

# HOUSE BILL No. 5036

July 28, 1989, Introduced by Reps. Sparks, Fitzgerald, Van Regenmorter, Dolan, Miller, Emmons and Krause and referred to the Committee on State Affairs.

A bill to amend the title and sections 1, 4h, and 5 of Act No. 173 of the Public Acts of 1929, entitled as amended

"An act to protect and preserve, and to regulate the taking of, aboriginal records and antiquities within this state; to preserve abandoned property of historical or recreational value on the bottomlands of the Great Lakes and regulate the salvage of abandoned property of historical or recreational value; to designate and regulate Great Lakes bottomland preserves; to prescribe the powers and duties of certain state agencies; to create a fund; and to prescribe penalties and provide remedies,"

as amended by Act No. 452 of the Public Acts of 1988, being sections 299.51, 299.54h, and 299.55 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, 4h, and 5 of Act  
2 No. 173 of the Public Acts of 1929, as amended by Act No. 452 of  
3 the Public Acts of 1988, being sections 299.51, 299.54h, and

1 299.55 of the Michigan Compiled Laws, are amended to read as  
2 follows:

3 TITLE

4 An act to protect and preserve ~~, and to regulate the taking~~  
5 ~~of, aboriginal records and antiquities within this state; to~~  
6 ~~preserve~~ abandoned property of historical or recreational value  
7 on the bottomlands of the Great Lakes and regulate the salvage of  
8 abandoned property of historical or recreational value; to desig-  
9 nate and regulate Great Lakes bottomland preserves; to prescribe  
10 the powers and duties of certain state agencies; to create a  
11 fund; and to prescribe penalties and provide remedies.

12 Sec. 1. ~~(1) The state reserves to itself the exclusive~~  
13 ~~right and privilege, except as provided in this act, of explor-~~  
14 ~~ing, surveying, excavating, and regulating through its authorized~~  
15 ~~officers, agents, and employees, all aboriginal records and~~  
16 ~~other antiquities, including mounds, earthworks, forts, burial~~  
17 ~~and village sites, mines or other relics, and abandoned property~~  
18 ~~of historical or recreational value found upon or within any of~~  
19 ~~the lands owned by or under the control of the state.~~

20 ~~(2)~~ The state reserves to itself a possessory right or  
21 title superior to that of a finder to abandoned property of his-  
22 torical or recreational value found on the state owned bottom-  
23 lands of the Great Lakes. This property shall belong to this  
24 state with administration and protection jointly vested in the  
25 department and the secretary of state.

26 Sec. 4h. (1) If the department or the secretary of state  
27 finds that the holder of a permit issued pursuant to section -3

1 ~~or~~ 4c is not in compliance with this act, a rule promulgated  
2 under this act, or a provision of or condition in the permit, or  
3 has damaged abandoned property or failed to use diligence in  
4 attempting to recover property for which a permit was issued, the  
5 department or the secretary of state, individually or jointly,  
6 may summarily suspend or revoke the permit. If the permit holder  
7 requests a hearing within 15 days following the effective date of  
8 the suspension or revocation, the department or the secretary of  
9 state shall conduct an administrative hearing pursuant to chapter  
10 4 of the administrative procedures act of 1969, Act No. 306 of  
11 the Public Acts of 1969, being sections 24.271 to 24.287 of the  
12 Michigan Compiled Laws, to consider whether the permit should be  
13 reinstated.

14 (2) The attorney general, on behalf of the department or the  
15 secretary of state, individually or jointly, may commence a civil  
16 action in circuit court to enforce compliance with this act, to  
17 restrain a violation of this act or any action contrary to a  
18 decision denying a permit, to enjoin the further removal of arti-  
19 facts, geological material, or abandoned property, or to order  
20 the restoration of an affected area to its prior condition.

21 Sec. 5. ~~(1) A person who violates section 3 or 4 of this~~  
22 ~~act is guilty of a misdemeanor, and shall be punished by a fine~~  
23 ~~of not more than \$100.00 or by imprisonment for not more than 30~~  
24 ~~days, or both.~~

25 ~~(2)~~ A person who violates sections 4a to 4e or a rule  
26 promulgated under this act is guilty of a misdemeanor. Unless  
27 another penalty is provided in this act, a person convicted of a

1 misdemeanor under this subsection shall be punished by a fine of  
2 not more than \$500.00 or by imprisonment for not more than 6  
3 months, or both.

4       Section 2. Sections 2, 3, and 4 of Act No. 173 of the  
5 Public Acts of 1929, being sections 299.52, 299.53, and 299.54 of  
6 the Michigan Compiled Laws, are repealed.

7       Section 3. This amendatory act shall not take effect unless  
8 House Bill No. 5035 or Senate Bill No. \_\_\_\_ (request  
9 no. 02840'89) of the 85th Legislature is enacted into law.