



HOUSE BILL No. 4896

HOUSE BILL No. 4896

June 29, 1993, Introduced by Reps. Bodem, Kukuk, Hammerstrom, Porreca, Gernaat, Stille, Middaugh, Alley, Gnodtke, Shepich, Jacobetti and Lowe and referred to the Committee on Agriculture and Forestry.

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:

TITLE

An act to prohibit the cutting, removal, transportation or sale within this state, for any purpose, of Christmas trees, evergreen boughs or other trees OR PARTS THEREOF, 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.

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

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

(B) EVERGREEN boughs. ~~or~~

(C) ANY other ~~trees~~ TREE OR A PART OF A TREE, ~~shrubs~~ SHRUB, or ~~vines~~ VINE. ~~or any of the following native plants:~~
~~Trailing arbutus, bird's foot violet, climbing bittersweet, club~~
~~mosses, flowering dogwood, all Michigan holly, North American~~
~~lotus, pipsissewa, and all native orchids, trilliums and~~
~~gentians.~~

(D) TRAILING ARBUTUS..... EPIGAEA

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

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

(G) CLUB MOSSES..... LYCOPODIACEAE

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

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

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

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

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

20 (i) ~~(1) Each tree, bough, shrub, vine or~~ THE PERSON POS-
 21 SESSING THE plant ~~bears~~ PLACES a tag ~~placed thereon by and~~ ON
 22 EACH PLANT identifying the person and his OR HER address and
 23 stating from whom the ~~same~~ PLANT was acquired. ~~, or~~

24 (ii) ~~(2)~~ The person has in his OR HER possession a bill of
 25 sale or other evidence of title acquisition in form ~~to be~~ pre-
 26 scribed by AND AVAILABLE FROM the department of ~~agriculture~~
 27 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 section~~
 3 ~~+~~ A PLANT 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 A VENDOR shall maintain and keep RECORDS OF HIS OR HER
 9 TRANSACTIONS for ~~such~~ THE period of time ~~such records of their~~
 10 ~~transactions as~~ THAT the department of ~~agriculture shall~~
 11 NATURAL RESOURCES OR THE UNITED STATES FOREST SERVICE PRESCRIBES
 12 by RULE OR regulation. ~~prescribe.~~

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

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

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

25 Sec. 8. (1) ~~Violation of any of the provisions of~~ A
 26 PERSON WHO VIOLATES this act is GUILTY OF a misdemeanor. ~~The~~
 27 ~~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 REMOVES OR CUTS A PLANT IN VIOLATION OF
6 THIS ACT IS LIABLE TO THE STATE FOR 3 TIMES THE FAIR MARKET VALUE
7 OF THE DAMAGE CAUSED BY THE UNLAWFUL ACT. DAMAGES COLLECTED PUR-
8 SUANT TO THIS SUBSECTION SHALL BE CREDITED TO THE GAME AND FISH
9 PROTECTION FUND CREATED IN THE HUNTING AND FISHING LICENSE ACT,
10 ACT NO. 86 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 316.101 TO
11 316.902 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.