

Act No. 299
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, Hammerstrom, Porreca, Gernaat, Stille, Middaugh, Alley, Gnodtke, Shepich, Jacobetti and Lowe
Reps. Anthony, Dalman, DeMars, Dolan, Fitzgerald, Gagliardi, Gire, Goschka, Hill, Jersevic, London, McBryde, McManus, Randall, Scott, Shugars and Voorhees named co-sponsors

ENROLLED HOUSE BILL No. 4896

AN ACT 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.

The People of the State of Michigan enact:

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

TITLE

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

Sec. 1. (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 of agriculture or the department of natural resources 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 act, "plant" means a tree, bough, shrub, vine, or other native plant, or a part thereof 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.

Sec. 2. 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 have 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 form prescribed by and available from the department of agriculture or the department of natural resources 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.

Sec. 3. 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 2, or without furnishing the purchaser a bill of sale or other evidence of title acquisition in a form prescribed by the department of agriculture or the department of natural resources or the federal agency that has jurisdiction. Vendors shall maintain and keep records of their transactions for the period of time that the department of agriculture or the department of natural resources or the federal agency that has jurisdiction prescribes by rule or regulation.

Sec. 5. Any law enforcement officer having probable cause to believe that this act is being violated, including authorized employees of the department of agriculture or the department of natural resources, may make inspections to determine whether this act 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 of agriculture or the department of natural resources or the federal agency that has jurisdiction, to arrest persons found to have any plants in possession in violation of this act, 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 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. Failure to exhibit a bill of sale or other evidence of title prescribed by the department of agriculture or the department of natural resources or the federal agency that has jurisdiction is prima facie evidence that a bill of sale or other evidence of title does not exist.

Sec. 7. The director of agriculture and the department of natural resources, in cooperation with law enforcement agencies, shall enforce this act. The director of agriculture, after consultation with the director of the department of natural resources, shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, as he or she considers necessary for the enforcement of this act.

Sec. 8. (1) If the damages are \$100.00 or less, for a first violation of this act, 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 this act, 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 this act 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 this act 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.

(4) A person who forges a bill of sale or other evidence of title prescribed by the department of agriculture or the department of natural resources 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.

(5) In addition to the penalties provided for in this section, a person who violates this act 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 the sum of \$100.00, whichever is greater, and the court costs and attorney fees. Damages collected pursuant to 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.

(6) A person who violates this act 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 act 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.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.