NATURAL RESOURCES OR THE
11 UNITED STATES FOREST SERVICE PRESCRIBES by regulation.
12 ~~prescribe.~~

13 Sec. 5. Any law enforcement officer having probable cause
14 to believe that ~~any section of~~ this act is being violated,
15 including authorized employees of the department of ~~conservation~~
16 ~~and the department of agriculture, shall have the power to~~
17 NATURAL RESOURCES, MAY make inspections to determine whether ~~any~~
18 ~~provisions of~~ this act ~~have~~ HAS been violated, ~~which power~~
19 ~~shall include~~ INCLUDING the right to stop any vehicle THAT IS
20 TRANSPORTING A PLANT at any time, to inspect and make copies of
21 bills of sale or other ~~evidences~~ EVIDENCE of title prescribed
22 by the department of ~~agriculture~~ NATURAL RESOURCES OR THE
23 UNITED STATES FOREST SERVICE, to arrest persons found to have any
24 of ~~the trees, boughs, shrubs, vines or plants prescribed in~~
25 ~~section~~ in possession in violation of ~~the terms of~~ this act,
26 and to seize and hold any such ~~trees, boughs, shrubs, vines or~~
27 ~~plants~~ PLANT, INCLUDING EQUIPMENT USED TO REMOVE OR TRANSPORT

1 THESE ITEMS, subject to the order of the court. ITEMS SEIZED
 2 PURSUANT TO THIS SECTION SHALL BE DISPOSED OF AS REQUIRED UNDER
 3 SECTIONS 3 AND 4 OF ACT NO. 192 OF THE PUBLIC ACTS OF 1929, BEING
 4 SECTIONS 300.13 AND 300.14 OF THE MICHIGAN COMPILED LAWS. Failure
 5 to exhibit a bill of sale or other evidence of title prescribed
 6 by the department of ~~agriculture shall be~~ NATURAL RESOURCES OR
 7 THE UNITED STATES FOREST SERVICE IS prima facie evidence that ~~no~~
 8 ~~such~~ A bill of sale or other evidence of title ~~exists~~ DOES NOT
 9 EXIST.

10 Sec. 7. The director of ~~agriculture~~ THE DEPARTMENT OF
 11 NATURAL RESOURCES, in cooperation with ~~the department of conser-~~
 12 ~~vation and~~ law enforcement agencies, shall enforce ~~the provi-~~
 13 ~~sions of~~ this act. The director of ~~agriculture~~ THE DEPARTMENT
 14 OF NATURAL RESOURCES shall ~~make such~~ PROMULGATE rules ~~and~~
 15 ~~regulations~~ as he ~~deems~~ OR SHE CONSIDERS necessary for the
 16 enforcement of this act ~~in accordance with the provisions of Act~~
 17 ~~No. 88 of the Public Acts of 1943, as amended, being sections~~
 18 ~~24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act~~
 19 ~~No. 197 of the Public Acts of 1952, as amended, being sections~~
 20 ~~24.101 to 24.110 of the Compiled Laws of 1948~~ PURSUANT TO THE
 21 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
 22 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
 23 COMPILED LAWS.

24 Sec. 8. (1) ~~Violation of any of the provisions of~~ A
 25 PERSON WHO VIOLATES this act is GUILTY OF a misdemeanor. ~~The~~
 26 ~~forgery of any~~

1 (2) A PERSON WHO FORGES A bill of sale or other evidence of
2 title prescribed by the department of ~~agriculture~~ NATURAL
3 RESOURCES OR THE UNITED STATES FOREST SERVICE is GUILTY OF a
4 misdemeanor.

5 (3) A PERSON WHO VIOLATES THIS ACT BY ILLEGALLY REMOVING OR
6 CUTTING A PLANT IS LIABLE TO THE STATE FOR 3 TIMES THE FAIR
7 MARKET VALUE OF THE DAMAGE CAUSED BY THE UNLAWFUL ACT. DAMAGES
8 COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE CREDITED TO THE
9 GAME AND FISH PROTECTION FUND CREATED IN THE HUNTING AND FISHING
10 LICENSE ACT, ACT NO. 86 OF THE PUBLIC ACTS OF 1980, BEING SEC-
11 TIONS 316.101 TO 316.902 OF THE MICHIGAN COMPILED LAWS.

12 Section 2. Section 9 of Act No. 182 of the Public Acts of
13 1962, being section 320.419 of the Michigan Compiled Laws, is
14 repealed.