

1989 Senate Bill 157

Date of enactment: **December 1, 1989**
Date of publication*: **December 13, 1989**

1989 WISCONSIN ACT 79

AN ACT to renumber and amend 77.09; to amend 23.50 (1), 26.06 (1), 26.14 (title) and (1), 28.05 (title), 28.05 (2), 28.11 (6) (b) 1, 28.22 and 77.10 (1) (title); and to create 26.97, 26.985, 77.09 (2), 77.83 (4) and 77.905 of the statutes, relating to: the violation of laws regulating fireworks, forest lands, forest croplands and managed forest land, the sale of timber from forests and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, penalty assessments, jail assessments, applicable weapons assessments, applicable natural resources assessments and applicable natural resources restitution payments for violations of ss. 77.09, 134.60, 167.10 (3) and 167.31 (2), subch. VI of ch. 77, this chapter and chs. 26 to 31 and 350, and any administrative rules promulgated thereunder and violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 2. 26.06 (1) of the statutes is amended to read:

26.06 (1) Foresters, forest supervisors, rangers and wardens of the department and the cruisers and foresters of the board of commissioners of public lands shall have the enforcement powers specified in s. ~~26.14 (1)~~ 26.97 with respect to, and shall also be authorized to may seize, without process, any forest products unlawfully severed from public lands of the state, federal lands leased to the state, county forest lands entered under s. 28.11, forest croplands entered under subch. I of ch. 77 or managed forest land designated under subch. VI of ch. 77. Seized products cut from lands under the control of the board of commissioners of public lands shall be held for the commissioners and those cut from forest croplands, managed

forest land or county forest shall be held for the owner, and subject to the payment of severance taxes, yield taxes or severance share thereon to the state. Products cut from state forest lands or federal lands leased to the department shall be appraised and sold. Products appraised at more than \$500 shall be sold on sealed bids not less than 10 days after a class 1 notice has been published, under ch. 985, in the county where the material is located. Any sheriff may seize and hold for the owner thereof any forest products unlawfully severed or removed.

SECTION 3. 26.14 (title) and (1) of the statutes are amended to read:

26.14 (title) Forest fires, authority of fire fighters, compensation, penalties, civil liability. (1) State forest rangers, town ~~chairmen~~ chairpersons, conservation wardens and other duly appointed deputies shall take prompt measures against the spread and illegal setting of forest fires. ~~They have the power of sheriffs to arrest, without warrant, for violations of any statute relating to the fires. They may execute and serve all warrants and processes in the same manner as any constable may serve and execute such processes, and arrest any person detected in the actual violation, or whom the officer has reasonable cause to believe guilty of a violation of this chapter, and take the person before the circuit court for the county where the offense was committed and make proper complaint.~~ They may call upon any able-bodied citizen to assist in fighting fires in such manner as they direct.

SECTION 4. 26.97 of the statutes is created to read:

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26.97 Law enforcement and police power. A state forest ranger, town chairperson, conservation warden or other duly appointed deputy may do any of the following:

(1) Arrest a person, with or without a warrant, when the person is detected actually committing a violation of this chapter or s. 167.10 (3), 941.10 (1), 941.11, 941.12, 941.13, 943.02 (1), 943.03, 943.04, 943.05 or 943.06 (2).

(2) Arrest a person, with or without a warrant, whom the ranger, chairperson, warden or deputy has reason to believe is committing or has committed a violation of a statutory provision specified under sub. (1).

(3) Take the arrested person before the circuit court for the county where the violation occurred and make a proper complaint.

(4) Execute and serve any warrant or process in the same manner as any constable.

SECTION 5. 26.985 of the statutes is created to read:

26.985 Penalties, repeaters. (1) In this section, "violation" means any violation under this chapter or any violation of a department order punishable under this chapter.

(2) Except as provided in subs. (3) and (4), if a person is convicted of a violation and has one or more convictions, within the 5 years prior to the current conviction, for one or more violations, the person shall be fined not more than \$100 or imprisoned for not more than 6 months or both. The prosecution shall allege and prove the prior convictions in the manner specified in s. 29.995.

(3) Except as provided in sub. (4), if a person is convicted of a violation and has 3 or more convictions, within the 3 years prior to the current conviction, for one or more violations, the person shall be fined not more than \$2,000 or imprisoned for not more than 9 months or both. The prosecution shall allege and prove the prior convictions in the manner specified in s. 29.995.

(4) (a) A person under this section is subject to a fine not to exceed the fine under this section or the fine or forfeiture for the underlying offense, whichever is greater.

(b) A person under this section is subject to imprisonment for a term not to exceed the amount provided under this section or the amount provided for the underlying offense, whichever is greater.

SECTION 6. 28.05 (title) of the statutes is amended to read:

28.05 (title) Timber sales; state forests.

SECTION 7. 28.05 (2) of the statutes is amended to read:

28.05 (2) PROCEDURE. Sales of cut products or stumpage having an estimated value of ~~\$500~~ \$1,000 or more shall be by public sale after ~~publication~~ 2 publications of a class 2 notice under ch. 985, classified advertisement announcing the sale in a newspaper having general circulation in the county wherein in which the timber to be sold is located. Sales with a an estimated value of ~~\$1,000~~ \$2,500 or more shall ~~require~~ requires approval by the secretary.

SECTION 8. 28.11 (6) (b) 1. of the statutes is amended to read:

28.11 (6) (b) 1. Any timber sale ~~in excess~~ with an estimated value of \$1,000 or more shall be by sealed bid or public auction sale after publication of ~~notice of a classified advertisement announcing the sale in a newspaper having general circulation in the county.~~ Timber sales in which the timber to be sold is located. Any timber sale with an estimated value below \$1,000 may be made without prior advertising. Any timber sale with an estimated value exceeding of \$2,500 or more requires approval of the secretary.

SECTION 9. 28.22 of the statutes is amended to read:

28.22 (title) Timber sales; community forests. ~~All sales~~ Any timber sale from a community forest shall be based on the scale, measure or count of the cut products. Any timber sale with an estimated value of ~~\$250~~ \$1,000 or more shall be by ~~notice published as a class 2 notice, under ch. 985 and public sale after 2 publications of a classified advertisement announcing the sale in a newspaper having general circulation in the county in which the timber to be sold is located.~~

SECTION 10. 77.09 of the statutes is renumbered 77.09 (1) and amended to read:

77.09 (1) Any person who fails to report or shall intentionally make any false statement or report to the department of natural resources required by s. 77.06 shall ~~be guilty of a misdemeanor, and imprisoned in the county jail for not exceeding one year or fined not exceeding forfeiture not more than \$1,000, or both.~~ An action under this section shall not be a bar to a cancellation of entry and order of withdrawal under s. 77.10.

SECTION 11. 77.09 (2) of the statutes is created to read:

77.09 (2) The procedure in ss. 23.50 to 23.85 applies to actions brought under sub. (1).

SECTION 12. 77.10 (1) (title) of the statutes is amended to read:

77.10 (1) (title) INVESTIGATIONS, CANCELLATIONS, CONVEYANCES.

SECTION 13. 77.83 (4) of the statutes is created to read:

77.83 (4) PENALTY. Any person who fails to comply with sub. (2) (a) or any rule promulgated under sub. (3) shall forfeit not more than \$500.

SECTION 14. 77.905 of the statutes is created to read:

77.905 Procedure in forfeiture actions. The procedure in ss. 23.50 to 23.85 applies to actions to recover forfeitures brought under this subchapter.

SECTION 15. Initial applicability. (1) The treatment of section 26.985 of the statutes first applies to violations occurring on the effective date of this subsection, but does not preclude the counting of other violations as prior violations under section 26.985 of the statutes, as created by this act.

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(2) The treatment of sections 77.09 (1) and 77.83 (4) of the statutes first applies to violations occurring on the effective date of this subsection.
