

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Part 529

CHRISTMAS TREES, BOUGHS, PLANTS, AND OTHER TREES

324.52901 Removal of certain plants; "plant" defined; bill of sale or other evidence of title required.

Sec. 52901.

(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 or the department of agriculture or the federal agency that has jurisdiction, any of the following:

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| (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 part, "plant" means a tree, bough, shrub, vine, or other native plant, or a part of a tree, bough, shrub, vine, or other native plant, 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.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.52902 Transportation of plants.

Sec. 52902.

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 has 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 a form prescribed by and available from the department or the department of agriculture 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.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451
Popular Name: NREPA

324.52903 Sale of plants; bill of sale or other evidence of title required; records of transactions.

Sec. 52903.

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 52902 or without furnishing the purchaser with a bill of sale or other evidence of title acquisition in a form prescribed by the department or the department of agriculture or the federal agency that has jurisdiction. Vendors shall maintain and keep records of their transactions for the period of time that the department or the department of agriculture or the federal agency that has jurisdiction prescribes by rule or regulation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.52904 Trees, shrubs, vines or plants; shipment; evidence of title.

Sec. 52904.

A common carrier shall not accept for shipment any of the trees, boughs, shrubs, vines, or plants listed in section 52901 unless the consignor whose name and address is recorded at the time of consignment exhibits the evidence of title prescribed by section 52902.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.52905 Law enforcement officers; inspection; impoundment of plants or equipment; failure to exhibit bill of sale or other evidence of title.

Sec. 52905.

A law enforcement officer having probable cause to believe that this part is being violated, including authorized employees of the department of agriculture or the department, may make inspections to determine whether this part 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 or the department of agriculture or the federal agency that has jurisdiction, to arrest persons found to have any plants in possession in violation of this part 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 1603 and 1604. Failure to exhibit a bill of sale or other evidence of title prescribed by the department or the department of agriculture or the federal agency that has jurisdiction is prima facie evidence that a bill of sale or other evidence of title does not exist.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
Popular Name: Act 451
Popular Name: NREPA

324.52906 Construction of part.

Sec. 52906.

Nothing in this part shall be construed to interfere with the insect pest and plant disease act, Act No. 189 of the Public Acts of 1931, being sections 286.201 to 286.226 of the Michigan Compiled Laws.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.52907 Enforcement of part; rules.

Sec. 52907.

The director of agriculture and the department, in cooperation with law enforcement agencies, shall enforce this part. The director of agriculture, after consultation with the department, shall promulgate rules as he or she considers necessary for the enforcement of this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.52908 Violation of part; penalties; determination of total value; prior convictions; prohibition; additional penalties.

Sec. 52908.

(1) A person who violates this part is guilty of a crime as follows:

(a) If the damages are 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 part.

(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 part. 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 part. 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).

(2) The values of property damaged 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 property damaged.

(3) 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.

(4) 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.

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

(6) In addition to the penalties provided for in this section, a person who violates this part 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 \$100.00, whichever is greater, and for court costs and attorney fees. Damages collected under 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.

(7) A person who violates this part 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 part 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.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 155, Eff. Jan. 1, 2002

Popular Name: Act 451

Popular Name: NREPA

324.52909 Christmas trees; transportation during December.

Sec. 52909.

This part does not apply to the sale of or the transportation by any 1 person of not more than 2 Christmas trees between November 30 and December 31 of the same year.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA