

SENATE BILL No. 721

February 23, 1988, Introduced by Senators FAUST, IRWIN, EHLERS, DE GROW, BINSFELD, GEO. HART, CHERRY, GEAKE, SCHWARZ, ARTHURHULTZ, MACK, BARCIA, DI NELLO, J. HART, DINGELL, SEDERBURG, POLLACK, VAUGHN, MILLER, KELLY, GAST, POSTHUMUS, CARL, DILLINGHAM and O'BRIEN and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend the title and sections 1, 1a, 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 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; and to prescribe penalties,"

section 1 as amended and sections 1a, 4a, 4b, 4c, 4d, 4e, 4f, 4g, and 4h as added by Act No. 184 of the Public Acts of 1980, being sections 299.51, 299.51a, 299.54, 299.54a, 299.54b, 299.54c, 299.54d, 299.54e, 299.54f, 299.54g, 299.54h, and 299.55 of the Michigan Compiled Laws; and to add sections 1b, 4i, 6, and 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 1a, 4, 4a, 4b, 4c, 4d,
2 4e, 4f, 4g, 4h, and 5 of Act No. 173 of the Public Acts of 1929,

1 section 1 as amended by and sections 1a, 4a, 4b, 4c, 4d, 4e, 4f,
 2 4g, and 4h as added by Act No. 184 of the Public Acts of 1980,
 3 being sections 299.51, 299.51a, 299.54, 299.54a, 299.54b,
 4 299.54c, 299.54d, 299.54e, 299.54f, 299.54g, 299.54h, and 299.55
 5 of the Michigan Compiled Laws, are amended and sections 1b, 4i,
 6 6, and 7 are added to read as follows:

7 TITLE

8 An act to protect and preserve, and to regulate the taking
 9 of, aboriginal records and antiquities within this state; to pre-
 10 serve abandoned property of historical or recreational value on
 11 the bottomlands of the ~~great lakes~~ GREAT LAKES and regulate the
 12 salvage of abandoned property of historical or recreational
 13 value; to designate and regulate ~~great lakes~~ GREAT LAKES bot-
 14 tomland preserves; TO PRESCRIBE THE POWERS AND DUTIES OF CERTAIN
 15 STATE AGENCIES; TO CREATE A FUND; and to prescribe penalties AND
 16 PROVIDE REMEDIES.

17 Sec. 1. (1) The state reserves to itself the exclusive
 18 right and privilege, except as provided in this act, of
 19 ~~regulating,~~ exploring, SURVEYING, excavating, ~~or surveying,~~
 20 AND REGULATING through ~~an~~ ITS authorized ~~officer, agent, or~~
 21 ~~employee~~ OFFICERS, AGENTS, AND EMPLOYEES, all aboriginal records
 22 and other antiquities, including mounds, earthworks, forts,
 23 burial and village sites, mines or other relics, and abandoned
 24 property of historical or recreational value found upon or within
 25 any of the lands owned by or under the control of the state.

26 (2) The state reserves to itself a possessory right or title
 27 superior to that of a finder to abandoned property of historical

1 or recreational value found on the state owned bottomlands of the
2 ~~great lakes~~ GREAT LAKES. This property shall belong to this
3 state with ~~the~~ administration and protection JOINTLY vested in
4 the department ~~of natural resources~~ and the secretary of
5 state.

6 Sec. 1a. As used in this act:

7 (a) "Abandoned property" means an aircraft; a watercraft,
8 including a ship, boat, canoe, skiff, raft, or barge; the rig-
9 ging, gear, fittings, trappings, and equipment of an aircraft or
10 watercraft; the personal property of the officers, crew, and pas-
11 sengers of an aircraft or watercraft; and the cargo of an air-
12 craft or watercraft which have been deserted, relinquished, cast
13 away, or left behind and for which attempts at reclamation have
14 been abandoned by owners and insurers. Abandoned property also
15 means materials resulting from activities of historic and prehis-
16 toric ~~Indians~~ NATIVE AMERICANS.

17 (b) "Bottomlands" means the unpatented lake bottomlands of
18 the ~~great lakes~~ GREAT LAKES.

19 (C) "COMMITTEE" MEANS THE UNDERWATER SALVAGE AND PRESERVE
20 COMMITTEE CREATED IN SECTION 1B.

21 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

22 (E) ~~(c)~~ "Great ~~lakes~~ LAKES" means lakes Erie, Huron,
23 Michigan, St. Clair, and Superior.

24 (F) ~~(d)~~ "Great ~~lakes~~ LAKES bottomlands preserve" means
25 an area located on the bottomlands of the ~~great lakes~~ GREAT
26 LAKES and extending upward to and including the surface of the
27 water, which is delineated and set aside by rule promulgated

1 pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No.
2 306 of the Public Acts of 1969, as amended, being sections 24.201
3 to ~~24.315~~ 24.328 of the Michigan Compiled Laws, for special
4 protection of abandoned property of historical value, or ecologi-
5 cal, educational, geological, or scenic features or formations
6 having recreational, educational, or scientific value. A pre-
7 serve may encompass a single object, feature, or formation, or a
8 collection of several objects, features, or formations.

9 (G) ~~(e)~~ "Historical value" means value relating to, or
10 illustrative of, Michigan history, including the statehood, ter-
11 ritorial, colonial, and historic, and prehistoric ~~Indian~~ NATIVE
12 AMERICAN periods.

13 (H) "MECHANICAL OR OTHER ASSISTANCE" MEANS ALL MANMADE
14 DEVICES, INCLUDING PRY BARS, WRENCHES AND OTHER HAND OR POWER
15 TOOLS, CUTTING TORCHES, EXPLOSIVES, WINCHES, FLOTATION BAGS,
16 LINES TO SURFACE, EXTRA DIVERS BUOYANCY DEVICES, AND OTHER BUOY-
17 ANCE DEVICES, USED TO RAISE OR REMOVE ARTIFACTS.

18 (I) ~~(f)~~ "Recreational value" means value relating to an
19 activity which the public engages in, or may engage in, for rec-
20 reation or sport, including scuba diving and fishing.

21 SEC. 1B. (1) THE UNDERWATER SALVAGE AND PRESERVE COMMITTEE
22 IS CREATED IN THE DEPARTMENT TO PROVIDE TECHNICAL AND OTHER
23 ADVICE TO THE DIRECTOR OF THE DEPARTMENT AND THE SECRETARY OF
24 STATE WITH RESPECT TO THEIR RESPONSIBILITIES UNDER THIS ACT.

25 (2) THE UNDERWATER SALVAGE AND PRESERVE COMMITTEE SHALL CON-
26 SIST OF 9 MEMBERS APPOINTED AS FOLLOWS:

1 (A) TWO INDIVIDUALS APPOINTED BY THE DIRECTOR OF THE
2 DEPARTMENT WHO HAVE PRIMARY RESPONSIBILITY IN THE DEPARTMENT FOR
3 ADMINISTERING THIS ACT.

4 (B) TWO INDIVIDUALS APPOINTED BY THE SECRETARY OF STATE WHO
5 HAVE PRIMARY RESPONSIBILITY IN THE DEPARTMENT OF STATE FOR ADMIN-
6 ISTERING THIS ACT.

7 (C) ONE INDIVIDUAL APPOINTED BY THE DIRECTOR OF COMMERCE.

8 (D) FOUR INDIVIDUALS APPOINTED JOINTLY BY THE SECRETARY OF
9 STATE AND THE DIRECTOR OF THE DEPARTMENT FROM THE GENERAL
10 PUBLIC. TWO OF THESE INDIVIDUALS SHALL HAVE EXPERIENCE IN RECRE-
11 ATIONAL SCUBA DIVING.

12 (3) AN INDIVIDUAL APPOINTED TO THE COMMITTEE SHALL SERVE FOR
13 A TERM OF 3 YEARS. A VACANCY ON THE COMMITTEE SHALL BE FILLED IN
14 THE SAME MANNER AS AN ORIGINAL APPOINTMENT AND THE TERM OF A
15 MEMBER APPOINTED TO FILL A VACANCY SHALL BE FOR 3 YEARS. MEMBERS
16 OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION, EXCEPT FOR
17 THEIR REGULAR STATE SALARY WHERE APPLICABLE.

18 (4) THE CHAIRPERSON OF THE COMMITTEE SHALL ALTERNATE BETWEEN
19 THE REPRESENTATIVES FROM THE DEPARTMENT AND THE DEPARTMENT OF
20 STATE. THE CHAIRPERSON SHALL BE DESIGNATED BY THE DIRECTOR OF
21 THE DEPARTMENT OR THE SECRETARY OF STATE, WHICHEVER IS APPLICABLE
22 FROM AMONG HIS OR HER REPRESENTATIVES ON THE COMMITTEE. THE
23 CHAIRPERSON'S TERM SHALL RUN FOR 12 MONTHS, FROM OCTOBER 1
24 THROUGH SEPTEMBER 30. THE DIRECTOR OF THE DEPARTMENT SHALL
25 APPOINT THE FIRST CHAIRPERSON OF THE COMMITTEE FOR A TERM ENDING
26 SEPTEMBER 30, 1988. THE CHAIRPERSON SHALL CALL MEETINGS AS
27 NECESSARY BUT NOT LESS THAN 4 TIMES PER YEAR, SET THE AGENDA FOR

1 MEETINGS, ENSURE THAT ADEQUATE MINUTES ARE TAKEN, AND FILE AN
2 ANNUAL REPORT OF COMMITTEE PROCEEDINGS WITH THE HEAD OF THE
3 DEPARTMENTS OF STATE, NATURAL RESOURCES, AND COMMERCE.

4 (5) THE COMMITTEE, AS AN ADVISORY BODY, MAY PERFORM ALL OF
5 THE FOLLOWING FUNCTIONS:

6 (A) MAKE RECOMMENDATIONS WITH REGARD TO THE CREATION AND
7 BOUNDARIES OF GREAT LAKES UNDERWATER PRESERVES.

8 (B) REVIEW APPLICATIONS FOR UNDERWATER SALVAGE PERMITS AND
9 MAKE RECOMMENDATIONS REGARDING ISSUANCE.

10 (C) CONSIDER THE NEED FOR AND THE CONTENT OF RULES INTENDED
11 TO IMPLEMENT THIS ACT AND MAKE RECOMMENDATIONS CONCERNING THE
12 PROMULGATION OF RULES.

13 (D) CONSIDER AND MAKE RECOMMENDATIONS CONCERNING APPROPRIATE
14 LEGISLATION.

15 (E) CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROGRAM
16 OPERATION.

17 (6) THE COMMITTEE SHALL NOT REPLACE OR SUPERSEDE THE RESPON-
18 SIBILITY OR AUTHORITY OF THE SECRETARY OF STATE OR THE DIRECTOR
19 OF THE DEPARTMENT TO CARRY OUT THEIR RESPONSIBILITIES UNDER THIS
20 ACT.

21 Sec. 4. Without the consent of the land owner, ~~it is~~
22 ~~hereby made unlawful for any~~ A person ~~to~~ SHALL NOT remove any
23 relics or records of antiquity such as human or other bones;
24 shells, stone, bone, or copper implements; pottery or shards
25 ~~thereof~~ OF POTTERY, or similar artifacts and objects from the
26 premises ~~on which same may~~ WHERE THEY have been discovered.

1 Sec. 4a. (1) Except as provided in section 4b, a person
2 shall not recover, alter, or destroy abandoned property which is
3 in, on, under, or over the bottomlands of the ~~great lakes~~ GREAT
4 LAKES, including those within a ~~great lakes~~ GREAT LAKES bottom-
5 lands preserve, unless the person has a permit issued jointly by
6 the secretary of state and the department ~~of natural resources~~
7 pursuant to section 4c.

8 (2) A person who recovers abandoned property without a
9 permit when a permit is required by this act shall transmit the
10 property to the secretary of state and the recovered property
11 shall be the property of the secretary of state.

12 (3) A person shall not remove, convey, mutilate, or deface a
13 human body or the remains of a human body located on the bottom-
14 lands of the ~~great lakes~~ GREAT LAKES.

15 (4) A PERSON WHO VIOLATES SUBSECTION (1) BY RECOVERING OR
16 DESTROYING ABANDONED PROPERTY WITH A FAIR MARKET VALUE OF \$100.00
17 OR MORE IS GUILTY OF A FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT
18 MORE THAN 2 YEARS, OR BY A FINE OF NOT MORE THAN \$5,000.00, OR
19 BOTH.

20 Sec. 4b. (1) A person may recover abandoned property out-
21 side a ~~great lakes~~ GREAT LAKES bottomlands preserve without a
22 permit if the abandoned property is not attached to, nor located
23 on, ~~or~~ in, OR LOCATED IN THE IMMEDIATE VICINITY OF AND ASSOCI-
24 ATED WITH a sunken aircraft or watercraft and if the abandoned
25 property is recoverable by hand without mechanical or other
26 assistance.

1 (2) A person who recovers abandoned property VALUED AT MORE
2 THAN \$10.00 without a permit pursuant to subsection (1) shall
3 file a written report within 30 days after removal of the prop-
4 erty with the department ~~of natural resources~~ or the secretary
5 of state if the property has been abandoned for more than 30
6 years. The written report shall list all recovered property
7 which has been abandoned for more than 30 years and the location
8 of the property at the time of recovery. For a period of 90 days
9 after the report is filed, the person shall make the recovered
10 property available to the department ~~of natural resources~~ and
11 the secretary of state for inspection at a location in this
12 state. If the secretary of state determines that the recovered
13 property does not have historical value, the secretary OF STATE
14 shall release the property to the person BY MEANS OF A WRITTEN
15 INSTRUMENT.

16 Sec. 4c. (1) A permit ISSUED UNDER THIS SECTION shall
17 authorize a person to recover abandoned property located on, ~~or~~
18 in, OR LOCATED IN THE IMMEDIATE VICINITY OF AND ASSOCIATED WITH a
19 sunken aircraft or watercraft.

20 (2) A person shall file an application for a permit with the
21 department ~~of natural resources~~ on a form prescribed by the
22 department ~~of natural resources~~ AND APPROVED BY THE SECRETARY
23 OF STATE. The application shall contain all of the following
24 information:

25 (a) The name and address of the applicant.

26 (b) The name, if known, of the watercraft or aircraft on or
27 around which recovery operations are to occur and a current

1 photograph or drawing of the watercraft or aircraft, if
2 available.

3 (c) The location of the abandoned property to be recovered
4 and the depth of water in which it may be found.

5 (d) A description of each item to be recovered.

6 (e) The method to be used in recovery operations.

7 (f) The proposed disposition of the abandoned property
8 recovered, including the location at which it will be available
9 for inspection by the department ~~of natural resources~~ and the
10 secretary of state.

11 (g) Other information which the department ~~of natural~~
12 ~~resources~~ or the secretary of state considers necessary in eval-
13 uating the request for a permit.

14 (3) AN APPLICATION FOR A PERMIT SHALL NOT BE CONSIDERED COM-
15 PLETE UNTIL ALL INFORMATION REQUESTED ON THE APPLICATION FORM AND
16 ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT OR THE SECRE-
17 TARY OF STATE HAS BEEN RECEIVED BY THE DEPARTMENT. AFTER RECEIPT
18 OF AN OTHERWISE COMPLETE APPLICATION, THE DEPARTMENT MAY REQUEST
19 ADDITIONAL INFORMATION OR DOCUMENTS AS ARE DETERMINED TO BE NEC-
20 ESSARY TO MAKE A DECISION TO GRANT OR DENY A PERMIT. THE DEPART-
21 MENT, OR THE SECRETARY OF STATE, SHALL NOTIFY THE APPLICANT IN
22 WRITING WHEN THE APPLICATION IS DEFICIENT.

23 (4) AN APPLICANT NOTIFIED THAT AN APPLICATION FOR A PERMIT
24 MAY BE DEFICIENT AND RETURNED DUE TO INSUFFICIENT INFORMATION
25 UNDER SUBSECTION (3) SHALL, WITHIN 20 DAYS AFTER THE DATE THE
26 NOTICE IS MAILED, PROVIDE THE INFORMATION. IF THE APPLICANT
27 FAILS TO RESPOND WITHIN THE 20-DAY PERIOD, THE APPLICATION SHALL

1 BE DENIED UNLESS THE APPLICANT REQUESTS ADDITIONAL TIME AND
2 PROVIDES REASONABLE JUSTIFICATION FOR AN EXTENSION OF TIME.

3 (5) ~~(2)~~ The department ~~of natural resources~~ and the sec-
4 retary of state shall, WITH THE ADVICE OF THE COMMITTEE, approve
5 or disapprove an application for a permit within 30 days after
6 the date ~~the properly completed~~ A COMPLETE application is filed
7 with the department. ~~of natural resources.~~ The department ~~of~~
8 ~~natural resources~~ and the secretary of state may approve an
9 application conditionally or unconditionally. A condition to the
10 approval of an application shall be in writing on the face of the
11 permit. The department ~~of natural resources~~ and the secretary
12 of state may impose ~~a condition which accomplishes~~ SUCH CONDI-
13 TIONS AS ARE CONSIDERED REASONABLE AND NECESSARY TO PROTECT THE
14 PUBLIC TRUST AND GENERAL INTERESTS, INCLUDING CONDITIONS THAT
15 ACCOMPLISH 1 or more of the following:

16 (a) ~~Protection~~ PROTECT and ~~preservation of~~ PRESERVE the
17 abandoned property to be recovered, and the recreational value of
18 the area in which recovery is being accomplished.

19 (b) ~~Assurance of~~ ASSURE reasonable public access to the
20 abandoned property after recovery.

21 (c) ~~Compliance~~ ARE IN CONFORMITY with rules applying to
22 activities within a ~~great lakes~~ GREAT LAKES bottomlands
23 preserve.

24 (D) PROHIBIT INJURY, HARM, AND DAMAGE TO A BOTTOMLANDS SITE
25 OR ABANDONED PROPERTY NOT AUTHORIZED FOR REMOVAL DURING AND AFTER
26 SALVAGE OPERATIONS BY THE PERMIT HOLDER.

1 (E) PROHIBIT OR LIMIT THE AMOUNT OF DISCHARGE OF POSSIBLE
2 POLLUTANTS, SUCH AS FLOATING TIMBERS, PLANKING, AND OTHER DEBRIS,
3 WHICH MAY EMANATE FROM THE SHIPWRECK, PLANE WRECK, OR SALVAGE
4 EQUIPMENT.

5 (F) REQUIRE THE PERMIT HOLDER TO SUBMIT A SPECIFIC REMOVAL
6 PLAN PRIOR TO COMMENCING ANY SALVAGING ACTIVITIES. AMONG OTHER
7 MATTERS CONSIDERED APPROPRIATE BY EITHER THE DEPARTMENT OR THE
8 SECRETARY OF STATE, OR BOTH, THE REMOVAL PLAN MAY BE REQUIRED TO
9 ENSURE THE SAFETY OF THOSE REMOVING OR ASSISTING IN THE REMOVAL
10 OF THE ABANDONED PROPERTY AND TO ADDRESS HOW THE PERMIT HOLDER
11 PROPOSES TO PREVENT, MINIMIZE, OR MITIGATE POTENTIAL ADVERSE
12 EFFECTS UPON THE ABANDONED PROPERTY TO BE REMOVED, THAT PORTION
13 OF THE ABANDONED PROPERTY WHICH IS NOT TO BE REMOVED, AND THE
14 SURROUNDING GEOGRAPHIC FEATURES.

15 (6) ~~-(3)-~~ The department ~~of natural resources~~ shall
16 approve an application FOR A PERMIT unless the department deter-
17 mines that the abandoned property to be recovered has substantial
18 recreational value in itself or in conjunction with other aban-
19 doned property in its vicinity underwater, or the recovery of
20 abandoned property would not comply with rules applying to a
21 ~~great lakes~~ GREAT LAKES bottomlands preserve.

22 (7) ~~-(4)-~~ The secretary of state shall approve the applica-
23 tion FOR A PERMIT unless the secretary of state determines that
24 the abandoned property to be recovered has substantial historical
25 value in itself or in conjunction with other abandoned property
26 in its vicinity. If the property has substantial historical
27 value, the secretary of state, pursuant to subsection ~~-(2)-~~ (5),

1 may impose a condition to the approval of the application
2 requiring the applicant to turn over recovered property to the
3 secretary of state for the purpose of preserving the property or
4 permitting public access to the property. The secretary of state
5 may authorize the display of the property in a public or private
6 museum or by a local unit of government. In addition to the con-
7 ditions authorized by subsection ~~-(2)-~~ (5), the secretary of
8 state may provide for payment of salvage costs in connection with
9 the recovery of the abandoned property.

10 (8) A PERSON WHO DISCOVERS AN ABANDONED WATERCRAFT WHICH IS
11 LOCATED OUTSIDE OF A GREAT LAKES BOTTOMLANDS PRESERVE SHALL BE
12 ENTITLED TO RECOVER CARGO WITHOUT HISTORICAL VALUE SITUATED ON,
13 IN, OR ASSOCIATED WITH THE WATERCRAFT, IF THE PERSON APPLIES FOR
14 A PERMIT PURSUANT TO THIS SECTION WITHIN 90 DAYS AFTER DISCOVER-
15 ING THE WATERCRAFT. IF AN APPLICATION FOR A PERMIT TO RECOVER
16 CARGO IS NOT FILED WITHIN 90 DAYS AFTER A WATERCRAFT DISCOVERY,
17 SUBJECT TO SUBSECTIONS (4) AND (5) AN EXCLUSIVE CARGO RECOVERY
18 PERMIT SHALL BE ISSUED TO THE FIRST PERSON APPLYING FOR SUCH A
19 PERMIT. ONLY 1 PERMIT TO RECOVER THE SAME CARGO SHALL BE ISSUED
20 AND OPERATIVE AT A TIME. WHEN A WATERCRAFT CONTAINING CARGO IS
21 SIMULTANEOUSLY DISCOVERED BY MORE THAN 1 PERSON, A PERMIT SHALL
22 BE APPROVED WITH RESPECT TO THE FIRST PERSON OR PERSONS JOINTLY
23 APPLYING FOR A PERMIT.

24 (9) ~~-(5)-~~ A person aggrieved by a condition contained on a
25 permit or by the denial of an application for a permit may
26 request an administrative review of the condition or the denial
27 by the director of ~~natural resources~~ THE DEPARTMENT or the

1 secretary of state, whichever ~~department~~ disapproves the
2 application or imposes the condition. A person shall file the
3 request for review with the ~~appropriate~~ department OR THE SEC-
4 RETARY OF STATE, WHICHEVER IS APPLICABLE, within 90 days after
5 the permit application is submitted to the department. ~~of natu-~~
6 ~~ral resources.~~ An administrative hearing conducted pursuant to
7 this subsection shall be conducted under the procedures set forth
8 in chapter 4 of THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
9 No. 306 of the Public Acts of 1969, as amended, being sections
10 24.271 to 24.287 of the Michigan Compiled Laws. If neither THE
11 department OR THE SECRETARY OF STATE approves the application and
12 an administrative review is requested from ~~each~~ BOTH THE
13 department AND THE SECRETARY OF STATE, the appeals shall be com-
14 bined upon request OF THE APPELLANT OR EITHER THE DEPARTMENT OR
15 THE SECRETARY STATE and a single administrative hearing shall be
16 conducted. The director of ~~natural resources~~ THE DEPARTMENT
17 and the secretary of state shall issue jointly the final decision
18 and order in the case.

19 (10) A PERMIT ISSUED UNDER THIS SECTION SHALL BE VALID UNTIL
20 DECEMBER 31 OF THE YEAR IN WHICH THE APPLICATION FOR THE PERMIT
21 WAS FILED AND IS NOT RENEWABLE. IF AN ITEM DESIGNATED IN A
22 PERMIT FOR RECOVERY IS NOT RECOVERED, A PERMIT HOLDER MAY, UPON
23 REQUEST FOLLOWING THE EXPIRATION OF THE PERMIT, BE ISSUED A NEW
24 PERMIT TO REMOVE THE SAME ABANDONED PROPERTY IF THE PERMIT HOLDER
25 DEMONSTRATES THAT DILIGENCE IN ATTEMPTING RECOVERY WAS EXERCISED
26 UNDER THE PREVIOUSLY ISSUED PERMIT.

1 (11) A PERMIT ISSUED UNDER THIS SECTION SHALL NOT BE
2 TRANSFERRED OR ASSIGNED UNLESS THE ASSIGNMENT IS APPROVED IN
3 WRITING BY BOTH THE DEPARTMENT AND THE SECRETARY OF STATE.

4 Sec. 4d. (1) Within 10 days after recovery of abandoned
5 property, a person with a permit issued pursuant to section 4c
6 shall report the recovery in writing to the department. ~~of nat-~~
7 ~~ural resources.~~ The person recovering the ABANDONED property
8 shall give authorized representatives of the department ~~of natu-~~
9 ~~ral resources~~ and the secretary of state an opportunity to
10 examine the ABANDONED property for a period of 90 days after
11 recovery. Recovered abandoned property shall not be removed from
12 this state without written approval of the department ~~of natural~~
13 ~~resources~~ and the secretary of state. If the RECOVERED
14 ABANDONED property is removed from the state without written
15 approval, the attorney general, upon request from ~~either agency~~
16 THE DEPARTMENT OR THE SECRETARY OF STATE, shall bring an action
17 for the recovery of the property.

18 (2) If the secretary of state determines that the recovered
19 abandoned property does not have historical value, the secretary
20 of state shall release the property to the person holding the
21 permit BY MEANS OF A WRITTEN INSTRUMENT.

22 Sec. 4e. (1) The department ~~of natural resources~~ shall
23 establish ~~great lakes~~ GREAT LAKES bottomlands preserves ~~—~~
24 ~~Within each established great lakes bottomland preserve, the~~
25 ~~department of natural resources may establish rules, promulgated~~
26 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~
27 ~~which govern access to, and use of a great lakes bottomlands~~

1 ~~preserve. These rules may also regulate or prohibit the~~
2 ~~alteration, destruction, or removal of abandoned property, fea-~~
3 ~~tures, or formations within a preserve. A permit shall not be~~
4 ~~issued pursuant to section 4c which is not in compliance with the~~
5 ~~rules applying to a great lakes bottomlands preserve. (2) BY~~
6 RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
7 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
8 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. A GREAT LAKES
9 BOTTOMLANDS preserve shall be established by emergency rule
10 ~~pursuant to Act No. 306 of the Public Acts of 1969, as~~
11 ~~amended,~~ if it is determined by the director of the department
12 ~~of natural resources~~ that this action is necessary to immedi-
13 ately protect an object or area of historical or recreational
14 value.

15 (2) A GREAT LAKES BOTTOMLANDS PRESERVE MAY BE ESTABLISHED
16 WHENEVER A BOTTOMLANDS AREA INCLUDES A SINGLE WATERCRAFT OF SIG-
17 NIFICANT HISTORICAL VALUE, INCLUDES 2 OR MORE ABANDONED WATER-
18 CRAFT, OR CONTAINS OTHER FEATURES OF ARCHAEOLOGICAL, HISTORICAL,
19 RECREATIONAL, GEOLOGICAL, OR ENVIRONMENTAL SIGNIFICANCE.
20 BOTTOMLANDS AREAS CONTAINING FEW OR NO WATERCRAFT OR OTHER FEA-
21 TURES DIRECTLY RELATED TO THE CHARACTER OF A PRESERVE MAY BE
22 EXCLUDED FROM PRESERVES.

23 (3) IN ESTABLISHING A GREAT LAKES BOTTOMLANDS PRESERVE, THE
24 DEPARTMENT AND THE SECRETARY OF STATE SHALL CONSIDER ALL OF THE
25 FOLLOWING FACTORS:

26 (A) WHETHER CREATING THE PRESERVE IS NECESSARY TO PROTECT
27 EITHER ABANDONED PROPERTY POSSESSING HISTORICAL OR RECREATIONAL

1 VALUE, OR SIGNIFICANT UNDERWATER GEOLOGICAL OR ENVIRONMENTAL
2 FEATURES.

3 (B) THE EXTENT OF LOCAL PUBLIC AND PRIVATE SUPPORT FOR CRE-
4 ATION OF THE PRESERVE.

5 (C) WHETHER A PRESERVE DEVELOPMENT PLAN HAS BEEN PREPARED BY
6 A STATE OR LOCAL AGENCY.

7 (D) THE EXTENT TO WHICH PRESERVE SUPPORT FACILITIES SUCH AS
8 ROADS, MARINAS, CHARTER SERVICES, HOTELS, MEDICAL DECOMPRESSION
9 FACILITIES, AND RESCUE AGENCIES HAVE BEEN DEVELOPED IN OR ARE
10 PLANNED FOR THE AREA.

11 (4) THE DEPARTMENT AND THE SECRETARY OF STATE SHALL NOT
12 GRANT A PERMIT TO RECOVER ABANDONED ARTIFACTS WITHIN A GREAT
13 LAKES BOTTOMLANDS PRESERVE EXCEPT FOR HISTORICAL OR SCIENTIFIC
14 PURPOSES OR WHEN THE RECOVERY WILL NOT ADVERSELY AFFECT THE HIS-
15 TORICAL, CULTURAL, OR RECREATIONAL INTEGRITY OF THE PRESERVE AREA
16 AS A WHOLE.

17 (5) ~~-(3)-~~ AN INDIVIDUAL GREAT LAKES BOTTOMLANDS PRESERVE
18 SHALL NOT EXCEED 400 SQUARE MILES IN AREA. Great ~~-lakes-~~ LAKES
19 bottomlands preserves shall be limited in total area to not more
20 than ~~-5%-~~ 10% of the ~~-great-lakes-~~ GREAT LAKES bottomlands within
21 this state.

22 (6) UPON THE APPROVAL OF THE COMMITTEE, NOT MORE THAN 1
23 VESSEL ASSOCIATED WITH GREAT LAKES MARITIME HISTORY MAY BE SUNK
24 WITHIN A GREAT LAKES BOTTOMLANDS PRESERVE. HOWEVER, NO STATE
25 MONEY SHALL BE EXPENDED TO PURCHASE, TRANSPORT, OR SINK THE
26 VESSEL.

1 Sec. 4f. (1) The department ~~of natural resources~~ and the
2 secretary of state, JOINTLY OR SEPARATELY, may promulgate rules
3 pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No.
4 306 of the Public Acts of 1969, as amended, BEING SECTIONS 24.201
5 TO 24.328 OF THE MICHIGAN COMPILED LAWS, AS ARE necessary to
6 implement this act.

7 (2) WITHIN EACH GREAT LAKES BOTTOMLANDS PRESERVE, THE
8 DEPARTMENT AND THE SECRETARY OF STATE MAY JOINTLY PROMULGATE
9 RULES, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
10 NO. 306 OF THE PUBLIC ACTS OF 1969, WHICH GOVERN ACCESS TO AND
11 USE OF A GREAT LAKES BOTTOMLANDS PRESERVE. THESE RULES MAY REGU-
12 LATE OR PROHIBIT THE ALTERATION, DESTRUCTION, OR REMOVAL OF ABAN-
13 DONED PROPERTY, FEATURES, OR FORMATIONS WITHIN A PRESERVE.

14 Sec. 4g. Sections 4a to 4d shall not be considered to
15 impose the following limitations:

16 (a) A limitation on the right of a person to engage in
17 diving for recreational purposes in and upon the ~~great lakes~~
18 GREAT LAKES or the bottomlands of the ~~great lakes~~ GREAT LAKES.

19 (b) A limitation on the right of the department ~~of natural~~
20 ~~resources~~ or the secretary of state to recover, or to contract
21 for the recovery of, abandoned property in and upon the bottom-
22 lands of the ~~great lakes~~ GREAT LAKES.

23 (c) A limitation on the right of a person to own either
24 abandoned property recovered before ~~the effective date of this~~
25 ~~section of~~ JULY 2, 1980 OR abandoned property released to a
26 person after inspection.

1 Sec. 4h. (1) ~~A person who violates sections 4a to 4e or~~
2 ~~rules promulgated under this act is guilty of a misdemeanor.~~ IF
3 THE DEPARTMENT OR THE SECRETARY OF STATE FINDS THAT THE HOLDER OF
4 A PERMIT ISSUED PURSUANT TO SECTION 3 OR 4C IS NOT IN COMPLIANCE
5 WITH THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR A PROVISION
6 OF OR CONDITION IN THE PERMIT, OR HAS DAMAGED ABANDONED PROPERTY
7 OR FAILED TO USE DILIGENCE IN ATTEMPTING TO RECOVER PROPERTY FOR
8 WHICH A PERMIT WAS ISSUED, THE DEPARTMENT OR THE SECRETARY OF
9 STATE, INDIVIDUALLY OR JOINTLY, MAY SUMMARILY SUSPEND OR REVOKE
10 THE PERMIT. IF THE PERMIT HOLDER REQUESTS A HEARING WITHIN 15
11 DAYS FOLLOWING THE EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION,
12 THE DEPARTMENT OR THE SECRETARY OF STATE SHALL CONDUCT AN
13 ADMINISTRATIVE HEARING PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE
14 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
15 1969, BEING SECTIONS 24.271 TO 24.287 OF THE MICHIGAN COMPILED
16 LAWS, TO CONSIDER WHETHER THE PERMIT SHOULD BE REINSTATED.

17 (2) THE ATTORNEY GENERAL, ON BEHALF OF THE DEPARTMENT OR THE
18 SECRETARY OF STATE, INDIVIDUALLY OR JOINTLY, MAY COMMENCE A CIVIL
19 ACTION IN CIRCUIT COURT TO ENFORCE COMPLIANCE WITH THIS ACT, TO
20 RESTRAIN A VIOLATION OF THIS ACT OR ANY ACTION CONTRARY TO A
21 DECISION DENYING A PERMIT, TO ENJOIN THE FURTHER REMOVAL OF ARTIFACTS,
22 GEOLOGICAL MATERIAL, OR ABANDONED PROPERTY, OR TO ORDER
23 THE RESTORATION OF AN AFFECTED AREA TO ITS PRIOR CONDITION.

24 SEC. 4I. EACH PERSON WHO PARTICIPATES IN THE SPORT OF SCUBA
25 DIVING ON THE GREAT LAKES BOTTOMLANDS ACCEPTS THE DANGERS WHICH
26 ADHERE IN THAT SPORT INSOFAR AS THE DANGERS ARE OBVIOUS AND
27 NECESSARY. THOSE DANGERS INCLUDE, BUT ARE NOT LIMITED TO,

1 INJURIES WHICH CAN RESULT FROM ENTANGLEMENTS IN SUNKEN WATERCRAFT
2 OR AIRCRAFT; THE CONDITION OF SUNKEN WATERCRAFT OR AIRCRAFT; THE
3 LOCATION OF SUNKEN WATERCRAFT OR AIRCRAFT; THE FAILURE OF THE
4 STATE TO FUND STAFF OR PROGRAMS AT BOTTOMLANDS PRESERVES; AND THE
5 DEPTH OF THE OBJECTS AND BOTTOMLANDS WITHIN PRESERVES.

6 Sec. 5. (1) ~~Any~~ A person who ~~shall violate any of the~~
7 ~~provisions~~ VIOLATES SECTION 3 OR 4 of this act ~~shall be deemed~~
8 IS guilty of a misdemeanor, and ~~, on conviction thereof,~~ shall
9 be punished by A fine OF not ~~less than 10 dollars or~~ more than
10 \$100.00 ~~dollars~~ or by imprisonment ~~in the county jail~~ for not
11 more than 30 days, or ~~by~~ both. ~~such fine and imprisonment in~~
12 ~~the discretion of the court.~~

13 (2) A PERSON WHO VIOLATES SECTIONS 4A TO 4E OR A RULE
14 PROMULGATED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR. UNLESS
15 ANOTHER PENALTY IS PROVIDED IN THIS ACT, A PERSON CONVICTED OF A
16 MISDEMEANOR UNDER THIS SUBSECTION SHALL BE PUNISHED BY A FINE OF
17 NOT MORE THAN \$500.00 OR BY IMPRISONMENT FOR NOT MORE THAN 6
18 MONTHS, OR BOTH.

19 SEC. 6. (1) IF A PERSON WHO VIOLATES THIS ACT OR A RULE
20 PROMULGATED UNDER THIS ACT USES A WATERCRAFT, MECHANICAL OR OTHER
21 ASSISTANCE, SCUBA GEAR, SONAR EQUIPMENT, A MOTOR VEHICLE, OR ANY
22 OTHER EQUIPMENT OR APPARATUS DURING THE COURSE OF COMMITTING THE
23 VIOLATION, THE ITEMS SO USED MAY BE ATTACHED, PROCEEDED AGAINST,
24 AND CONFISCATED AS PRESCRIBED IN THIS ACT.

25 (2) TO EFFECT CONFISCATION, THE LAW ENFORCEMENT OR CONSERVA-
26 TION OFFICER SEIZING THE PROPERTY SHALL FILE A VERIFIED COMPLAINT
27 IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE SEIZURE WAS MADE

1 OR IN THE CIRCUIT COURT FOR INGHAM COUNTY. THE COMPLAINT SHALL
2 SET FORTH THE KIND OF PROPERTY SEIZED, THE TIME AND PLACE OF THE
3 SEIZURE, THE REASONS FOR THE SEIZURE, AND A DEMAND FOR THE
4 PROPERTY'S CONDEMNATION AND CONFISCATION. UPON THE FILING OF THE
5 COMPLAINT, AN ORDER SHALL BE ISSUED REQUIRING THE OWNER TO SHOW
6 CAUSE WHY THE PROPERTY SHOULD NOT BE CONFISCATED. THE SUBSTANCE
7 OF THE COMPLAINT SHALL BE STATED IN THE ORDER. THE ORDER TO SHOW
8 CAUSE SHALL FIX THE TIME FOR SERVICE OF THE ORDER AND FOR THE
9 HEARING ON THE PROPOSED CONDEMNATION AND CONFISCATION.

10 (3) THE ORDER TO SHOW CAUSE SHALL BE SERVED ON THE OWNER OF
11 THE PROPERTY AS SOON AS POSSIBLE, BUT NOT LESS THAN 7 DAYS BEFORE
12 THE COMPLAINT IS TO BE HEARD. THE COURT, FOR CAUSE SHOWN, MAY
13 HEAR THE COMPLAINT ON SHORTER NOTICE. IF THE OWNER IS NOT KNOWN
14 OR CANNOT BE FOUND, NOTICE MAY BE SERVED IN 1 OR MORE OF THE FOL-
15 LOWING WAYS:

16 (A) BY POSTING A COPY OF THE ORDER IN 3 PUBLIC PLACES FOR 3
17 CONSECUTIVE WEEKS IN THE COUNTY IN WHICH THE SEIZURE WAS MADE AND
18 BY SENDING A COPY OF THE ORDER BY CERTIFIED MAIL TO THE LAST
19 KNOWN BUSINESS OR RESIDENTIAL ADDRESS OF THE OWNER. IF THE LAST
20 ADDRESSES OF THE OWNER ARE NOT KNOWN, MAILING A COPY OF THE ORDER
21 IS NOT REQUIRED.

22 (B) BY PUBLISHING A COPY OF THE ORDER IN A NEWSPAPER ONCE
23 EACH WEEK FOR 3 CONSECUTIVE WEEKS IN THE COUNTY WHERE THE SEIZURE
24 WAS MADE AND BY SENDING A COPY OF THE ORDER BY REGISTERED MAIL TO
25 THE LAST KNOWN RESIDENTIAL ADDRESS OF THE OWNER. IF THE LAST
26 RESIDENTIAL ADDRESS OF THE OWNER IS NOT KNOWN, MAILING A COPY OF
27 THE ORDER IS NOT REQUIRED.

1 (C) IN SUCH A MANNER AS THE COURT DIRECTS.

2 (4) UPON HEARING OF THE COMPLAINT, IF THE COURT DETERMINES
3 THAT THE PROPERTY MENTIONED IN THE PETITION WAS POSSESSED,
4 SHIPPED, OR USED CONTRARY TO LAW, EITHER BY THE OWNER OR BY A
5 PERSON LAWFULLY IN POSSESSION OF THE PROPERTY UNDER AN AGREEMENT
6 WITH THE OWNER, AN ORDER SHALL BE MADE CONDEMNING AND CONFISCAT-
7 ING THE PROPERTY AND DIRECTING ITS SALE OR OTHER DISPOSAL BY THE
8 DIRECTOR OF THE DEPARTMENT. IF THE OWNER SIGNS A PROPERTY
9 RELEASE, A COURT PROCEEDING SHALL NOT BE NECESSARY. AT THE HEAR-
10 ING, IF THE COURT DETERMINES THAT THE PROPERTY WAS NOT POSSESSED,
11 SHIPPED, OR USED CONTRARY TO LAW, THE COURT SHALL ORDER THE
12 DIRECTOR OF THE DEPARTMENT TO IMMEDIATELY RETURN THE PROPERTY TO
13 ITS OWNER.

14 (5) THE DEPARTMENT SHALL DEPOSIT THE PROCEEDS IT RECEIVES
15 UNDER THIS SECTION INTO THE STATE TREASURY TO THE CREDIT OF THE
16 UNDERWATER PRESERVE FUND CREATED IN SECTION 7.

17 SEC. 7. (1) THE UNDERWATER PRESERVE FUND IS CREATED AS A
18 SEPARATE FUND IN THE STATE TREASURY, AND IT MAY RECEIVE REVENUE
19 AS PROVIDED IN THIS ACT, OR REVENUE FROM ANY OTHER SOURCE.

20 (2) MONEY IN THE UNDERWATER PRESERVE FUND SHALL BE APPROPRI-
21 ATED FOR ONLY THE FOLLOWING PURPOSES:

22 (A) TO THE SECRETARY OF STATE FOR THE DEVELOPMENT OF MARI-
23 TIME ARCHAEOLOGY IN THIS STATE.

24 (B) TO THE DEPARTMENT OF COMMERCE FOR THE PROMOTION OF GREAT
25 LAKES BOTTOMLANDS PRESERVES.

26 (C) TO THE DEPARTMENT FOR THE ENFORCEMENT OF THIS ACT.