

**SUBSTITUTE FOR  
SENATE BILL NO. 410**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 2157, 52908, and 76107 (MCL 324.2157,  
324.52908, and 324.76107), section 2157 as added by 1995 PA 60,  
section 52908 as added by 1995 PA 57, and 76107 as added by 1995  
PA 58.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2157. (1) ~~If~~ A PERSON WHO VIOLATES SECTION 2156 IS  
2 GUILTY OF A CRIME AS FOLLOWS:

3       (A) IF the damages are LESS THAN \$100.00, ~~or less, for a~~  
4 ~~first violation of section 2156, a person is responsible for a~~  
5 ~~civil fine of not more than \$500.00. If the damages are \$100.00~~  
6 ~~or less, for a second or subsequent violation of section 2156, a~~  
7 ~~person is guilty of a misdemeanor, punishable by imprisonment for~~

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1 ~~not more than 90 days, or a fine of not less than \$50.00 or more~~  
2 ~~than \$500.00, or both, and the costs of prosecution.~~ AS FOLLOWS:

3       (i) FOR A FIRST OFFENSE, A MISDEMEANOR PUNISHABLE BY IMPRIS-  
4 ONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN  
5 \$500.00, OR BOTH.

6       (ii) FOR AN OFFENSE FOLLOWING 1 OR MORE PRIOR CONVICTIONS  
7 UNDER THIS SECTION, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
8 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR  
9 BOTH.

10       (B) ~~-(2)- If the damages are more than \$100.00 OR MORE but~~  
11 ~~less than \$1,000.00 \$500.00, a person who violates section~~  
12 ~~2156 is guilty of a misdemeanor, punishable by imprisonment for~~  
13 ~~not more than 180 days, or a fine of not less than \$500.00 or~~  
14 ~~more than \$5,000.00, or both, and the costs of prosecution.~~ AS  
15 FOLLOWS:

16       (i) FOR A FIRST OR SECOND OFFENSE, A MISDEMEANOR PUNISHABLE  
17 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE  
18 THAN \$1,000.00 OR 3 TIMES THE AGGREGATE VALUE OF THE FOREST PRO-  
19 DUCT, IMPROVEMENT, OR PROPERTY INVOLVED, WHICHEVER IS GREATER, OR  
20 BOTH IMPRISONMENT AND A FINE.

21       (ii) FOR AN OFFENSE FOLLOWING 2 OR MORE PRIOR CONVICTIONS  
22 UNDER THIS SECTION, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
23 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.  
24 FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A PRIOR CONVICTION  
25 DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR ATTEMPTED VIOLA-  
26 TION OF SUBDIVISION (A).

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1 (C) ~~(3)~~ If the damages are ~~\$1,000.00~~ \$500.00 or more, ~~a~~  
2 ~~person who willfully violates section 2156 is guilty of a felony,~~  
3 ~~punishable by imprisonment for not more than 180 days, or a fine~~  
4 ~~of not less than \$1,000.00 or more than \$10,000.00, and the costs~~  
5 ~~of prosecution~~ A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
6 THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE  
7 AGGREGATE VALUE OF THE FOREST PRODUCT, IMPROVEMENT, OR PROPERTY  
8 INVOLVED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

9 (2) THE VALUES OF THE FOREST PRODUCT, IMPROVEMENT, OR PROP-  
10 ERTY INVOLVED IN SEPARATE INCIDENTS PURSUANT TO A SCHEME OR  
11 COURSE OF CONDUCT WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO  
12 DETERMINE THE TOTAL VALUE OF THE FOREST PRODUCTS, IMPROVEMENTS,  
13 OR PROPERTY INVOLVED.

14 (3) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
15 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
16 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
17 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR  
18 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
19 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
20 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE  
21 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-  
22 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT  
23 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

24 (A) A COPY OF THE JUDGMENT OF CONVICTION.

25 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
26 SENTENCING.

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(C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

(D) THE DEFENDANT'S STATEMENT.

Sec. 52908. (1) ~~If~~ A PERSON WHO VIOLATES THIS PART IS GUILTY OF A CRIME AS FOLLOWS:

(A) IF the damages are LESS THAN \$100.00, ~~or less, for a first violation of this part, 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 part, 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.~~ AS FOLLOWS:

(i) FOR A FIRST OFFENSE, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

(ii) FOR AN OFFENSE FOLLOWING 1 OR MORE PRIOR CONVICTIONS UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

(B) ~~(2)~~ If the damages are ~~more than~~ \$100.00 OR MORE but less than ~~\$1,000.00~~ \$500.00, ~~a person who violates this part 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.~~ AS FOLLOW:

(i) FOR A FIRST OR SECOND OFFENSE, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE

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1 THAN \$1,000.00 OR 3 TIMES THE AGGREGATE VALUE OF THE PROPERTY,  
2 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

3 (ii) FOR AN OFFENSE FOLLOWING 2 OR MORE PRIOR CONVICTIONS  
4 UNDER THIS SECTION, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
5 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.  
6 FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A PRIOR CONVICTION  
7 DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR ATTEMPTED VIOLA-  
8 TION OF SUBDIVISION (A).

9 (C) ~~-(3)-~~ If the damages are ~~-\$1,000.00-~~ \$500.00 or more, ~~-a~~  
10 ~~person who willfully violates this part is guilty of a felony,~~  
11 ~~punishable by imprisonment for not more than 180 days or a fine~~  
12 ~~of not less than \$1,000.00 or more than \$10,000.00, and the costs~~  
13 ~~of prosecution-~~ A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
14 THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE  
15 AGGREGATE VALUE OF THE PROPERTY, WHICHEVER IS GREATER, OR BOTH  
16 IMPRISONMENT AND A FINE.

17 (2) THE VALUES OF PROPERTY DAMAGED IN SEPARATE INCIDENTS  
18 PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY 12-MONTH  
19 PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF PROPERTY  
20 DAMAGED.

21 (3) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
22 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
23 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
24 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR  
25 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
26 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
27 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE

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1 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE  
2 ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING,  
3 BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

4 (A) A COPY OF THE JUDGMENT OF CONVICTION.

5 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR

6 SENTENCING.

7 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

8 (D) THE DEFENDANT'S STATEMENT.

9 (4) A person who forges a bill of sale or other evidence of  
10 title prescribed by the department or the department of agricul-  
11 ture or the federal agency that has jurisdiction is guilty of a  
12 misdemeanor, punishable by imprisonment for not more than 90  
13 days, or a fine of not more than \$100.00, or both.

14 (5) In addition to the penalties provided for in this sec-  
15 tion, a person who violates this part by illegally removing or  
16 cutting a plant is liable in a civil action filed by the state or  
17 the property owner for up to 3 times the fair market value of the  
18 damage caused by the unlawful act or ~~the sum of~~ \$100.00, which-  
19 ever is greater, and ~~the~~ FOR court costs and attorney fees.  
20 Damages collected ~~pursuant to~~ UNDER this subsection shall be  
21 paid to the owner of the lands from which the plants were ille-  
22 gally removed or, if removed from state owned lands, to the state  
23 treasurer, who shall credit the deposit to the fund that was used  
24 to purchase the land on which the violation occurred.

25 (6) A person who violates this part by not having in his or  
26 her possession a current tax receipt or deed with respect to  
27 property, or a copy of the receipt or deed, indicating that the

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1 person owned the land from which the plants were taken shall not  
2 be prosecuted under this part for that violation if he or she  
3 subsequently produces a current tax receipt or deed showing that  
4 person's ownership of the property from which the plants were  
5 taken.

6       Sec. 76107. (1) Except as provided in section 76108, a  
7 person shall not recover, alter, or destroy abandoned property  
8 which is in, on, under, or over the bottomlands of the Great  
9 Lakes, including those within a Great Lakes bottomlands preserve,  
10 unless the person has a permit issued jointly by the secretary of  
11 state and the department ~~pursuant to~~ UNDER section 76109.

12       (2) A person who recovers abandoned property without a  
13 permit when a permit is required by this part shall transmit the  
14 property to the secretary of state and the recovered property  
15 shall be the property of the secretary of state.

16       (3) A person shall not remove, convey, mutilate, or deface a  
17 human body or the remains of a human body located on the bottom-  
18 lands of the Great Lakes. THIS SUBSECTION DOES NOT APPLY TO A  
PERSON WHO REMOVES OR CONVEYS A HUMAN BODY OR THE REMAINS OF A HUMAN  
BODY PURSUANT TO A COURT ORDER. PURSUANT TO THE WRITTEN CONSENT OF  
THE DECEDENT'S NEXT OF KIN IF THE DECEDENT'S DEATH OCCURRED LESS  
THAN 100 YEARS BEFORE THE REMOVAL OR CONVEYING, OR TO A PERSON WHO  
REMOVES OR CONVEYS THE BODY FOR LAW ENFORCEMENT, MEDICAL,  
ARCHAEOLOGICAL, OR SCIENTIFIC PURPOSES. A PERSON WHO VIOLATES THIS  
SUBSECTION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

19       (4) A person who violates subsection (1) ~~by recovering or~~  
20 ~~destroying abandoned property with a fair market value of \$100.00~~  
21 ~~or more is guilty of a felony, punishable by imprisonment for not~~  
22 ~~more than 2 years, or by a fine of not more than \$5,000.00, or~~  
23 ~~both.~~ IS GUILTY OF A CRIME AS FOLLOWS:

24       (A) IF THE VALUE OF THE PROPERTY IS LESS THAN \$100.00, AS  
25 FOLLOWS:

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1       (i) FOR A FIRST OFFENSE, A MISDEMEANOR PUNISHABLE BY  
2 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN  
3 \$500.00, OR BOTH.

4       (ii) FOR AN OFFENSE FOLLOWING 1 OR MORE PRIOR CONVICTIONS  
5 UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPOND-  
6 ING TO THIS SECTION, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
7 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR  
8 BOTH.

9       (B) IF THE VALUE OF THE PROPERTY IS \$100.00 OR MORE BUT LESS  
10 THAN \$500.00, AS FOLLOWS:

11       (i) FOR A FIRST OR SECOND OFFENSE, A MISDEMEANOR PUNISHABLE  
12 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE  
13 THAN \$1,000.00 OR 3 TIMES THE AGGREGATE VALUE OF THE PROPERTY,  
14 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

15       (ii) FOR AN OFFENSE FOLLOWING 2 OR MORE PRIOR CONVICTIONS  
16 UNDER THIS SECTION, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
17 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.  
18 FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A PRIOR CONVICTION  
19 DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR ATTEMPTED VIOLA-  
20 TION OF SUBDIVISION (A).

21       (C) IF THE VALUE OF THE PROPERTY IS \$500.00 OR MORE, A  
22 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A  
23 FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE AGGREGATE VALUE OF  
24 THE PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A  
25 FINE.

26       (5) THE VALUES OF PROPERTY RECOVERED OR DESTROYED IN  
27 SEPARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT



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1 WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE  
2 TOTAL VALUE OF THE PROPERTY RECOVERED OR DESTROYED.

3 (6) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
4 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
5 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
6 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR  
7 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
8 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
9 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE  
10 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-  
11 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT  
12 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

13 (A) A COPY OF THE JUDGMENT OF CONVICTION.

14 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
15 SENTENCING.

16 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

17 (D) THE DEFENDANT'S STATEMENT.

18 Enacting section 1. This amendatory act takes effect  
19 September 1, 2001.