

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.76107 Permit to recover, alter, or destroy abandoned property; recovered property as property of department of history, arts, and libraries; prohibitions as to human body or remains; violation; penalty; prior convictions.

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

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

(3) A person shall not remove, convey, mutilate, or deface a human body or the remains of a human body located on the bottomlands 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.

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

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

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

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

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

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

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

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

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

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

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

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

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

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(7) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those

prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001;—Am. 2001, Act 155, Eff. Jan. 1, 2002.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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